




Office of the City Manager

CONSENT CALENDAR  
July 2, 2013

To: Honorable Mayor and Members of the City Council  
From:  Christine Daniel, City Manager  
Submitted by: Eric Angstadt, Director, Planning and Development  
Subject: Commercial South Area (C-SA) "South Shattuck" Auto Sales Zoning Amendments, Amending BMC Chapter 23E.52

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 23E.52 (C-SA District) to allow new or relocated auto sales uses:

- a. with a Zoning Certificate (ZC) throughout the C-SA district when the business is conducted entirely indoors;
- b. with a Use Permit with Public Hearing (UPPH) in the Dealership Overlay Area if the business includes outdoor activities;
- c. subjecting all auto sales uses to specific development and performance standards that address neighborhood compatibility; and
- d. correcting typographical errors in the Chapter.

FISCAL IMPACTS OF RECOMMENDATION

Allowing auto sales will enable existing establishments to relocate and create the opportunity for new auto sales uses to locate in the C-SA district. Vehicle sales play an important sales-tax generation role and are the third largest economic segment in the city after retail and restaurants.

CURRENT SITUATION AND ITS EFFECTS

The City Council requested the Planning Commission consider making auto dealership uses on South Shattuck a legal use in a referral from September 2011 because one of the three existing dealership (Honda) will be forced to relocate soon by a mixed-use project approved on the site. Dealerships in the C-SA district cannot relocate and have limited capacity to modify their existing sites because automobile sales have been prohibited since the early 1990s. Existing dealerships are legal non-conforming uses.

On May 15, 2013, the Planning Commission recommended adoption of zoning amendments that will allow new or relocated auto sales uses with outdoor activities (such as vehicle display) in a new "Dealership Overlay Area" upon approval of a UPPH and will allow indoor-only auto sales uses throughout the C-SA district with a ZC. The amendments also include design standards for new construction conducive to a pedestrian scale and development standards intended to minimize impacts from noise, lighting and outdoor activities.

The C-SA district is located in south Berkeley and includes Adeline Street and Shattuck Avenue from Dwight Way to the city border, Ashby Avenue between Martin Luther King Jr. Way and Orina Street, Alcatraz Avenue from west of King Street to east of Dover Street, and Sacramento Street from Oregon Street to Alcatraz/city border. The new Dealership Overlay Area for auto sales uses with outdoor activities will include Adeline and Shattuck from Dwight to Alcatraz, excluding all lots confronting and including the Ashby BART station and all lots on Shattuck south of Ashby (See Attachment 3).

#### BACKGROUND

Staff held a community meeting in March 2012 to discuss options for allowing dealerships in the C-SA again. The Planning Commission discussed the project in April and May of 2012 and March and May 2013. Two members of the public attended the community meeting; there were no members of the public at the public hearing.

At the March 20, 2013 meeting staff presented options to expand the area where dealerships would be allowed in order to increase the feasibility of a relocated or new dealership use, particularly small-scale auto "boutiques." The Commission directed staff to include options for a larger geographic area for the Dealership Overlay Area and to present options for lower discretionary permit levels for the purpose of the public hearing notice. The expanded scope will increase the possibility of a suitable relocation site for Honda and encourage indoor-only "boutique" dealerships.

On May 1, 2013 the Commission held a public hearing and discussed the following options, taking into consideration existing vacancies, existing dealerships, and surrounding land uses:

1. Extent of Dealership Overlay Area:
  - a. Dwight to Stuart, *OR*
  - b. Dwight to Ashby, excluding C-SA lots on Sacramento, *OR*
  - c. Dwight to Alcatraz, excluding Shattuck Ave from Ashby to city border (Woolsey) and excluding C-SA lots on Sacramento
2. Indoor-only dealerships level of discretion:
  - a. Allowed with ZC in the Dealership Overlay Area only, *OR*
  - b. Allowed with ZC in the entire C-SA District, *OR*
  - c. Allowed with an AUP in the entire C-SA District.
3. Change of use thresholds (permit required for new use in existing building):
  - a. No change (3,000 s.f. = AUP; 5,000 s.f. = UPPH), *OR*

- b. Increase thresholds to 5,000 s.f. = AUP; 7,000 s.f. = UPPH

The Commission selected options 1c for the Dealership Overlay Area and added the exclusion of the BART station lot and all confronting lots from the Dealership Overlay Area. The Commission recommended an UPPH for new dealerships with outdoor activities, such as auto display, in the Dealership Overlay Area. The Commission selected 2b for the permit requirement for new indoor-only dealerships (ZC throughout the C-SA). The Commission recommended considering change of use thresholds (item 3, above) at a later time.

The Commission also discussed the potential impact of new dealership buildings on the pedestrian environment and made suggestions for improved design requirements that were incorporated into the proposed ordinance.

On May 15, 2013 the Commission considered a revised draft of the proposed ordinance based on their May 1 direction and voted to recommend adoption by the City Council. (Motion: Novosel, Second: Clarke. Ayes: Clarke, Eisen, Lindheim, Novosel, Taecker. Noes: None. Abstain: Poschman, Sheahan. Absent: Dacey, Davis. 5-0-2-2)

#### *Typo Corrections*

In addition, staff identified and corrected typographical errors in the Section 23E.52.070:

- The following text in Subsection 23E.52.070.B.1 is changed because with the adoption of the C-DMU District in 2012, the C-SA district now begins at Dwight Way: "between Durant AvenueDwight Way on the North and Parker Street on the south:" With adoption of
- In Subsection 23E.52.070.B, the following text is deleted twice because it is a hanging phrase with no subsequent reference: "and as further described below:"

#### RATIONALE FOR RECOMMENDATION

Automobile sales are an existing use in the C-SA district with minimal impacts on the surrounding residential and commercial neighbors. By allowing new or relocated auto sales uses, the City will retain an important sales-tax generator.

#### ALTERNATIVE ACTIONS CONSIDERED

The Commission considered various options at the May 1, 2013 public hearing, as summarized above under "Background."

#### CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7410

#### Attachments:

- 1: Ordinance – Strike Out Format
- 2: Ordinance – Clean Text Format
- 3: Map of Dealership Overlay Area in C-SA District

- 4: Planning Commission Staff Reports (in reverse chronological order)
- 5: Draft Planning Commission Minutes (in reverse chronological order)

ORDINANCE NO. -N.S.

AMENDING THE C-SA DISTRICT TO ALLOW SALE OF AUTOMOBILES AND MOTORCYCLES WITH OUTDOOR ACTIVITIES IN THE DEALERSHIP OVERLAY AREA AND INDOOR-ONLY OPERATIONS THROUGHOUT THE DISTRICT; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23E.52 AND SECTION 23F.04.010

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the “Automobile and Other Vehicle Oriented Uses” section of Berkeley Municipal Code Table 23E.52.030 is amended to read as follows:

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
<b>Automobile and Other Vehicle Oriented Uses</b>		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile and Motorcycle Repair and Service, including Parts Service	Prohibited	
Automobile and Motorcycle Sales and Rentals Exclusively indoor operations With outdoor activities	Prohibited ZC* UP(PH)	Subject to additional requirements, see 23E.52.070.F. Uses with outdoor activities limited to the Dealership Overlay Area by Section 23E.52.060.E.
Automobile and Motorcycle Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores, including Sales and/or Service	Prohibited	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	

Section 2. That a new subdivision (E) is added to Berkeley Municipal Code section 23E.52.060 to read as follows:

E. New or relocated automobile or motorcycle sales uses with outdoor activities, including but not limited to storage and display of vehicle inventory, shall be limited to the Dealership Overlay Area, which includes all lots with a frontage on Adeline Street, Shattuck Avenue or Ashby Avenue between Dwight Way and the south side of Alcatraz Street, with the exceptions of the Ashby BART Station block and all lots

confronting this block and lots with frontage exclusively on Shattuck Avenue south of Ashby Avenue.

Section 3. That Berkeley Municipal Code subdivision 23E.52.070.B is amended to read as follows:

B. The height for a Main Building shall not exceed the following limits, and shall satisfy the following requirements:

1. For those blocks and portions of blocks of the District adjacent to Shattuck Avenue between Durant Avenue Dwight Way on the north and Parker Street on the south:

Use Type	Height (ft.)	Stories (number)
Commercial only	36	3
Mixed Use*	60	5*
Other uses	36	3
Residential only	60	5

\*In Mixed Use buildings, the third, fourth and fifth floors shall be used for residential purposes entirely. and as further described below:

2. For those portions of the District adjacent to Shattuck Avenue between Parker Street on the north and Ward Street on the south., and those properties bounded by Adeline Street, Shattuck Avenue, and Russell Street:

Use Type	Height (ft.)	Stories (number)
Commercial only	24	2
Mixed Use*	50	4*
Other uses	24	2
Residential only	50	4

\*In Mixed Use buildings, the third and fourth floors shall be used for residential purposes entirely..

and as further described below:

3. For all other properties classified in the District:

Use Type	Height (ft.)	Stories (number)
Commercial only	24	2
Mixed Use*	36	3*

Other uses	24	2
Residential only	36	3
*In Mixed Use buildings, the third floor shall be used for residential purposes entirely.		

Section 4. That a new subdivision (F) is added to Berkeley Municipal Code section 23E.52.070 to read as follows:

F. New or relocated automobile or motorcycle sales uses are subject to the following standards. Expansions or modifications of existing uses are encouraged to meet these standards where feasible and shall not worsen a non-conformity with these standards. These standards may be modified by an AUP subject to Section 23E.52.090.E.

1. Outdoor vehicle display shall only be permitted along Shattuck Avenue and Adeline Street and shall be limited to 30 percent of the lot frontage on those streets;
2. A maximum of 40 percent of the lot area may be used for outdoor uses, including but not limited to vehicle display and storage. Adequate landscaping and/or fencing shall be used to filter the view of outdoor uses from the adjacent right-of-way and abutting properties, with the exception of outdoor vehicle display;
3. Vehicle and repair service entries may not exceed 20 percent of the primary lot frontage, no entrance may exceed a width of 20 feet. The primary street frontage is the frontage towards which the primary building entrance is oriented;
4. At least 60 percent of any new building shall be within 10 feet of the right of way along the primary street frontage and 60 percent of the street-facing façade shall be comprised of clear glass;
5. All vehicle repair activities shall be conducted indoors;
6. All noise-generating equipment and activities, such as vehicle repair, shall be shielded by noise-attenuating materials; outdoor amplification is prohibited;
7. Exterior light standards and fixtures shall not be taller than 20 feet, shall achieve uniform light coverage and minimize glare, shall use light cutoffs to control light spillover onto adjacent properties and urban sky glow, and shall use low energy light fixtures consistent with the City's goals for energy efficiency; and
8. No vehicles shall be stored in the public-right-of way.

Section 5. That Berkeley Municipal Code Table 23E.52.080 is amended to read as follows:

<b>Table 23E.52.080</b>	
<b>Parking Required</b>	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-4 Standards, Section 23D.40.080
Automobile and Motorcycle Sales	One per 1,000 sq. ft. of floor area

Section 6. That a new subdivision (E) is added to Berkeley Municipal Code section 23E.52.090 to read as follows:

E. The Zoning Officer may approve a modification of the standards applicable to new or relocated automobile or motorcycle sales uses if it finds that doing so is necessary to facilitate incorporation of an existing structure, to achieve greater consistency with the surrounding street pattern, to buffer impacts to an adjacent residential district, or to accommodate dealership operations.

Section 7. That Berkeley Municipal Code Section 23F.04.010 is amended to include the definitions of “Automobile Sales” and “Motorcycle and small vehicle sales” as follows:

**Automobile Sales:** An establishment which sells, or leases long-term, new, used or pre-owned automobiles or trucks; restored vintage, specialty, or antique automobiles or trucks; or automobiles or trucks refurbished for alternative fuels (alternative to conventional gasoline). Ancillary uses and services that are incidental to and supporting of an automobile sales use may include the sale and installation of automobile parts, accessories and equipment; sale of used or pre-owned automobiles or trucks; repair, maintenance, bodywork and other service of automobiles; loaning of vehicles to service patrons; storage of vehicles outdoors; and automobile washes.

**Motorcycle and small vehicle sales:** An establishment which sells, or leases long-term, new, used or pre-owned, motorized vehicles other than passenger automobiles and trucks, which are characterized by fewer than four wheels or a minimal frame, including but not limited to motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles design or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

Section 8. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



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