

Message Webinar

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Resources

- KCET news investigation of the “struggle to shut down massage parlors gone wild” in Huntington Beach.
http://www.kcet.org/shows/socal_connected/content/episodes/march-25-2013.html
- Sacramento Against Sex Slavery in Massage Parlors Report.
http://www.sassmp.org/SASS_MP_Report_June_27_2013_FINAL.pdf
- California Massage Therapy Council.
www.CAMTC.org

History of Massage Regulation

Prior to 9/1/09:

- No state regulation of massage businesses or massage therapists.
- Cities were able to regulate massage business including hours of operation, sanitary conditions, education and other areas of interest and concern.
- Regulations varied from jurisdiction to jurisdiction.
- Many local governments exercised land use and zoning authority to address local concerns associated with massage businesses.
- State law recognized that massage business raised concerns not applicable to cosmetologists, barbers or other “healing arts” professionals. (Gov. Code §53101)

History of Massage Regulation

SB 731 adopted in 2008, effective 9/1/09:

- Establishes a non-profit corporation to oversee voluntary certification of massage therapists.
- Removes authority of cities to regulate certified massage therapists and businesses that employ only certified massage therapists.
- Certified massage therapist has “right” to practice massage without any other license, permit, or other authorization.

Purpose of SB 731

- Create a certification process that stressed the professionalism of massage practitioners.
- Treat the massage industry “no better, no worse” than other professional services.
- Phase in increased education and training standards through self-funded nonprofit oversight body.

California Massage Therapy Council (CAMTC)

- CAMTC was authorized by SB 731.
- This is a non-profit public benefit corporation and NOT a state agency.
- Governing board is made up of 20 members, mostly representatives from massage schools, massage practitioners, and massage associations.
- The League, CSAC, and the Department of Consumers Affairs have one appointment each.
- The League's representative is Chief Arthur Miller from South Pasadena.

SB 731

- Provides for a voluntary certification of massage practitioners or massage therapists by CAMTC.
- CAMTC does not certify massage businesses except sole proprietorships where the owner is certified.
- Prohibits jurisdictions from regulating businesses using only CAMTC-certified massage professionals unless they are **uniformly** applied to other professional services, as defined in Corps. Code §13401(a).
- *Exception:* Authorizes cities to require background check of owner that owns 5% or more of business and who is not certified by CAMTC and regulate business if information from background check is “relevant to owning or operating a massage establishment.”

SB 731 (Continued)

- Authorizes jurisdictions to regulate businesses that provide massage services and use independent contractors or employees to provide massage **not** certified by CAMTC.
- Requires that cities or counties may charge a business license fee provided it is the **lowest** fee applied to other businesses providing professional services.
- Prohibits the requirement of additional restrooms, showers, or other facilities not uniformly required of other professional services.
- Prohibits the requirement of unlocked doors when there is no staff available to ensure security.
- Sunsets as of January 1, 2015.

Problems/Solutions

Problem: Businesses claiming to only use certified massage therapists are exempt from local regulation but are not regulated by CAMTC either. Certification of massage therapists by CAMTC is not a substitute for local regulation of businesses.

Solution: Create voluntary certification of owners of massage establishments either through CAMTC or the local jurisdiction so that the certificate to operate the business can be revoked. If a business chooses not to be certified then local governments would be authorized to fully regulate.

Problems/Solutions (Continued)

Problem: Different professional services require different regulations. Since local jurisdictions do not uniformly regulate professional services, massage establishments go unregulated.

Solution: Remove the word “uniformly”. Jurisdictions can currently regulate all other professional services in response to particular impacts of those services. Any regulation applied to another professional service should be eligible to be applied to massage therapy to ensure the public’s health, safety and welfare.

Problems/Solutions (Continued)

Problem: While SB 731 was supposed to treat the massage industry “no better, no worse” than other business professionals, they are entitled to the lowest business license fee.

Solution: Change the lowest to “average.”

Problems/Solutions (Continued)

Problem: CAMTC is made up almost entirely of massage practitioners, massage association representatives, and representatives from massage schools. The only law enforcement on CAMTC is the League's representative.

Solution: Add a law enforcement representative to the CAMTC board, like CalChiefs or the State Sheriffs Association.

Problems/Solutions (Continued)

Problem: CAMTC does not accept police reports from law enforcement. They require officers to fill out a signed declaration.

Solution: Reduce the paperwork and make communication between CAMTC and local jurisdictions easier by accepting police reports.

Sunset Review Process

- There will be a report either in February or March done by the Senate Business and Professions Committee. The report will contain recommendations.
- A hearing will follow in which the recommendations will be discussed.
- A legislative bill will be introduced based on the report and hearing.

How Your City Can Get Involved

- Send in a letter of support for AB 1147 (Gomez).
- Contact the League if your city has had issues as a result of SB 731.
- Contact your Senator and Assembly Member to let them know of the unintended and negative consequences of this legislation.
- The League will be reaching out to ask for letters of support/opposition.
- Engage in op/eds or letters to the editor.
- Testify in committee.

Impact to the City of Thousand Oaks



Thousand Oaks

- *Located in Ventura County*
- *North of Los Angeles and South of Santa Barbara*
- *10 miles inland from the Pacific Ocean*
- *Surrounded by 15,000 acres of natural publicly owned open space*



Thousand Oaks

- *Ranked #1 on FBI “Safest Cities” in California and #4 in the nation for a population of 100,000+*
- *Ranked #4 on Kiplinger's "10 Great Cities to Raise Your Kids"*
- *City celebrating its 50th Anniversary*





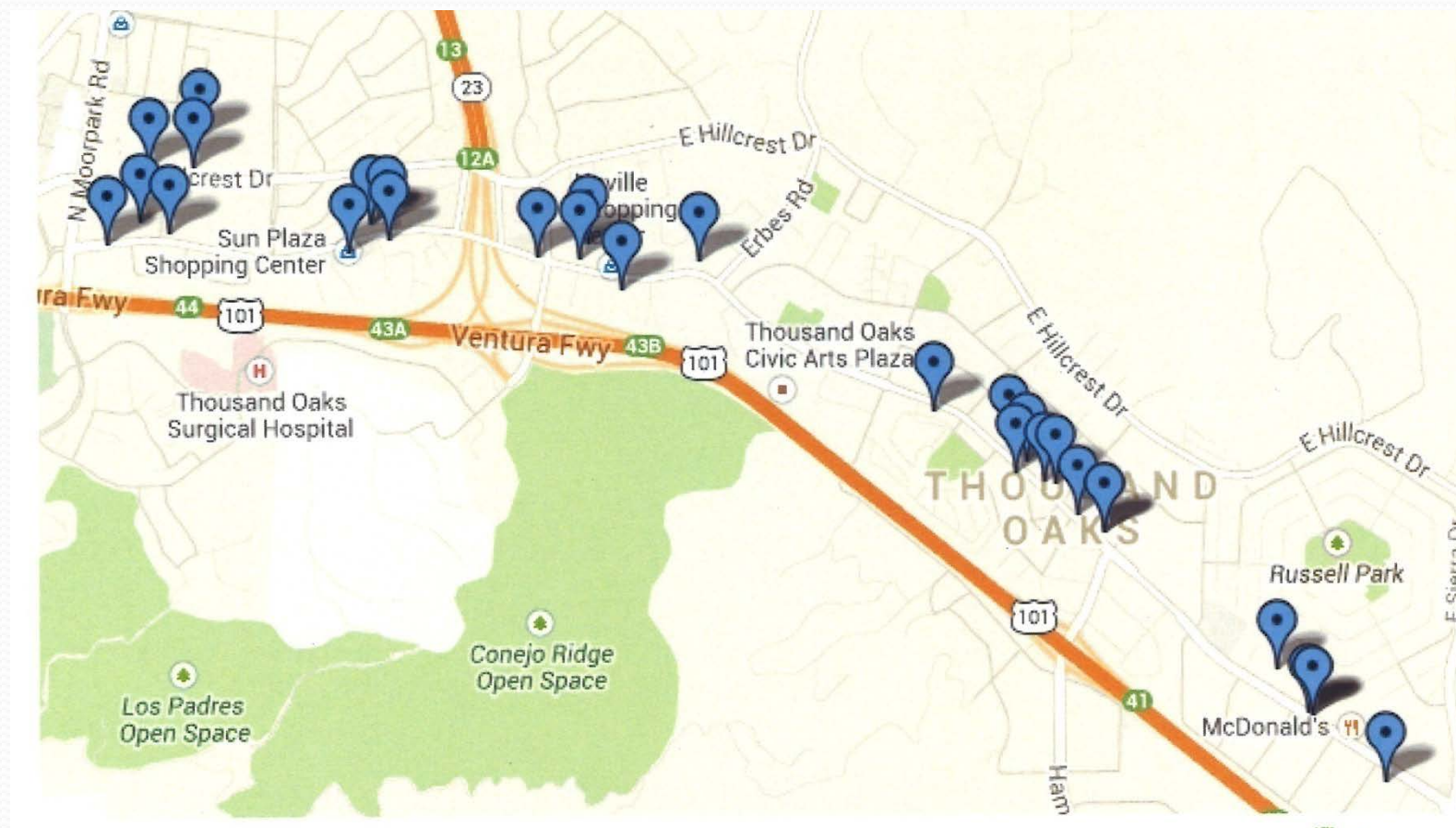
Demographics

- *Population -128,000*
- *Median Home Price = \$ 485,000*
- *74.8% are homeowners*
- *Median Household Income = \$95,000*
- *48% have a college degree*

Since the Enactment of SB 731:

- *City has experience a quadrupling of massage establishments on our “main street”-- Thousand Oaks Blvd.*
- *Thousand Oaks Blvd serves as the City’s downtown corridor; outlying areas are mostly residential or “open space”*
- *Within 4 mile area surrounding Thousand Oaks Blvd = 47 establishments*

4 Miles = 47 Establishments



SB 731- Limited Local Authority

- *SB 731 has led to the proliferation of a single type of business along our 4 mile downtown area*
- *It has reduced the City's local authority to:*
 - *Adopt or enforce local ordinances regarding land use and zoning*
 - *Impose Special/Conditional Use Permits*
 - *Limit the number of establishments*
 - *Limit the hours of operation*



SB 731- Changed Business & Professions Code 4600 et seq.

*Cities/counties must treat massage establishments like any professional business
e.g. attorney, dentist, doctor's office.
(Corporations Code Section 13401 defining
“professional services”)*

They don't emulate professional businesses



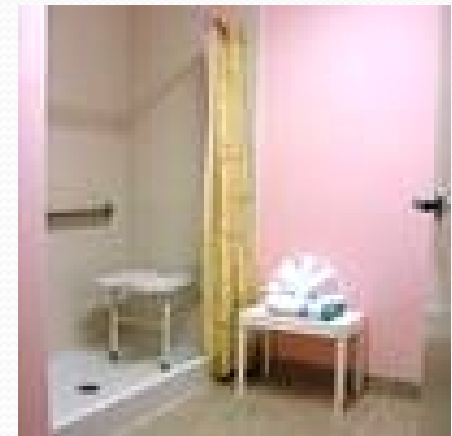
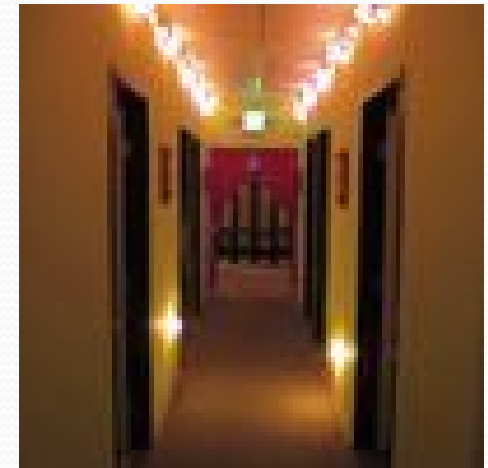


Impact to Thousand Oaks

- *Impact to local land use- via oversaturation.*
- *Changes the character of “Main Street”/ “blight”*
- *Impact to local economy*
- *Public perception/distrust*
- *Public safety (prostitution, human trafficking, etc)*



Online Advertising



Thousand Oaks Blvd Specific Plan

In 2009 – Organization of property owners voted to approve an assessment for businesses within a specified district. The funds were dedicated to the improvement of Thousand Oaks Boulevard.

In 2011- The T.O. Blvd Specific Plan was approved by the City Council.



TO Blvd- Business Improvement District

Goal -Support physical improvements to revitalize and beautify the City's downtown core:

- *Unique and identifiable commercial corridor*
- *Economically viable and self sustainable*
- *Pedestrian-friendly blvd*

Proposed Improvements of BID

Current



Proposed Rendering



Proposed Improvements of BID

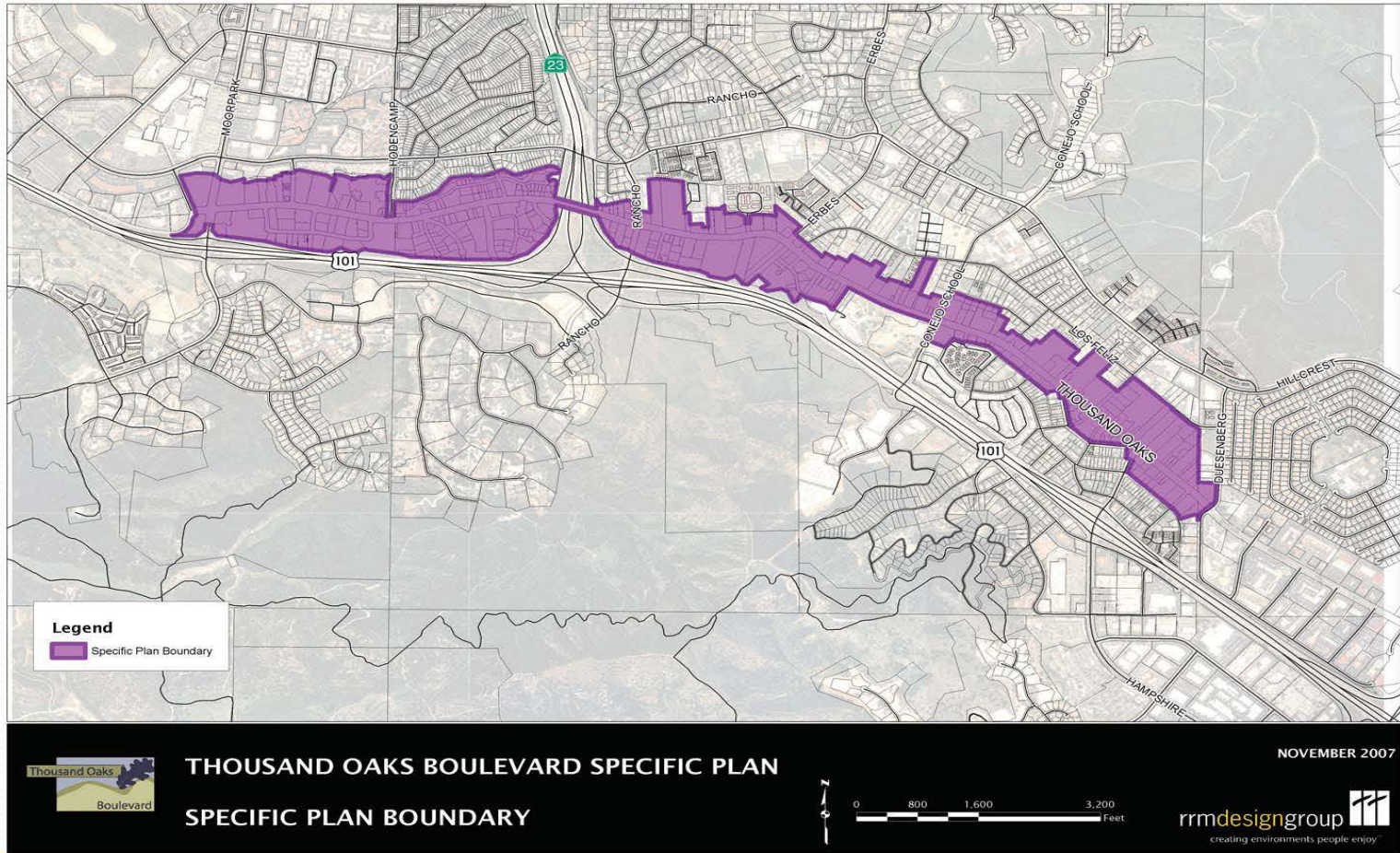
Current



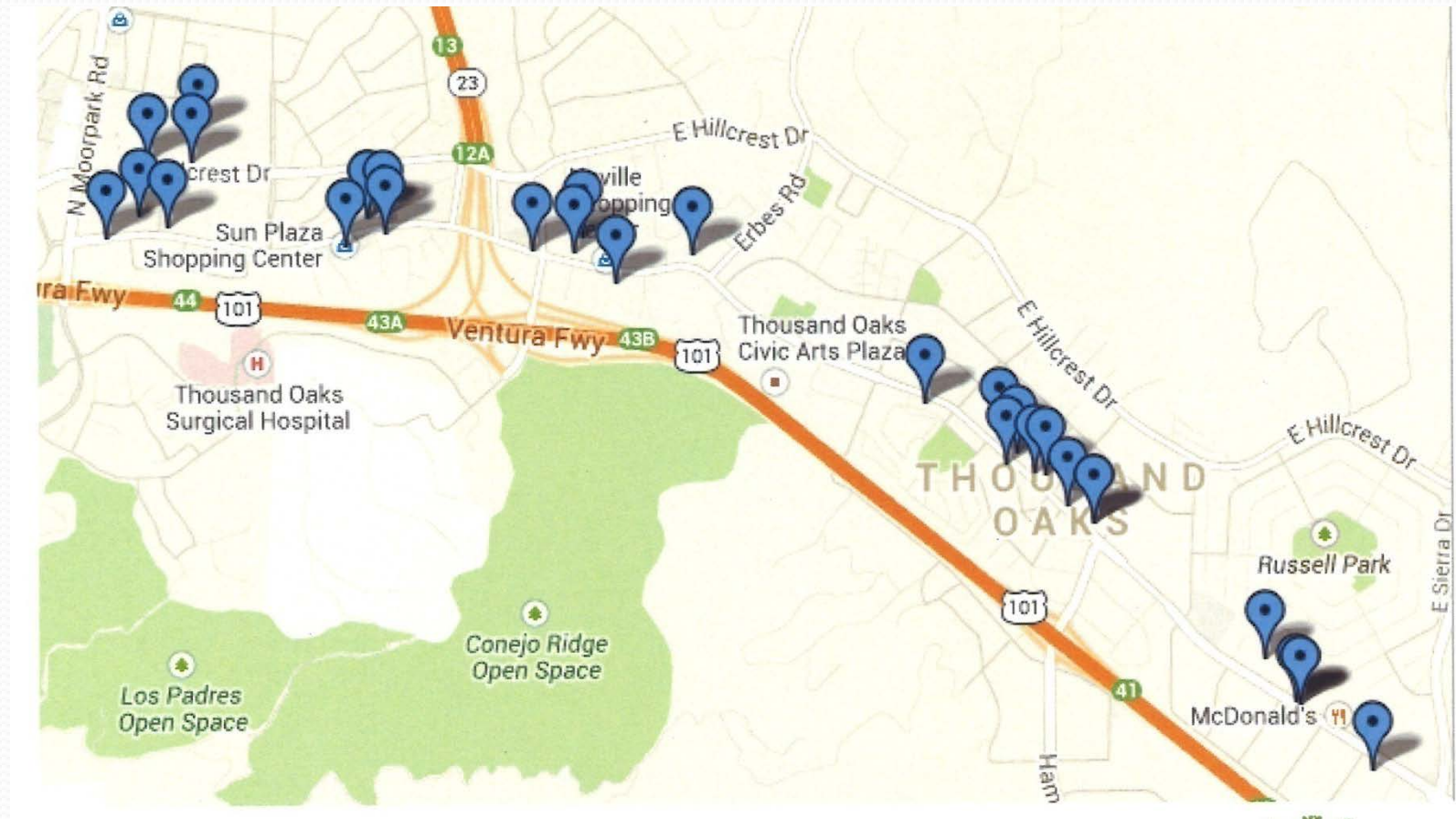
Proposed Rendering



Map of TO Blvd BID



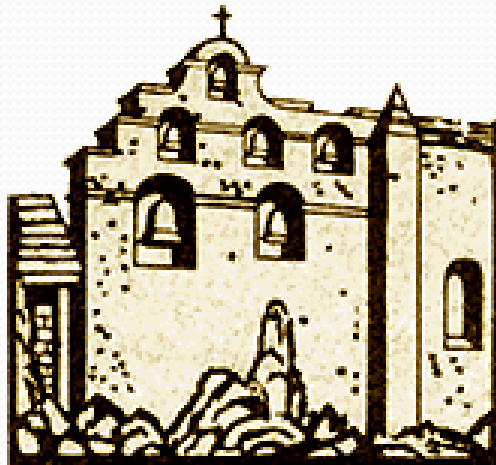
Massage Establishments Saturate BID



SB 731 Impact on T.O. Blvd Specific Plan

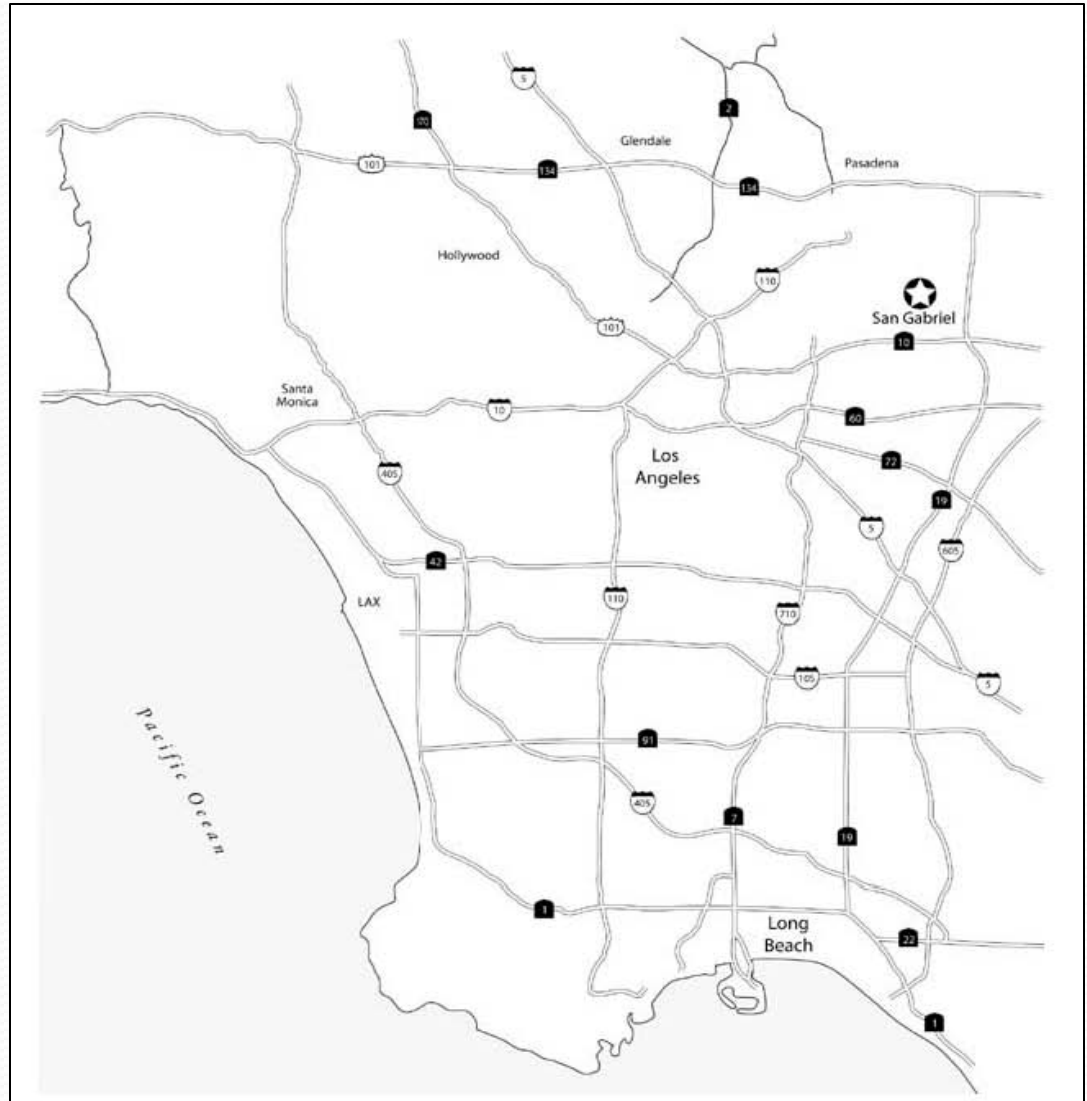
- *Property owners leasing to massage establishments blame the economy*
- *Prospective new businesses refuse to lease space adjacent to massage establishments*
- *Delays the progress of Specific Plan improvements because massage establishments are given “carte blanche” treatment.*

City of San Gabriel's Experience



About San Gabriel

City is located in the
San Gabriel Valley
area of
Southern California

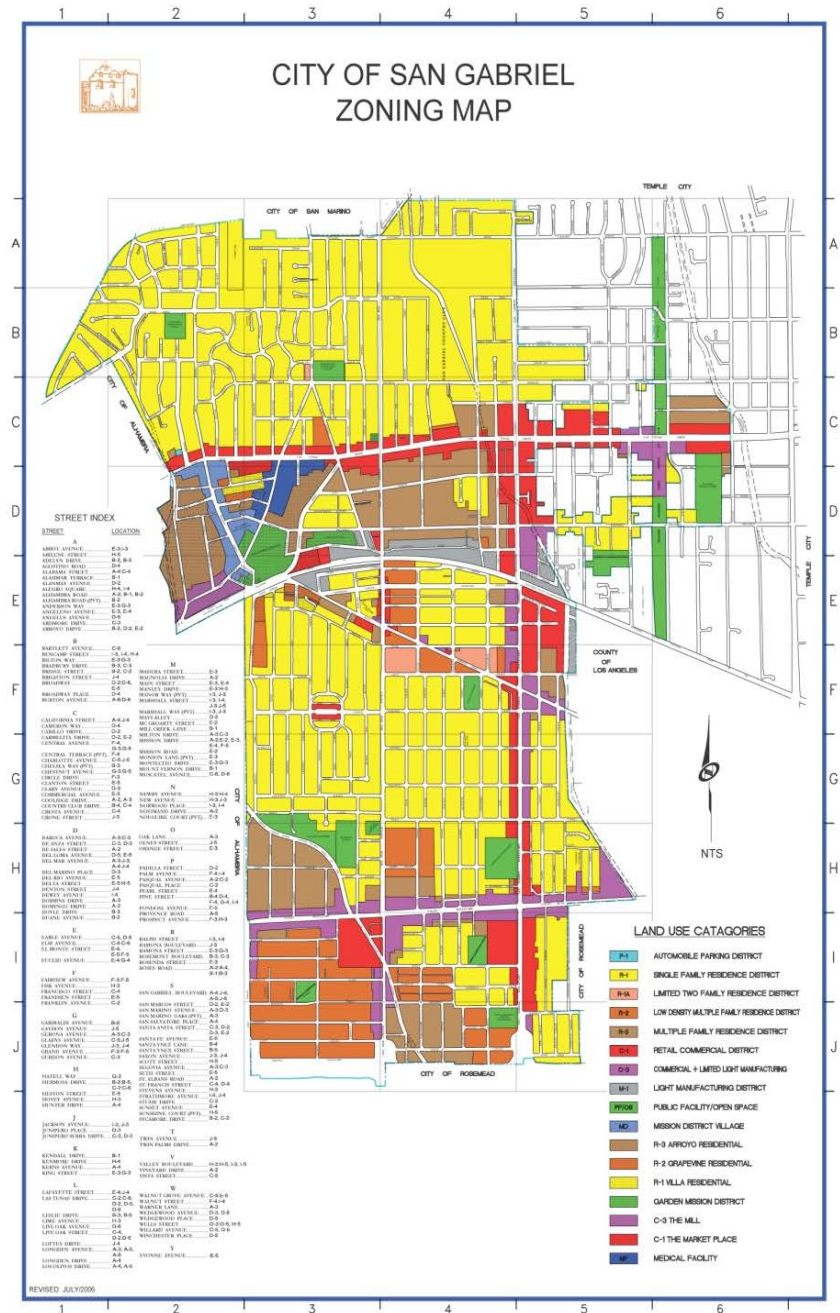


About San Gabriel

- Population is approximately 40,000 consisting primarily of:
 - Asian – 60%
 - White – 11.5%
 - Latino – 25%
- Approximately 4 square miles:

Zoning

- Residential – 51%
 - 41% - SFR
 - 10% - MFR
- Commercial – 12.5%
- Industrial – less than 2%



San Gabriel Massage Ordinance

Adopted in 2011 in response to SB 731

- Requires every person providing massage services to be certified by CAMTC
- Requires every person who operates a massage establishment to have City issued Operator Permit
 - Operator Permit is for the individual
 - “Operates” means manage or own more than 10%
 - Permit issued for anyone with CAMTC certificate without background check
 - Background check required for those without CAMTC certificate

Massage Ordinance - continued

- Requires every business to obtain a Certificate of Operation
 - Certificate is for the business
 - Shows that the business complies with all applicable laws and that the each person identified as an Operator has an Operator Permit
- Includes complete and partial exemptions
- Includes operational and facility requirements

San Gabriel – Massage

- Prior to SB 731 which added Massage Therapy Law - San Gabriel had 32 massage establishments:
 - 10 had CUPs to do full body massage
 - These required a special massage permit for all massage providers through the San Gabriel Police Department
 - 22 were restricted to providing only foot massage

San Gabriel – Massage Establishments

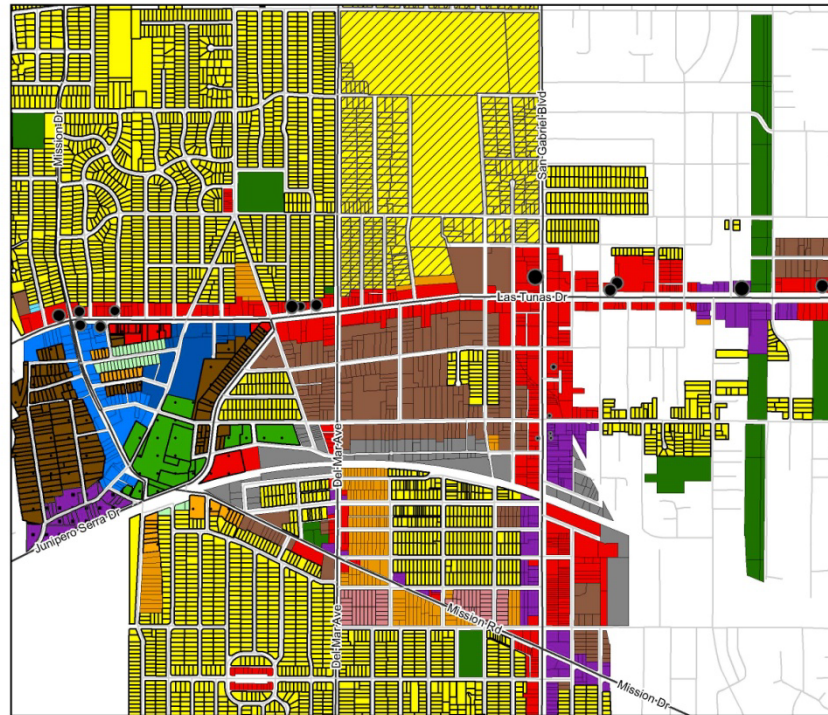
- San Gabriel now has 56 establishments – all licensed to perform full body massage with an estimated growth rate of one per month
 - Equals over 13.5 massage establishments for every square mile of the entire City – but only 12.5 % of City is commercial
- Over 368 individuals work as independent contractors or employees of massage establishments
- City has approximately 2300 active business licenses – over 15% (354) are massage related

San Gabriel – Massage Locations

- City has 3 primary commercial areas which contain more than 75% of the City's commercial area
 - Las Tunas Drive
 - San Gabriel Boulevard
 - Valley Boulevard
- These 3 areas have 50 massage establishments

San Gabriel – Massage Locations

- Las Tunas Drive – 12 establishments



Legend

City of San Gabriel

Zone Districts

C-1 (Retail Commercial)	P-1 (Automobile Parking)	R-3 A (Arroyo Residential)
C-1 M (The Market Place)	PF/OS (Public Facility / Open Space)	CC-T (Commercial Center)
C-3 (Commercial + Limited Light Manufacturing)	R-1 (Single Family Residence)	MD (Mission District Village)
C-3 M (The Mill)	R-1 V (Villa Residential)	R-C (Multiple Family Residential Corridor)
GMD (Garden Mission District)	R-1A (Limited Two Family Residence)	MU/C (Mixed-Used Corridor)
M-1 (Light Manufacturing)	R-1CC (Single Family Residence Country Club)	MU-C/R (Mixed-Use Corridor / Residential)
MF (Medical Facility)	R-2 (Low Density Multiple Family Residence)	MU/T (Mixed-Use Transit Oriented Development)
	R-2 G (Grapevine Residential)	RN/C (Residential Neighborhood Conservation)
	R-3 (Multiple Family Residence)	



0.0 0.1 0.2 0.3 0.4
Miles

Data Source: City of San Gabriel & SCAG
Map Created 12/23/13

Massage Locations

San Gabriel Blvd. –
10 establishments



Legend

City of San Gabriel Zone Districts

- C-1 (Retail Commercial)
- C-1 M (The Market Place)
- C-3 (Commercial + Limited Light Manufacturing)
- C-3 M (The Mill)
- GMD (Garden Mission District)
- M-1 (Light Manufacturing)
- MF (Medical Facility)
- P-1 (Automobile Parking)
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- R-2 G (Grapevine Residential)
- R-3 (Multiple Family Residence)
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- MU/T (Mixed-Use Transit Oriented Development)
- RN/C (Residential Neighborhood Conservation)

- Freeway
- Highway
- Major Arterials
- Minor Arterials



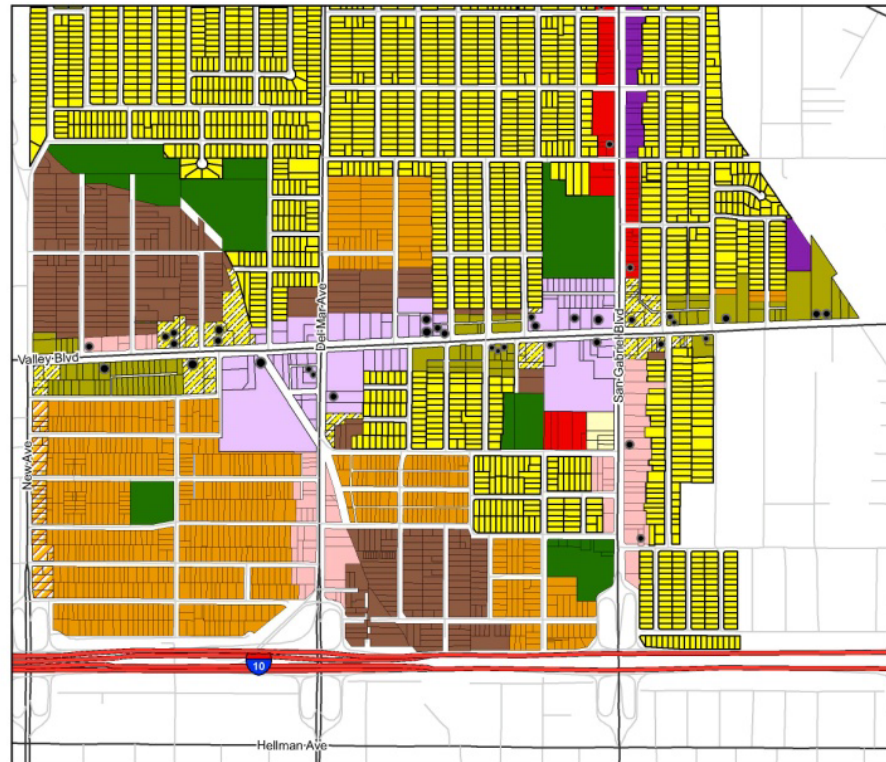
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Data Source: City of San Gabriel & SCAG
Map Created 12/23/13

San Gabriel – Massage Locations

- Valley Boulevard – 28 establishments
 - All are within the Valley Boulevard Specific Plan area
 - 10 other establishments also within this Specific Plan area

Massage Locations – Valley Blvd.



Legend

City of San Gabriel

Zone Districts

C-1 (Retail Commercial)

C-1 M (The Market Place)

C-3 (Commercial + Limited Light Manufacturing)

C-3 M (The Mill)

GMD (Garden Mission District)

M-1 (Light Manufacturing)

MF (Medical Facility)

P-1 (Automobile Parking)

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MU/C (Mixed-Used Corridor)

MU-C/R (Mixed-Use Corridor / Residential)

MU/T (Mixed-Use Transit Oriented Development)

RN/C (Residential Neighborhood Conservation)

Freeway

Highway

Major Arterials

Minor Arterials



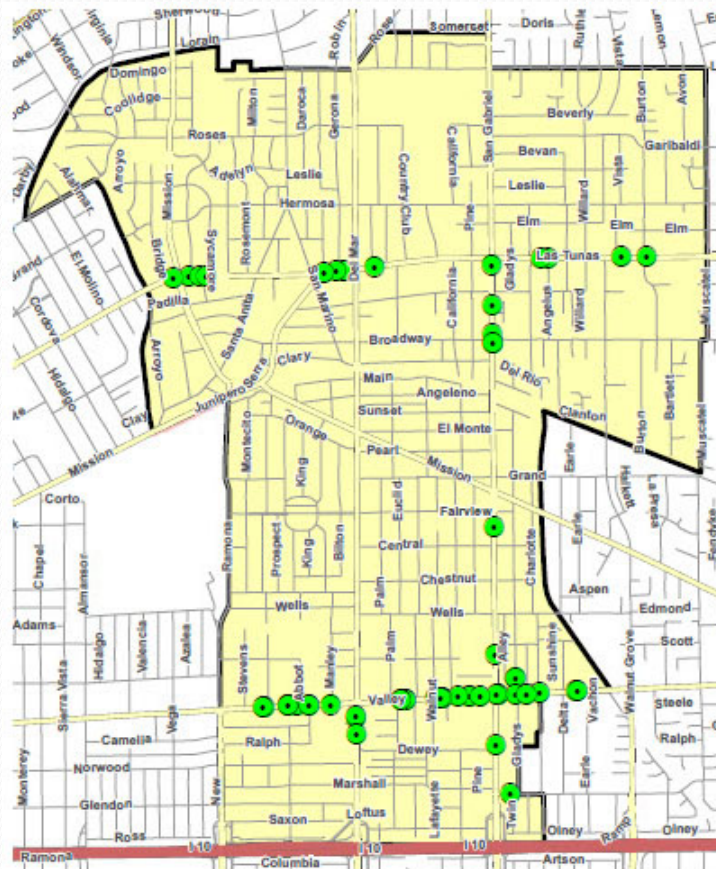
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Data Source: City of San Gabriel & SCAG
Map Created 12/23/13

San Gabriel – Zoning

- Massage Establishments are located in the following zones:
 - C-1 – Retail Commercial
 - C-3 – General Commercial
 - Mixed Use Corridor – Residential
 - Mixed Use Corridor
 - Mixed Use Corridor – Transit Oriented Development
 - Commercial Center
 - Mission District Village

San Gabriel – Massage Locations



San Gabriel PD

City of San Gabriel
Massage Establishments

San Gabriel – Implementation and Enforcement

- San Gabriel started with business friendly attitude – spent a long time on education and voluntary compliance
- City has now moved to enforcement activities. Since August 2013:
 - 90 notices of violation issued
 - 5 citations issued (after notices ignored)
 - 12 businesses temporarily closed because no on-site operator
 - 1 sting operation conducted and City is in the process of revoking Operator Permits and Certificates of Operation for the business due to prostitution
- City also shut down a business that had been issued a CUP to operate as a beauty school but was illegitimately operating as massage school and selling diplomas without classes

San Gabriel – Issues

- Difficult to regulate because they have to be treated the same as all other businesses issued some type of license under the Business & Professions Code
- Vague and ambiguous State legislation leaves questions as to what is allowed
- Establishments evade regulation through sophisticated means such as surveillance systems as well as simple means such as running out the back door when City personnel show up
- Staff is stretched thin and City does not have resources to continually check-up on 54 business establishments and 300 independent contractors

Huntington Beach PD

Summary of Problem:

- Illicit massage parlors exist in Huntington Beach and the number is growing
- Huntington Beach is locally becoming known in the illicit massage world
- PD enforcement is effective in temporary closure of business, but they re-open
- There is a direct connection between illicit massage and Human Trafficking
- Increase occurred following HBMC code change in 2009, which previously limited the number of massage establishments to ten (10)

Huntington Beach PD

- Prior to 2009: City of Huntington Beach had **9 massage establishments** city wide (Municipal Code capped the number of establishments at 10).
- 2010: approximately 25 establishments
- 2012: approximately 54 establishments
- **Currently: approximately 74 establishments**

Prior Operations and Enforcement

- May 3, 2012: Multi location Inspection Operation conducted
20 establishments inspected
Masseuses: 33 certified, 11 uncertified, **64 municipal code violations**
Undercover operations were run at 3 establishments: **5 masseuses arrested for prostitution** (Only 3 undercover detectives were available at the time for UC operations).
- February 28, 2013: Multi location Undercover Operation conducted
10 establishments inspected
10 arrests for prostitution
51 municipal code violations
Masseuses: 16 certified, 5 uncertified

Prior Operations and Enforcement

- After inspections, each location replaced the females who were arrested with new females and conducted business as usual. Citizen complaints continued. Establishments transferred business ownership to family to avoid paying fines.
- Inspections have yielded violations at nearly 90% of establishments.
- Enforcement operations extremely difficult and burdensome on police resources. The number of locations within Huntington Beach has grown to an unmanageable number.
- **Special Note:** Undercover massage investigations are difficult for the undercover officer.

Basic Operation Structure of Massage Brothels

- Some massage parlors operate as commercial-front brothels claiming to offer legitimate services such as massage
- Unlike underground brothels, these create a veil of legitimacy by operating within normal government and regulatory infrastructures
 - Operate out of commercial spaces, strip malls, etc.
 - Advertise in mainstream public venues as well as providing illicit advertisements
 - Display items commonly used in legitimate massage parlors (massage tables, etc.)
 - Acquire proper city business license and state massage certifications pay rent and taxes

Basic Operation Structure of Massage Brothels

Organized Crime Structure

- Customers (“Johns”) pay a \$60 house fee to the business, usually an older female Asian who runs a single location
- During the massage the price for sex will be negotiated between the John and prostitute or the female is simply paid by tips
 - Makes it very difficult for PD to investigate and enforce against the house

Basic Operation Structure of Massage Brothels

The Prostitutes are Victims

- Women are sometimes controlled by the business
- Many do not have legal citizen status in the US
- Are unfamiliar with legal US rights
- Owners promote prostitutes to have a fear of law enforcement
- Many have no other job skills, education or training
- Prostitutes can make large sums of money, which creates dependence
- Contract and spread STDs

Human Trafficking

- Huntington Beach PD is part of the Orange County Human Trafficking Task Force.
- High percentage of massage establishments utilize Asian, specifically Chinese and Vietnamese, nationals due to high numbers and ease of bringing them to the United States on Student or Tourist Visas.
- Asian females especially reluctant to cooperate due to lack of trust of police and language/cultural barriers.

City of Huntington Beach

Establishment Registration Certificate (ERC)

- 2013 – The City of Huntington Beach was forced to amend municipal code 5.24 governing massage businesses
- Created the requirement that each business owner apply for and receive a certificate issued to the establishment
 - Holds owner responsible for business
- ERC can be revoked for reasons listed in code (ex.- prostitution, illicit massages, uncertified masseuses)
- If ERC is revoked, business must close down location and no new massage business may open at same location for one year



City of Huntington Beach Establishment Registration Certificate (ERC)

- Pros – Gives PD and City new tools to deal with explosion of businesses
- Cons – Issuing ERCs extremely time consuming and does not stop new businesses from starting up