




MEETING DATE: 1/18/05
MANAGER MATTERS
ITEM 12

COUNCIL AGENDA REPORT

DATE: January 14, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: DISCUSSION ON STREAMLINING THE REVIEW PROCESS FOR A REPLACEMENT FACILITY AT 15200 LOS GATOS BOULEVARD (LOS GATOS AUTO MALL) AND CONSIDERATION OF ADOPTING AN URGENCY ORDINANCE TO IMPLEMENT THE STREAMLINED REVIEW PROCESS

RECOMMENDATION:

- A. Discuss the issue of streamlining the development review process for a replacement facility at the 15200 Los Gatos Boulevard (Los Gatos Auto Mall).
- B. If Council determines that it is desirable to modify the review process for a replacement facility at 15200 Los Gatos Boulevard (Los Gatos Auto Mall), then Council should:

Alternative 1:

- 1. Direct the Clerk Administrator to read title of the draft Urgency Ordinance (Attachment 1),
- 2. Waive the reading of the Urgency Ordinance,
- 3. Introduce and adopt the Urgency Ordinance (four votes required),
- 4. Direct the Clerk Administrator to publish the Urgency Ordinance within 15 days after adoption;

Alternative 2:

Adopt the draft Resolution (Attachment 2)

BACKGROUND:

As the Council is aware, the Los Gatos Auto Mall building at 15200 Los Gatos Boulevard exploded on January 7, 2005 due to a gas leak. The building was destroyed by the explosion. The owner of

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DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PSJ Assistant Town Manager ✓ Attorney Clerk Finance
 Community Development

Revised: 1/14/05 4:57 pm

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the Auto Mall intends to place a trailer on the site to provide a sales office on an interim basis. Permits have been issued for the trailer. Staff has met with the owner of the Auto Mall and has spoken with the property owner to discuss the possibility of reconstructing the dealership on the site.

The Auto Mall leases the site from the property owner, the Tsigaris Trust. The Auto Mall owner has informed staff that their lease allows the property owner to terminate the lease due to destruction of the building. The property owner is considering its options, one of which is to terminate the lease to pursue construction of an alternate use on the site. However, the property owner and lessee have met and are working toward a new lease agreement. Both parties will be in attendance at the January 18, 2005 Town Council meeting.

DISCUSSION:

The owner of the Auto Mall is evaluating if he should rebuild the dealership in Los Gatos or relocate to another city. Staff recognizes this is an extraordinary and unfortunate situation and has considered ways to streamline the development review process to allow the Auto Mall to quickly reconstruct should they desire to remain in Los Gatos. Staff is hopeful that a streamlined process will provide an incentive to the Auto Mall and the property owner to rebuild the dealership. This approach demonstrates responsiveness to a business community member in a highly unusual situation. Further, it provides for the health and welfare of the Town by updating and improving a site at a gateway intersection and ensuring continued sales tax revenue.

Staff has identified the following two approaches to streamline the review process for a replacement dealership.

Alternative 1: Urgency Ordinance

The first approach is to adopt an Urgency Ordinance that would allow the Development Review Committee (DRC) to approve a replacement facility for the Auto Mall. Staff developed this alternative based upon early discussions with the Auto Mall owner and it provides for improvements to the facility that the owner believes would enhance the business. Normally, car dealerships require approval by the Planning Commission. Since a conditional use permit already exists allowing an auto dealership on the property, the DRC could be granted the authority to approve the required application(s) for a replacement facility providing specific criteria is met, as follows:

- a. A public hearing will be noticed and held in the same manner as for a Planning Commission hearing.
- b. The building shall be similar in size to previous building. A minor amount of additional floor area may be approved. The additional floor area shall not generate more than a minor traffic impact as defined by the Town Traffic Impact Policy.
- c. The building location shall be similar to previous structure.

- d. The height of the new building shall be similar in height to the previous structure. The new building may contain a second floor.
- e. The new facility may include an underground parking garage.
- f. The facility shall contain the same uses as previously existed. Auto repair use cannot be approved under this process.
- g. The proposal shall be consistent with the draft Commercial Design Guidelines.
- h. The replacement facility shall demonstrate architectural excellence.
- i. The new facility may be a franchised auto dealer.
- j. The applicant shall demonstrate early neighborhood involvement during the design process.

If issues develop during the review process or staff determines that the application is not consistent with these criteria, staff will refer the application to Planning Commission and will no longer utilize this expedited process.

A draft Urgency Ordinance is provided as Attachment 1. During its review of the Draft Commercial Design Guidelines on January 12, 2005, the General Plan Committee discussed the concept of an expedited review process for a replacement facility using the draft Commercial Design Guidelines. The Committee supported the adoption of an urgency ordinance granting DRC the authority to approve reconstruction of the auto dealership on this site. The Committee completed its review of the Commercial Design Guidelines, released the Guidelines for public review and recommended approval of the Guidelines. The Committee is comprised for two Council members, three Planning Commissioners, one Community Services Commissioner, and three members of the public (one seat is currently vacant). The Guidelines are tentatively scheduled for Planning Commission hearings in March and Council consideration in May.

Staff has suggested use of an urgency ordinance due to the need for a timely response. An expedited review process could be adopted through a standard ordinance amendment, but this would take approximately four months longer. Government Code Section 65858 authorizes a municipality to adopt, as an urgency measure, an interim ordinance (also referred to as an "urgency ordinance") without following the procedures otherwise required for the adoption of a zoning ordinance. Before adopting or extending an urgency ordinance, Council must make a finding that there is a current and immediate threat to the public health, safety or welfare. Such an ordinance requires a four-fifths vote of the Town Council for adoption and is effective for 45 days. The urgency ordinance may be extended after notice and public hearing. Urgency ordinances are limited by statute to a maximum two-year period. As required by Government Code, ten days prior to the expiration of the ordinance, Council must issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance.

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Alternative 2: Resolution Providing Direction to Planning Commission

The second approach retains the standard process of requiring approval by the Planning Commission for an auto dealership. The resolution directs the Planning Commission to expeditiously review the application and render its decision as quickly as possible but in a maximum of two meetings. The draft resolution is included as Attachment 2.

CONCLUSION:

Staff believes that a streamlined review process is an appropriate response to a highly unusual and extraordinary event that strikes a lawful commercial or residential development in Los Gatos. In this instance, the adoption of the Urgency Ordinance (Attachment 1) will provide a strong statement that the Los Gatos Auto Mall is a valued business in Town and that reconstruction and improvement of the site, consistent with the draft Commercial Design Guidelines, will be beneficial to the community as a whole. Further, the Ordinance requires architectural excellence and that public input be preserved. Staff has determined that the Urgency Ordinance is consistent with the General Plan and Economic Vitality Program, and provides for the public health and welfare as cited on Page 3 of the draft Urgency Ordinance.

As an alternative, adoption of the resolution (Attachment 2) retains that Town's standard review process but directs the Planning Commission to review the application in an expeditious manner.

ENVIRONMENTAL ASSESSMENT:

It has been determined that this project is categorically exempt pursuant to Section 15302 of the California Environmental Quality Act Guidelines as adopted by the Town.

FISCAL IMPACT: None.

Attachments:

1. Draft Urgency Ordinance
2. Draft Resolution.

Distribution:

Elias & Dimitra Tsigaris, 1543 Meridian Avenue, San Jose, CA 95125
Ron Battistella, Los Gatos Auto Mall, 620 Blossom Hill Road, Los Gatos, CA 95032
John Schiavo, Los Gatos Auto Mall, 620 Blossom Hill Road, Los Gatos, CA 95032

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ORDINANCE

AN URGENCY INTERIM ORDINANCE ESTABLISHING A STREAMLINED REVIEW PROCESS FOR A REPLACEMENT FACILITY AT 15200 LOS GATOS BOULEVARD (LOS GATOS AUTO MALL)

WHEREAS, Government Code § 65858 allows a legislative body, without following the procedures otherwise required prior to the adoption of a zoning ordinance, to adopt, as an urgency measure, an interim ordinance; and

WHEREAS, the zoning provisions of the Los Gatos Town Code require that development applications for automobile dealership, including architectural and site approval and conditional use permits applications, are approved by the Planning Commission; and

WHEREAS, the Los Gatos Auto Mall at 15200 Los Gatos Boulevard was destroyed by an explosion on January 7, 2005; and

WHEREAS, this was an extraordinary and unfortunate occurrence; and

WHEREAS, the Los Gatos Auto Mall is an important business to the Town and its residents and is a business that generates critical sales tax revenue for the Town; and

WHEREAS, the Auto Mall parcel is located at the intersection of Lark Avenue and Los Gatos Boulevard which is a gateway to the Town; and

WHEREAS, the Town desires to expedite the development review process for a replacement automobile dealership facility at 15200 Los Gatos Boulevard so long as the application meets specified parameters;

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

1. Interim Ordinance. During the term of this Interim Ordinance, the Town's Development Review Committee shall have the authority to approve all development applications for an automobile dealership at 15200 Los Gatos Boulevard including, but not limited to architectural and site approval,

conditional use permit, and variance applications, so long as the applications meet all of the following criteria:

- a. A public hearing will be held by the Development Review Committee and noticed in the same manner as for a Planning Commission hearing.
- b. The new building shall be similar in size to the previously existing building. A minor amount of additional floor area may be approved. The additional floor area shall not generate more than a minor traffic impact as defined by the Town Traffic Impact Policy.
- c. The location of the new building shall have a similar setback from the rear property line as the previously existing structure
- d. The height of the new building shall be similar to or less than the height of the previous structure. The new building may contain a second floor.
- e. The new facility may include an underground parking garage
- f. The facility shall contain the same uses as previously existed. Auto repair uses may not be approved under this process.
- g. The proposal shall be consistent with the draft Commercial Design Guidelines
- h. The replacement facility shall demonstrate architectural excellence
- i. The new facility may be a franchised auto dealer
- j. The applicant shall demonstrate early neighborhood involvement during the design process.

Any decision of the Development Review Committee under the authority granted by this Ordinance may be appealed to the Town Council in the same manner as specified by Section 29.20.275 et seq. of the Town Code for appeals of Planning Commission decisions to the Town Council.

2. Findings.

- a. The Town of Los Gatos General Plan contains Goals and Policies encouraging a full

range of commercial uses that preserve the Town's economic vitality while maintaining the unique character of Los Gatos. For example, Goal L.G.5.2 is to maintain an "economically stable community within environmental goals."

b. The General Plan contains specific Policies addressing automobile dealerships in which the Town will "retain and enhance auto dealerships" and "auto related uses currently existing shall be allowed to remain indefinitely."

c. The Town's Economic Vitality Program addresses the importance of automobile dealerships to the Town in terms of retail opportunities for residents, jobs, and sales tax. The Program states that the Town will assist dealerships to make improvements to their facilities while remaining sensitive to surrounding neighborhoods.

d. The site is located at a highly visible location at a gateway intersection to the Town. Reconstruction of the site, consistent with the Town's Draft Commercial Design Guidelines and in a timely manner, will provide needed improvements to a gateway site.

e. Should the business and property owners be unable to reconstruct the automobile dealership on the site in an expedited fashion such as established by the Ordinance, the business owner has informed the Town that they may be forced to relocate to another jurisdiction. As a result, the Town would incur a loss of sales tax revenue in this fiscally challenging period. This situation represents a current and immediate threat to the public health, safety, and welfare in that the Los Gatos Auto Mall is a leading sales tax generator and its continued operation in Los Gatos is critical to the fiscal health of the Town. The development review process described in the Interim Ordinance would ensure the more expeditious review of a proposed replacement facility.

3. Term. This Interim Ordinance shall expire March 4, 2005, unless extended by Town Council pursuant to Government Code § 65858.

4 Report. At least 10 days prior to expiration of this Interim Ordinance, the Town Council shall issue a written report pursuant to Government Code § 65858 (d) describing the measures taken to alleviate the conditions which have led to the adoption of this Interim Ordinance.

5. Severability. If any part of this Interim Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Interim Ordinance or the applicability of this Interim Ordinance to other situations.

6. Posting. Within 15 days after its passage, the Town Clerk shall cause this Interim Ordinance to be published once in a newspaper of general circulation published and circulated in the Town and posted in at least three public places within the Town.

This Interim Ordinance was passed and adopted at a regular meeting of the Town Council of the Town of Los Gatos on January 18, 2005, and adopted by at least a four-fifths (4/5) vote of the Town Council as follows:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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RESOLUTION NO.

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
ENCOURAGING AN EXPEDITED REVIEW PROCESS FOR A REPLACEMENT
FACILITY AT 15200 LOS GATOS BOULEVARD (LOS GATOS AUTO MALL)**

WHEREAS, the zoning provisions of the Los Gatos Town Code require that development applications for automobile dealership, including architectural and site approval and conditional use permits applications, are approved by the Planning Commission; and

WHEREAS, the Los Gatos Auto Mall at 15200 Los Gatos Boulevard was destroyed by an explosion on January 7, 2005; and

WHEREAS, this was an extraordinary and unfortunate occurrence; and

WHEREAS, the Los Gatos Auto Mall is an important business to the Town and its residents and is a business that generates critical sales tax revenue for the Town; and

WHEREAS, the Auto Mall parcel is located at the intersection of Lark Avenue and Los Gatos Boulevard which is a gateway to the Town; and

WHEREAS, the Town desires to expedite the development review process for a replacement auto mobile dealership facility at 15200 Los Gatos Boulevard so long as the application meets specified parameters;

THEREFORE BE IT RESOLVED: The Town Council hereby directs the Planning Commission to review and act on applications for a replacement automobile dealership at 15200 Los Gatos Boulevard as expeditiously as possible but in a maximum of two meetings

FURTHER RESOLVED: The Planning Commission shall utilize the Draft Commercial Design Guidelines in its review of the applications.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of
Los Gatos, California, held on the 18th day of January 2005 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA