



MEETING DATE: 9/07/04

ITEM NO. 186

COUNCIL AGENDA REPORT

DATE: August 30, 2004
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER
SUBJECT: FORMULA RETAIL BUSINESSES

BACKGROUND:

Councilmember Decker asked that this item be agendized for discussion by the Council to determine if a distinction should be made between "regional" and "national" formula retail business.

The Town began regulating formula retail businesses on November 4, 2002 with the adoption of Ordinance 2107 (Attachment 1). Ordinance 2107 included amendments to the Town Code to require all new formula retail businesses in the Central Business District (CBD) and all new formula retail businesses outside the CBD greater than 6,000 square feet to obtain a Conditional Use Permit (CUP). Ordinance 2107 included the following definition for formula retail business:

Formula retail business means a retail business which, along with one (1) or more other business locations, is required by contractual or other arrangement to maintain any of the following: standardized merchandise, services, decor, uniforms, architecture, colors, signs or other similar features.

The Council's intent in adopting Ordinance 2107 was to ensure the exercise of greater control over the location of all new formula retail business in the Town in order to meet the goals, policies and implementing strategies of the Town's General Plan and avoid the transition of the Town's unique retail environment into one that is homogeneous with retail areas in other communities. The goal of the requirement for these stores to obtain a CUP is to regulate, but not prohibit these defined businesses. The requirement established a process to consider requests on a case-by-case basis and allow for public input during the public hearing process.

(Continued on Page 2)

PREPARED BY: BUD N. LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: Assistant Town Manager Attorney Clerk Finance
Community Development Revised: 8/30/04 2:19 pm

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MAYOR AND TOWN COUNCIL
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DISCUSSION:

If the Council determines that this issue warrants further analysis, staff should be directed to explore options for further code or policy amendments. Staff will need to adjust the established schedules for certain projects that are in process to reassign staff resources to address this issue.

ENVIRONMENTAL ANALYSIS: None

FISCAL ANALYSIS: None

Attachments:

1. Ordinance 2107

Distribution:

Town of Los Gatos Chamber of Commerce, Attn: Dan Doore, 349 N. Santa Cruz Ave.,
Los Gatos, CA 95030

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ORDINANCE 2107

**AN ORDINANCE OF THE TOWN OF LOS GATOS AMENDING THE ZONING
ORDINANCE OF THE TOWN CODE REGARDING
SECTIONS 29.10.020, 29.20.185, AND 29.20.190.**

WHEREAS, the Town of Los Gatos has long been recognized as having a unique retail environment with an unusual mix of retail businesses in terms of type, ownership and appearance, that distinguishes it from other retail areas and has contributed to its long time vibrancy and financial success.

WHEREAS, an increase in the existing number of formula businesses potentially threatens the Town's unique retail environment in a number of ways, including, but not limited to, the replacement of small, locally owned businesses that often feature unique physical appearances and offer unusual or uncommon products or product lines. This can occur either by the replacement of existing retail businesses with new formula retail businesses, or by retail businesses with the capacity to overwhelm existing businesses. An over concentration of formula retail business can result in a retail environment that is indistinguishable from those located elsewhere in the region, the state and the nation.

WHEREAS, the Town's General Plan contains numerous goals, policies and implementing strategies intended to preserve its unique retail environment. For example, the land use designation CBD for the Central Business District (2.4.2) is described as "[encouraging] a mixture of community-oriented commercial goods, services and lodging, that is unique in its accommodation of small town style merchants and the maintenance of a small town feel and character, " while descriptions of the Mixed Use, Neighborhood and Service Commercial districts emphasizes maintaining and servicing the needs of the small town residential scale and natural environments of adjacent residential neighborhoods. Elsewhere, concerning the historic downtown area, is a goal to maintain mixture of goods and services, identity, environment and commercial viability (L.G.6.2) and a policy to "[e]ncourage the development and retention

of small businesses and locally-owned stores and shops that are consistent with small town character and scale” (L.P.6.2).

WHEREAS, Council’s intent in adopting this ordinance is to ensure the exercise of greater control over the location of new formula retail businesses in the Town in order to meet the goals, policies and implementing strategies of the Town’s General Plan and avoid the transition of the Town’s unique retail environment into one that is homogenous with retail areas in other communities.

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

Town Code section 29.20.020 is amended to read as follows:

Formula retail business means a retail business which, along with one or more other business locations, is required by contractual or other arrangement to maintain any of the following: standardized merchandise, services, decor, uniforms, architecture, colors, signs or other similar features.

Nursery school / Day Care Center means a school for pre-elementary school age children which provides controlled activities and instruction.

SECTION II

Town Code section 29.20.185 Table of Conditional Uses is amended as follows:

Replace existing Conditional Use Permit Table with Conditional Use Permit Table attached hereto as Exhibit A.

SECTION III

Town Code section 29.20.190 is amended to read as follows:

- (a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of this chapter if it finds that:
 - (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
 - (2) The proposed uses will not impair the integrity and character of the zone;

- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
 - (4) The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this chapter.
 - (5) A hazardous waste facility proposal is subject to the California Health and Safety Code, Article 8.7, Section 25199--25199.14 and shall be consistent with the Santa Clara County Hazardous Waste Management Plan.
- (b) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business if the following findings are made:
- (1) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter; and
 - (2) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located.

SECTION IV

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on October 21, 2002, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 4, 2002 This ordinance becomes effect 30 days after it is adopted.

COUNCIL MEMBERS:

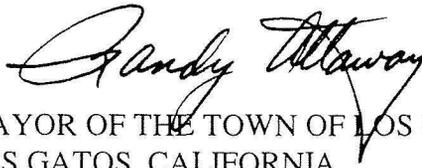
AYES: Steven Blanton, Sandy Decker, Joe Pirzynski,
Mayor Randy Attaway.

NAYS: Steve Glickman.

ABSENT: None.

ABSTAIN: None.

SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA