



MEETING DATE: 09-18-2006
AGENDA ITEM:

12

COUNCIL AGENDA REPORT

DATE: SEPTEMBER 13, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: ADOPT RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS UPHOLDING A DECISION OF THE PLANNING COMMISSION DENYING AN APPLICATION TO OPERATE A FORMULA RETAIL STORE (AMERICAN APPAREL) ON PROPERTY ZONED C-2. APN: 510-44-034. PROPERTY LOCATION: 25 N. SANTA CRUZ AVENUE. PROPERTY OWNER: SANTA CRUZ REAL, LLC. APPLICANT/ APPELLANT: TACEE WEBB. (Continued from August 21, 2006)

RECOMMENDATION:

Adopt resolution confirming Council's decision on January 17, 2006.

DISCUSSION:

On January 17, 2006, Council denied an appeal of a Planning Commission decision denying an application to operate a formula retail store (American Apparel) on property zoned C-2, located at 25 N. Santa Cruz Avenue. The attached resolution confirms that decision.

Attachment: 1. Proposed Resolution

Distribution: Tacee Webb, 919 NW 23rd Avenue, Portland OR 97210

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Report AA.wpd]

Reviewed by:

[Signature] Town Manager

Assistant Town Manager

Clerk

Finance

BAL

Community Development

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File# 301-05

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS UPHOLDING A DECISION OF THE PLANNING COMMISSION DENYING AN APPLICATION TO OPERATE A FORMULA RETAIL STORE (AMERICAN APPAREL) ON PROPERTY ZONED C-2.

APN: 510-44-034

APPLICATION #U-06-006

PROPERTY LOCATION: 25 N. SANTA CRUZ AVENUE

PROPERTY OWNER: SANTA CRUZ REAL, LLC

APPLICANT/APPELLANT: TACEE WEBB

WHEREAS:

A. This matter came before the Town Council for public hearing on January 17, 2006 and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant/applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated January 12, 2006 and Desk Items dated January 17, 2006, along with subsequent reports and materials prepared concerning this application.

C. The applicant/appellant seeks approval of a conditional use permit (Application U-06-006) to operate a formula retail store (American Apparel) at 25 N. Santa Cruz Avenue, which is located in the Central Business District ("CBD").

D. The Planning Commission considered this matter on November 9, 2005, and denied the application on the basis that the proposal is not consistent with the General Plan regarding small town character and support for locally-owned stores in the CBD, that the space was previously occupied by a non-formula retailer, and that the addition of another apparel store would detract from the diversity and balance in the types of retail businesses in the CBD.

E. The applicant/appellant claims that the 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 CBD.

F. The decision of the Planning Commission was correct.

G. Council, by this reference, fully incorporates herein and adopts the findings of the Planning Commission on Application U-06-006, made on November 9, 2005.

RESOLVED:

1. The appeal of the decision of the Planning Commission on Application U-06-006 is denied.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California on the ____ day of September 2006, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS, CALIFORNIA