



Office of the Mayor

CONSENT CALENDAR

September 27, 2011

TO: Members of the City Council

FROM: Mayor Tom Bates
Councilmember Max Anderson

SUBJECT: Auto Dealers on South Shattuck

RECOMMENDATION:

Refer to the Planning Commission a Zoning Ordinance amendment to allow automobile dealers to become a legal conforming use on South Shattuck Ave, including the ability to lease or purchase additional property if necessary.

BACKGROUND:

When the City instituted zoning changes in the 1980s to prohibit new car sales and other auto-oriented uses in the South Shattuck corridor, planners assumed that pressure from car manufacturers and real estate trends would require the dealers on South Shattuck to relocate to sites near the I-80 freeway. All of our City's dealers have explored this option, particularly after the City rezoned the M-District in 2008 to make new car sales an "allowed use." However, in practice only one site that might be appropriate for a car dealer came on the market after the rezoning and attempts by one auto dealer to purchase that site were unsuccessful. Another dealer owns its existing South Shattuck site and another has a long-term lease. For these dealers relocation to West Berkeley is not an easy option for the foreseeable future.

One of the South Shattuck dealers does have a pressing need to move from its existing site because it has been approved for mixed-use development and construction is scheduled to start next year. This dealer, however, faces a time-consuming "protest" from another dealer in an adjacent franchise area if it attempts to relocate to West Berkeley. The California Motor Vehicles Code allows a dealer in an adjacent franchise area the right to protest before the Motor Vehicle Board if a dealer selling the same car brand moves more than a mile closer to its territory. In practice, the announced "protest" means that particular dealer must look for an alternative site within the South Shattuck corridor.

Automobile dealerships are one of the largest sales tax revenue generators for the City of Berkeley consistently ranking in the top 25 retailers. It is therefore in the City's interests to facilitate retention of this long-standing local business. Approximately 20 auto service technicians are unionized and represented by the Machinists Union (IAM).

On August 1, the Council received a joint letter from the three auto dealers on South Shattuck Avenue: Toyota of Berkeley, Berkeley Honda, and McKeivitt Volvo (see attachment) requesting the City remove the Zoning ordinance restriction that would allow them the opportunity to explore options to move or expand their operations in the South Shattuck area.

FINANCIAL IMPLICATIONS:

Unknown. Potential retention of future sales tax revenue

CONTACT PERSON:

Tom Bates	Mayor	981-7100
Max Anderson	Councilmember District 3	981-7130

Attachment:

1. Auto Dealer Letter

Attachment 1

July 20, 2011

Mayor Tom Bates and Members of the City Council

City of Berkeley

2180 Milvia, Berkeley, CA 94704

RECEIVED
AUG 1 2011
Office of
Mayor Tom Bates

Dear Mayor Bates and Members of the City Council,

The three auto dealers located on South Shattuck Avenue, Toyota of Berkeley, Berkeley Honda, and McKeivitt Volvo, ask you to remove the provision in the Zoning Ordinance, C-SA South Area Commercial (Chapter 23E.52.030), that prohibits new Automobile Sales in this District. As "existing non-conforming uses", we are allowed to remain at our existing locations although one of us may lose our site to development. We need flexibility for possible relocation or modest expansions of our dealerships. For reasons explained below, options to relocate elsewhere in Berkeley are very limited to non-existent. For this reason, we request that the Zoning provision above be removed to allow us to lease other property in the C-SA District.

Four years ago, the City of Berkeley changed M-District Zoning to allow auto sales in the M-District. We have all looked at the very limited number of properties that have come on the market in that District and at least one of us submitted an unsuccessful offer to purchase. We continue to be interested in working with City staff to relocate to more regional locations near the freeway, hopefully close to each other so that the area can acquire a reputation as an auto district. However, we face a major obstacle: in California the New Motor Vehicle Board (NMVB) enforces a regulation(Vehicle Code (Sec. 3062(a)(1), 3072(a)1(1)) that prohibits a manufacturer from establishing "...a new dealership at, or relocating an existing dealership to, at location that is within 10 miles of another dealership of the same make." At least two of us would, in fact, face such a protest were we to attempt to locate to West Berkeley.

We therefore ask you remove the Zoning provision that prevents us from leasing or purchasing property that was not previously used for auto sales. For the foreseeable future, the best alternative is for us to remain on South Shattuck.

Sincerely,


Tim Southwick, Toyota of Berkeley


Fred Lavery, McKeivitt Volvo


TIM BEINKE BERKELEY HONDA AUTOCENTER

