




MEETING DATE: 1/17/06
ITEM NO.

16

COUNCIL AGENDA REPORT

DATE: January 12, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: CONSIDER AN APPEAL OF A PLANNING COMMISSION DECISION
DENYING AN APPLICATION TO OPERATE A FORMULA RETAIL
STORE (AMERICAN APPAREL) ON PROPERTY ZONED C-2.
APN 510-44-034. LOCATION: 25 N. SANTA CRUZ PROPERTY
OWNER: SANTA CRUZ REAL, LLC APPLICANT/APPELLANT:
TACEE WEBB

RECOMMENDATION:

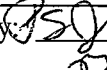


1. Open and hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Uphold the Planning Commission's decision and deny Conditional Use Permit U-06-006
4. Refer to the Town Attorney for the preparation of the appropriate resolution.

If the Town Council determines that the appeal should be granted and that the Planning Commission's decision should be reversed or modified:

1. The Council needs to find one or more of the following:
 - (1) Where there was error or abuse of discretion on the part of the Planning Commission; or
 - (2) The new information that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission; or
 - (3) An issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

Continued on Page 2

PREPARED BY: BUD LORTZ 
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by:  Assistant Town Manager  Attorney _____ Clerk _____ Finance _____
 Community Development Revised: 1/12/06 5:16 pm

2. If the predominant reason for modifying or reversing the decision of the Planning Commission is new information as defined in subsection (2) above, it is the Town's policy that the application be returned to the Commission for review in light of the new information unless the new information has a minimal effect on the application.
3. If the appeal is approved, (A) make the required findings and considerations (Attachment 1) and (B) approve the application subject to the recommended conditions of approval (Attachment 2).
4. Refer to the Town Attorney for preparation of the appropriate resolution.

PROJECT SUMMARY

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a 3,748 square foot (159 feet deep by 24 feet wide) formula retail business (American Apparel) in an existing retail space located at 25 N. Santa Cruz Avenue. The space was previously occupied by a non-formula retail store selling antiques (Les Poisson). The proposed hours of operation are 10 AM to 7 PM on Sunday through Thursday and 10 AM to 8 PM on Fridays and Saturdays. The applicant proposes interior improvements and a sign. No other exterior modifications are proposed. A copy of the Planning Commission staff report, verbatim minutes of the hearing and material submitted by the applicant and speakers have been previously provided to the Town Council. The applicant submitted a letter of justification (Exhibit C of the Planning Commission Report) and floor plan (Exhibit F of the Planning Commission Report) that were attached to the November 9, 2005 Planning Commission staff report.

PUBLIC TESTIMONY

The Planning Commission held a public hearing on this application on November 9, 2005. The Planning Commission received a substantial amount of testimony through letters and verbal comments from the applicant, real estate brokers, downtown business owner, members of the Youth Commission, and residents.

Applicant/Property Owner

The major issues raised by the applicant and property owner were as follows:

- The tenant space is unusually deep and narrow (159' x 24') and is difficult to rent.
- The size and configuration of the space do not work for most retailers.
- American Apparel is a community-based company selling clothes made in America.
- Each store is specifically designed for its location.
- American Apparel will address any concerns regarding the images and pictures used in their store.

Testimony in Opposition

The major issues raised by the speakers opposed to the application were as follows:

- The character of downtown Los Gatos is changing.
- Unique specialty stores in the downtown are being displaced by chain stores.
- Council should establish a more detailed policy for formula stores.
- American Apparel is incompatible with the downtown and does not add diversity or value to Los Gatos.
- The space is not difficult to lease.
- The images on the American Apparel website are inappropriate.

Testimony in Support

- The Town lacks stores that serve the youth community.
- American Apparel is an affordable store that appeals to the teen population.

PLANNING COMMISSION ACTION

Based on the public testimony, the Planning Commission unanimously denied the application. Planning Commissioners cited the following reasons for denying the application:

- Inconsistency with the General Plan policies regarding small town character and support for locally-owned stores in downtown.
- Conversion of a space that was previously occupied by a non-formula retailer to formula retail establishment in the heart of downtown.
- Detracts from diversity and balance in the types of retail businesses in downtown in that there are numerous apparel stores in the downtown.

American Apparel appealed the Planning Commission's decision on November 21, 2005. The appellant states, "Planning Commission erred or abused its discretion because the proposed use of the property is in harmony with the specific objectives in the General Plan and would help to maintain the existing balance and diversity of businesses in the commercial district."

DISCUSSION

The following is provided as background information on the issue of formula retail stores.

1. Formula Retail Ordinance

One of the goals in the General Plan is to maintain a mixture of goods and services, maintain local identity and ensure commercial viability. The General Plan also contains a policy to encourage the development and retention of small businesses and locally-owned stores and shops that are consistent with small town character and scale. To implement the General Plan goals and policies, the Council adopted the Formula Retail Ordinance in 2002 and cited the

following findings in support of the Ordinance (Attachment 10):

- The Town has an unique retail environment with an unusual mix of retail businesses.
- An increase in the number of formula businesses potentially threatens the Town's unique retail environment.
- An over-concentration of formula retail businesses can result in a retail environment that is indistinguishable from those located elsewhere in the region, state and nation.

2. Planning Commission Approach

American Apparel is proposing to locate in a vacant retail space previously occupied by a non-formula store selling antiques. In the past, the replacement of a non-formula retail store with a formula retail store has been carefully evaluated by the Planning Commission based on location, concentration of formula retail stores, and merchandise sold by the proposed use.

3. Data on Formula Retail in Downtown

In preparing this Council report, staff updated its survey of businesses within the Central Business District (CBD). There are currently 17 formula retail stores in downtown, which equals 13% of the 127 downtown stores. If American Apparel is approved, the percentage would increase to 14%. This data reflects the modified definition of formula retail business adopted by Council in 2005. Formula retail businesses are now defined as having seven or more locations (Attachment 11).

To assist the Council, staff also mapped the location of each formula store in downtown (Attachment 8). The map reveals formula stores are not evenly distributed throughout the CBD. Sixteen of the 17 formula stores are located in two locations: Old Town Shopping Center or on North Santa Cruz Avenue, between Main Street and Nicholson Avenue. One of the Town Code's findings for denial of a formula retail business is over-concentration of these businesses.

Conversely, the map also illustrates that there are areas of downtown with few or no formula retail uses. Examples of this are South Santa Cruz, Main Street, and North Santa Cruz between Nicholson Avenue and Highway 9. Based on the geographic distribution of the uses, the data indicates that Council could conclude that an over-concentration of formula stores exists in certain locations but not in others.

3. Conformance with the General Plan

The following goals and policies are relevant to the proposed project:

L.G.1. To preserve, promote, and protect the exiting small town character and quality of life within Los Gatos.

January 12, 2006

L.P.1.3 Encourage economic and social activity consistent with small-scale, small town atmosphere and image.

L.P.1.4 Preserve and promote existing commercial centers consistent with the maintenance of a small-scale, small town atmosphere and image

L.P.5.1 Maintain a variety of commercial uses (a strong downtown commercial area combined with Los Gatos Blvd. and strong neighborhood commercial centers) to meet the shopping needs of residents and to preserve the small-town atmosphere.

L.P. 5.2 Encourage a mix of retail, office and professional uses in commercial areas, except in the Central Business District where retail should be emphasized.

L.P. 5.5 Encourage the development and retention of locally owned stores and shops.

L.P.5.9 Retail sales tax "leakage" should be kept to a minimum by providing in-town convenience and comparative shopping opportunities.

4. American Apparel Image

Several concerned citizens brought to staff's attention the images that are contained on the American Apparel website. Based on comments made during the public hearing, some members of the public have concerns with the images displayed on the website from the standpoint that photographic images of their models are displayed in the American Apparel stores and do not reflect the small town character specified by General Plan policies.

At the Planning Commission, the applicant indicated their willingness to have their images approved by the Town. If the Council is inclined to approve the appeal, Council could require that the applicant develop criteria subject to approval of the Art Selection Panel on the type of art and graphics that could be displayed. Once the criteria are approved, Community Development staff could administratively approve displays that are consistent with the criteria. Conditions regulating art and graphics, however, would be an ongoing monitoring burden and may be difficult to enforce. As an alternative, the Council could prohibit all photographic images visible from the sidewalk. If the Council wishes to impose a condition regarding images in the store, staff will craft the final condition for inclusion in the resolution prepared by the Town Attorney.

CONCLUSION:

Based substantially on public testimony, the Planning Commission found that the proposed project is not consistent with the General Plan and would detract from the existing balance and diversity of businesses in the downtown. The Planning Commission further found that the proposed use is not in keeping with the small town character of Los Gatos.

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MAYOR AND TOWN COUNCIL

SUBJECT: APPEAL OF CUP AT 25 N. SANTA CRUZ AVE./U-06-006

January 12, 2006

FISCAL IMPACT: None

Attachments submitted under separate cover:

1. Staff Report for the November 9, 2005 Planning Commission meeting.
 2. Verbatim minutes of the November 9, 2005 Planning Commission meeting.
 3. Color images submitted at the November 9, 2005 meeting by American Apparel.
 4. Web site information submitted at the November 9, 2005 meeting by Sandy Decker.
- (Copies of the above are available in the Clerk Department.)

Attachments:

5. Required Findings and Considerations (4 pages)
6. Recommended Conditions of Approval (8 pages)
7. Notice of Appeal received on November 22, 2005 (1 page)
8. Map of Formula Retail Businesses
9. Letter received on January 12, 2006 from Larry Arzie (1 page)
10. Ordinance No. 2107--Formula Retail Ordinance
11. Ordinance No. 2144--Revised Definition of Formula Retail Business

Distribution:

Tacee Webb, 919 NW 23rd Ave., Portland, OR 97210

N:\DEV\CNCLRPTS\2005\25 N. Santa Cruz.wpd

REQUIRED FINDINGS FOR

25 N. Santa Cruz Avenue, Suite C
Conditional Use Permit U-06-006

Requesting approval to operate a formula retail store (American Apparel) on property zoned C-2.
APN 510-44-034.

PROPERTY OWNER: Santa Cruz Real, LLC

APPLICANT: Tacee Webb

FINDINGS

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

(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 the Town Code 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 the Town Code.

(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:

- a. 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
- b. 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.

- That the work proposed is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

CONDITIONS OF APPROVAL

25 N. Santa Cruz Avenue, Suite C

Conditional Use Permit U-06-006

Requesting approval to operate a formula retail store (American Apparel) on property zoned C-2.
APN 510-44-034.

PROPERTY OWNER: Santa Cruz Real, LLC

APPLICANT: Tacee Webb

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT
(Planning Division)

1. EXPIRATION. Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
2. USE. The approved use is a formula retail business for the sale of men, women and children apparel. The use shall be consistent with the Description of the Proposed Project dated August 30, 2005 on file in the Community Development Department.
3. HOURS OF OPERATION. 10 AM to 7 PM on Sundays through Thursday, 10 AM to 8 PM on Friday and Saturday.

FILING FEES
\$272.00 Residential
\$1089.00 per Commercial, Multi-
family or Tentative Map Appeal

Town of Los Gatos
Office of the Town Clerk
110 E. Main St., Los Gatos CA 95030

OC: MNGT
PLMG
NOV 21 2005

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION: NOVEMBER 9, 2005

PROJECT / APPLICATION NO:

AMERICAN APPAREL / U-06-6 (COND-

ADDRESS LOCATION:

25 NORTH SANTA CRUZ AVE.

Further to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore please specify how one of those reasons exist in the appeal:

1. The Planning Commission erred or abused its discretion because THE PROPOSED USE OF THE
PROPERTY IS IN HARMONY WITH THE SPECIFIC OBJECTIVES OF THE GENERAL
PLAN AND WOULD HELP TO MAINTAIN THE EXISTING BALANCE AND
DIVERSITY OF BUSINESSES IN THE COMMERCIAL DISTRICT ; OR

2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is

(please attach the new information if possible); OR

3. The Planning Commission did not have discretion to modify or address the following policy or issues that is vested in the Town Council:

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
3. The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
4. An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
5. Once filed, the appeal will be heard by the Town Council.
6. If the reason for granting an appeal is the receipt of new information, the application will usually be returned to the Planning Commission for reconsideration.

PRINT NAME: TACEE WEBB
DATE: 11-21-05
PHONE: 503-750-8795

SIGNATURE: [Signature]
ADDRESS: 919 NW 23RD AVE
PORTLAND, OR 97210

*** OFFICIAL USE ONLY ***

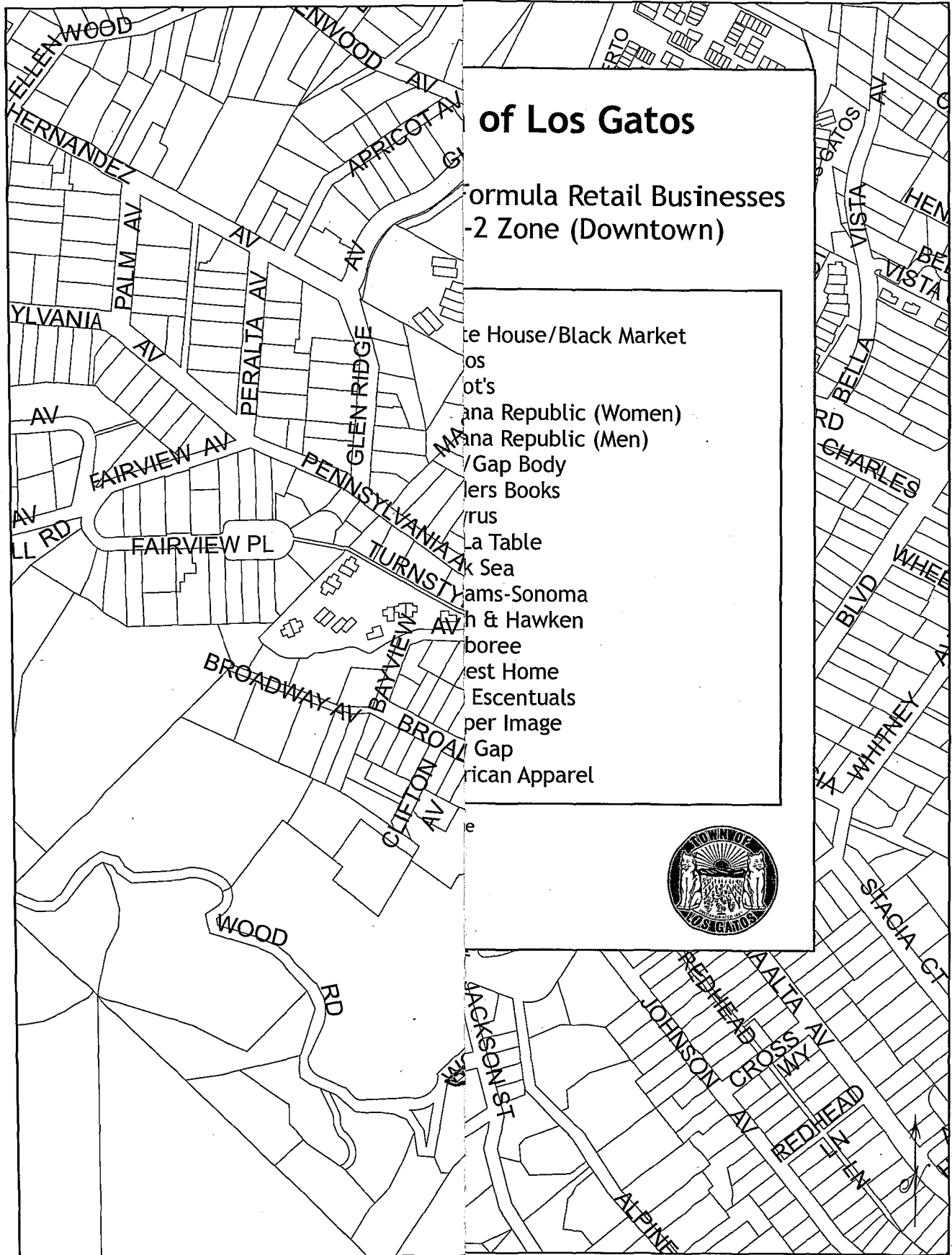
DATE OF PUBLIC HEARING: 1/17/06
Pending Planning Department Confirmation

CONFIRMATION LETTER SENT: Date: _____

DATE TO SEND PUBLICATION: 12/21/05
 NNDENVFORMSPPlanningPlanning Commission Approval - July 1, 2005

TO APPLICANT & APPELLANT BY: _____
DATE OF PUBLICATION: 12/28/05

NADEVELO/UMS Planning Commission Appeal.wpd - July 1, 2005



of Los Gatos

Formula Retail Businesses -2 Zone (Downtown)

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/Gap Body
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January 12, 2006

RECEIVED

Los Gatos Town Council

JAN 12 2006

Re: American Apparel

TOWN OF LOS GATOS
PLANNING DIVISIONTOWN OF LOS GATOS
CLERK DEPARTMENT

Dear Council Members,

The first block between Main and Elm on Santa Cruz Ave is where every National wants to open, because of its image and character. Luckily in the past there has been few locations big enough for them to do this. We have lost a lot of high end retailing on this block and unfortunately its character is changing.

We personally own 16 thousand square feet of commercial retail space on this block and have always rented to retailers that fit the image of Los Gatos. Some say at a monetary cost to us. We justify this because we live in Town and without the image of our tenants the street would not be the same. We are very concerned that new Nationals with incompatible merchandising to our tenants may lead to non renew of their leases, making us change our mix.

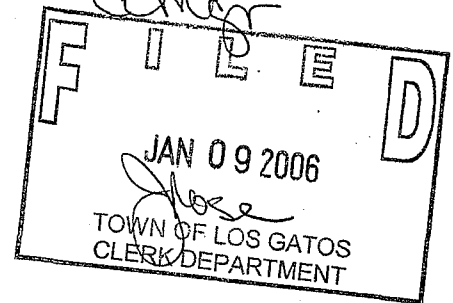
If you look at the jumble of Nationals boxed together across the street from us where American Apparel wants to open you would almost think you were in two different towns. The differences is most of that side of the street is run by property managers and leasing agents for displaced landowners and trusts. Most of the property owners we know who have a hands on style are more discriminating and realize the need to select a compatible tenant.. Sadly some tenants are vacating and property coming on the market being sold to pie in the sky speculators without the knowledge of what made this Town. They expect to maximize their purchase price of 400 dollars a square foot by renting to Nationals. What they don't realize is that by doing this they will forever change the nature of retailing in Town and not just steal the golden egg but lose it forever. We get one cold call a month to try to buy or lease at any costs our properties. We explain it is impossible to bring in more nationals onto this street but they don't care as they have a fish on the line. It is difficult to continue to say no. It will be easier to say yes if we allow American Apparel in. We need to put the word out that there are strings attached when buying in Los Gatos.

There are/was 66% mom and pops on this section of the block. The rest are multi store proprietors and Nationals. Of the 66% (21 stores) 2 are vacant, and 4 more rumored to close: Candlestick, Architects Interiors a long-term tenant whose property was just purchased, and a gift shop. There are two more talking loudly about retirement. We personally are taking flack from property owners and tenants that do not want to see empty store fronts. We plan on standing firm as we hope you do. It will take a lot of justification to reverse the denial of American Apparel's entry. This can only further erode the street and set a precedence that would allow the coming up glut of vacancies to be filled by Nationals. This would be the antithesis of our general plan and formula ordinance. Please vote for short term pain and long term gain.

LARRY JUSTO ARZIE
18000 Quipok Rd. TOWN.

1/11/06

Los Gatos Town Council
Re: Appeal by American Apparel U-06-006



Dear council members,

It has taken years for us to craft wording in the general plan and formula store ordinance that gives us the ability to preserve the character and atmosphere and most import the IMAGE of our historic commercial center. If we allow our image on Santa Cruz Ave. to change from small town character to more promotional merchandising by issuing CUP's to the wrong Nationals it would be contrary to our vision of what we worked so hard to protect. It is this image that makes Los Gatos appealing and without it we will forfeit the desire of a more compatible retailer that wants to come to Town. This national has a place in Town just not at this location. So I ask you to honor the commission's decision, which was not arrived at from the tawdry evidence given at the hearing of American Apparels sexually explicit format but for all the correct reasons, as I am sure you agree.

The planning commission did not err in their unanimous decision to deny American Apparel. They were denied because the commission could not justify approval based on the general plan and retail formula guidelines. They were found to be incompatible with existing stores. Their marketing plan that allow for the front doors to be kept open with loud music and cutting edge bare skin posters plastered everywhere is the kind of merchandising that fits in well in promotional zones, but not in a district populated by small and independent retailers. They offer product that is already in Town, i.e. Palm and Granite, Sprocket, and a half dozen sports shops and to some degree in other clothing stores in the CBD. So the youth market is already well served. They do not preserve, promote, and especially do not protect small town character or quality of life. It can be argued that because of the already extreme density of use in this area coupled with the attractive nuisance for the youth market of nearby TCBY and Pizza My Heart that they could be considered a detriment to the quality of life in Town. The only guideline they fit is that of plugging sales tax leakage, which alone is not a valid reason for approval.

I hope that you not even contemplate the existing empty storefronts in your decision. Danielle Surdin reports business is up 10%. This alone should reassure you that they would be occupied soon. If allowed to sit empty the rents will go down and a wider selection of tenants will appear. These tenants may not maximize the landlord's profits as a promotional national would, but they would encourage economic and social activity consistent with small town atmosphere and image. As commercial property owners in the CBD we are aware of what the Town requires of a tenant from us. This property owner and his agents know this as well. Our mix of tenants will be diminished by American Apparels entry and we are afraid we would soon have to look for new tenants that are compatible with American Apparel, or their successor as once a CUP for a national has been established in this location you will no longer have as much control.

David Stonesifer

David Stonesifer
January 9, 06

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 ships 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:

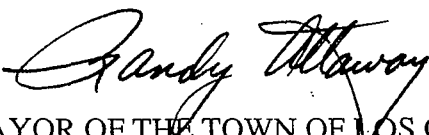
AYES: Steven Blanton, Sandy Decker, Joe Pirzynski,
Mayor Randy Attaway.

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

ORDINANCE 2144

AN ORDINANCE OF THE TOWN OF LOS GATOS AMENDING THE ZONING ORDINANCE OF THE TOWN CODE REGARDING SECTION 29.10.020 REGARDING THE DEFINITION OF FORMULA RETAIL BUSINESS.

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 longtime vibrancy and financial success.

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 ships that are consistent with small town character and scale" (L.P.6.2).

WHEREAS, Council adopted a definition for formula retail businesses on November 4, 2002.

WHEREAS, Council's intent in adopting the existing definition of formula retail business

was 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.

WHEREAS, the Town Council requested that the General Plan Committee (GPC) determine whether the definition of formula retail business should be modified to allow businesses that have a limited number of stores to be approved without obtaining a CUP.

WHEREAS, the GPC and Planning Commission recommended a modification to the definition of formula retail business to allow small retailers to locate in the Town without obtaining a Conditional Use Permit (CUP).

WHEREAS, Council's intent in adopting this ordinance is to continue 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.

WHEREAS, Council determined that the proposed Zoning Code Amendment is consistent with the General Plan and specifically with the land use designation CBD for the Central Business District (2.4.2), Goal L.G.6.2, and Policy L.P.6.2.

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

SECTION I

Town Code Chapter 29 is amended to read as follows:

Section 29.10.020. Definitions.

Formula retail business means a retail business which, along with seven (7) 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.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on August 15, 2005, 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 September 6, 2005. This ordinance becomes effective 30 days after it is adopted.

COUNCIL MEMBERS:

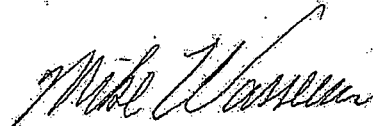
AYES: Steve Glickman, Diane McNutt, Joe Pirzynski, Barbara Spector,
Mayor Mike Wasserman.

NAYS: None

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