



ITEM SUMMARY

MEETING DATE: August 15, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-15, ZTA-22-05**
Adult Entertainment

BACKGROUND

The intent of the City initiated zoning text amendment is to repeal the City's Adult Entertainment regulations and formally adopt Palm Beach County's Adult Entertainment with some opt-out provisions.

In the past thirty years the number of topless bars, adult bookstores, X-rated theaters, massage parlors—even exotic car washes—has mushroomed. These uses generate intense community concern about the morality of such businesses, their exploitation of individuals, and their “secondary effects” impact on surrounding neighborhoods. Business owners call city council members with concerns that prospective customers will stay away if a massage parlor sets up shop next door. Landowners in a rural area who previously opposed any zoning as an undue restriction on private property rights suddenly turn out in great numbers to demand zoning “protection” when they learn a topless bar is proposed to be located nearby. Conservative religious groups and liberal advocates of women’s rights join forces to protest the moral climate set by a proliferation of sexually oriented businesses.

The upshot of this outpouring of concern has been a strong trend among local governments around the country to regulate sexually oriented businesses. Regulations must be carefully considered in light of federal and state constitutional guarantees regarding freedom of expression. In particular, regulations imposed on sexually oriented businesses have been challenged in the courts over many years. The result of these challenges is a body of court decisions that conclude that local governments may impose reasonable time, place, and manner regulations on adult businesses as long as a substantial public interest in regulating the use (in a way that does not suppress speech) is demonstrated, and as long as reasonable alternative locations are provided for the use. While it is unlikely that local governments may totally ban sexually oriented businesses, location and licensing restrictions may be imposed since the courts recognize that communities are entitled to protect themselves against the “secondary effects” of such businesses.

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment on July 14, 2022, and recommended approval by a vote of 5-0.

ANALYSIS

The purpose and intent of this chapter is to regulate adult-oriented businesses which, unless closely regulated, tend to have serious secondary effects on the community, which effects include, but are not limited to, the following: depreciation of property values and increase in vacancies in residential and commercial areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their property when such property is located in the vicinity of adult businesses as a result of increases in crime, litter, noise and vandalism; higher crime rates in the vicinity of adult businesses; and blighting conditions such as low-level maintenance of commercial premises and parking lots, which thereby have a deleterious effect upon adjacent areas. Special regulation of these businesses is necessary to prevent these adverse effects and the blighting or degradation of the neighborhoods in the vicinity of the adult businesses. The proposed text amendments to the City Code are to adopt Palm Beach County Adult Entertainment regulations which the City is already bound by but to opt-out of provisions that are not beneficial to Greenacres residents.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-15 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

STAFF RECOMMENDATION

Approval of ZTA-22-05 through the adoption of Ordinance 2022-15.