



MEETING DATE: 12-19-2005  
AGENDA ITEM: 10

### COUNCIL AGENDA REPORT

DATE: December 15, 2005  
TO: MAYOR AND TOWN COUNCIL  
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*  
SUBJECT: ADOPT ORDINANCE EXTENDING AN URGENCY ORDINANCE TO STREAMLINE THE REVIEW PROCESS FOR A REPLACEMENT FACILITY AT 15200 LOS GATOS BOULEVARD (LOS GATOS AUTO MALL)

RECOMMENDATION:

Adopt ordinance extending an urgency ordinance to streamline the review process for a replacement facility at 15200 Los Gatos Boulevard (Los Gatos Auto Mall).

DISCUSSION:

On December 5, 2005, Council introduced the ordinance extending to January 18, 2007, the existing urgency ordinance that allows the Development Review Committee (DRC) to approve a replacement facility for the Auto Mall. The proposed action would constitute Council's final act to adopt the ordinance extending the urgency ordinance.

Attachments: Ordinance

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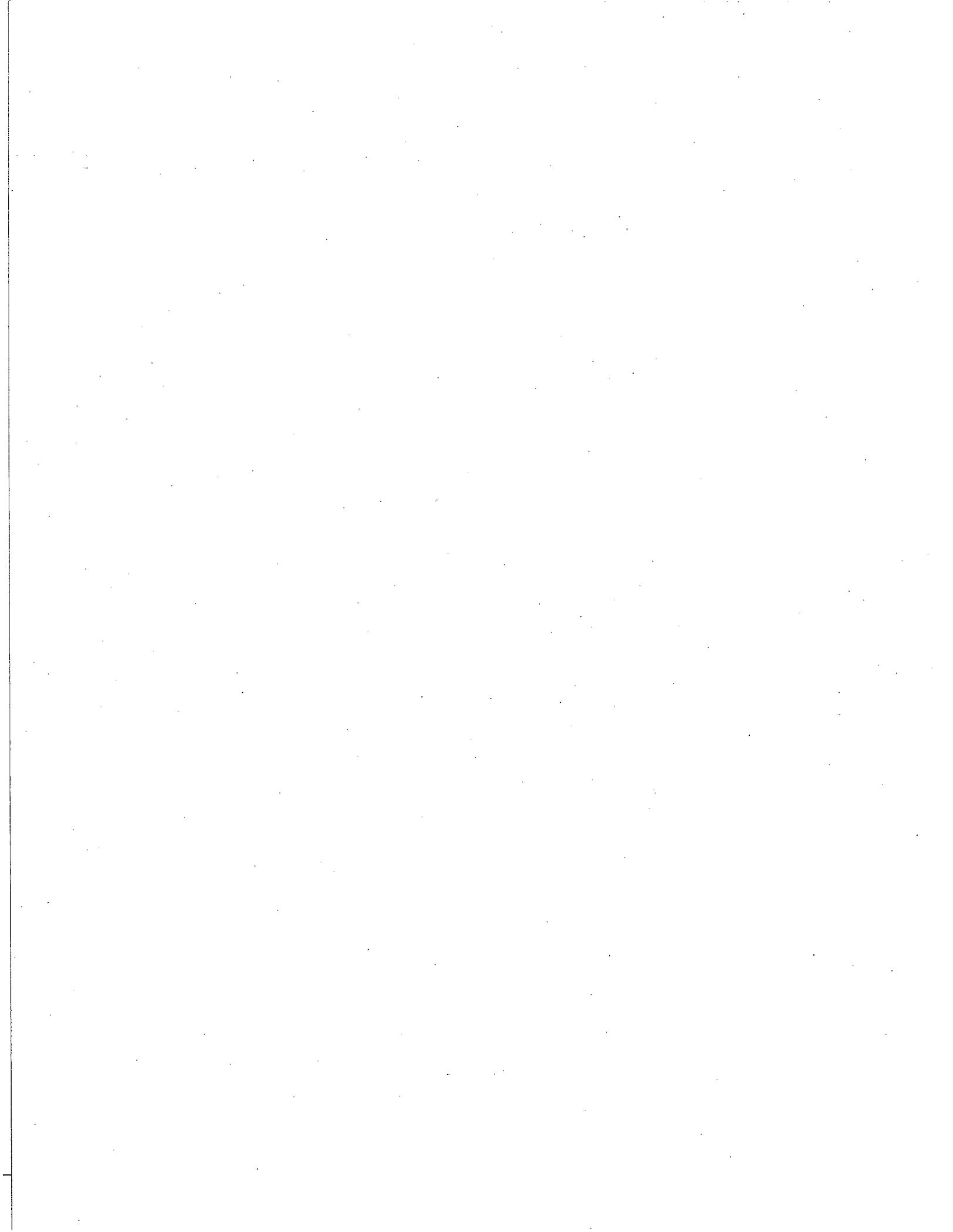
PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

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Reviewed by: [Signature] Town Manager \_\_\_\_\_ Assistant Town Manager \_\_\_\_\_ Clerk Administrator  
Finance [Signature] Community Development

Rev: 12/15/05 2:31 pm  
Reformatted: 7/19/99

File# 301-05



## ORDINANCE

### AN EXTENSION TO 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 Town Council of the Town of Los Gatos did adopt such an urgency measure on January 18, 2005; and

**WHEREAS**, the Town Council adopted on February 22, 2005 an extension to the urgency measure which expires on January 19, 2006 unless extended by the Town Council; 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 auto mobile 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 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.

f. Town Council issued a written report as required by Government Code § 65858 (d).

3. Term. This Interim Ordinance shall expire January 18, 2007.

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 December 19, 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