



MEETING DATE: 1/5/04
ITEM NO. 12

COUNCIL AGENDA REPORT

DATE: December 16, 2003
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER A REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT TO EXPAND FROM BEER AND WINE TO FULL LIQUOR SERVICE SERVICE (TAPESTRY) ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT APPLICATION U-04-6. PROPERTY LOCATION: 11 COLLEGE AVENUE (APN 529-29-052). PROPERTY OWNER: DAVE FLICK. APPLICANT: TAPESTRY RESTAURANT, LP.

RECOMMENDATION:

1. Accept report in the form of meeting minutes from the Planning Commission regarding a modification of a Conditional Use Permit (Attachment 4).
2. Hold the public hearing and receive public testimony.
3. Close the public hearing.
4. Approve or deny the application. If the application is approved, make the required findings (Attachment 1) and approve the application subject to the proposed conditions (Attachment 3).
5. Refer to the Town Attorney for preparation of the appropriate resolution.

BACKGROUND:

On October 23, 1996, Project Application PRJ-96-68 was approved by the Planning Commission granting approval of a Conditional Use Permit for a high quality restaurant with outdoor dining for the building located at 11 College Avenue. The approval also allowed the restaurant to serve beer and wine with meals, but did not allow full liquor service (See Attachment 2). The building located at 11 College Avenue is currently occupied by Tapestry Restaurant.

(Continued on Page 2)

PREPARED BY:
Bud N. Lortz
Director of Community Development

Scott Seaman
Chief of Police

Reviewed by: OSJ Assistant Town Manager OK Town Attorney Clerk Finance
 Community Development Revised: 12/16/03 3:59 pm

DISCUSSION:

1. Project Summary

The applicant is requesting to modify an existing conditional use permit (CUP) to allow full liquor service with meals at the restaurant (Tapestry) located at 11 College Avenue. To date, only beer and wine have been permitted to be served with meals.

The applicant believes that this request is justified given the change in the competitive business environment, since other local restaurants have obtained permission for full liquor service (Exhibit E of Attachment 5). All other existing operations, including hours of operation and seating capacity will remain unchanged. It should be noted that Staff has added a condition (Condition #9 of Attachment 3) which states that a separate bar is not permitted at this location.

2. Planning Commission:

The Planning Commission considered this matter on November 12, 2003. A copy of the Draft Planning Commission minutes are included as Attachment 4. Pursuant to the Town's Alcoholic Beverage Policy (Attachment 7), the Commission forwarded the matter to Town Council with the following recommendation (5-0 vote):

That the Town Council approve application U-04-6 with the following additional condition:

- TAKE OUT SERVICE: There shall be no dedicated walk up counter and no more than 10% of the business shall be take out.

Note: Staff is concerned about how the Town would administer the 10% take-out restriction that the Commission has recommended as an additional condition.

The Commission supported the request with the additional condition for the following reasons:

- * The proposed use is desirable to public convenience since it provides a choice for those wishing to have a cocktail with dinner; and
- * The proposed use will not impair the integrity, character, or use of the zone since the restaurant will continue to operate in a similar manner; and
- * The proposed use will not be detrimental to public health, safety, or general welfare as shown by other similar restaurants such as Kuletto's and Forbes Mill Steak House which have separate bars and don't present a problem. This restaurant is not permitted to have a separate bar which should present less of a problem; and
- * Late night service will not adversely impact adjacent residential neighborhoods since the hours of alcohol service are limited and conditions are included which can require security guards; and
- * There is no history of complaints or non-compliance with local ordinances or the Alcohol Beverage Policy; and

- * The applicant is providing a clear benefit by providing choices for diners.

It should be noted that Attachment 3 is the final version of the conditions of approval including the additional condition recommended by the Commission (Please see staff's note above regarding Condition #10 of Attachment 3).

3. Conclusion:

Staff has reviewed this proposal and believes that this is a reasonable request given that the existing business does not have a history of complaints and is in good standing with the Police Department.

ENVIRONMENTAL ASSESSMENT:

As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.

FISCAL IMPACT:

None.

Attachments:

1. Required findings from the Staff Report for the Planning Commission meeting of November 12, 2003.
2. Existing Conditions of Approval from the Staff Report for the Planning Commission meeting of November 12, 2003.
3. Proposed Conditions of Approval including modifications requested by the applicant and recommendations from the Planning Commission from the meeting of November 12, 2003.
4. Excerpts of the Draft Planning Commission minutes for the meeting of November 12, 2003.
5. Report to the Planning Commission from the Director of Community Development dated November 3, 2003 for the meeting of November 12, 2003.
6. Addendum to the report from the Development Review Committee to the Planning Commission dated November 10, 2003 for the meeting of November 12, 2003.
7. Resolution 2001-106

Distribution:

Dave Flick, P.O. Box GF, Los Gatos, CA 95031
Tapestry Restaurant, Attn: Gary Messick, 11 College Ave., Los Gatos, CA 95030

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REQUIRED FINDINGS FOR

11 College Avenue

Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052

PROPERTY OWNERS: Dave Flick

APPLICANT: Tapestry Restaurant, LP

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare; and
- (2) The proposed uses will not impair the integrity and character of the zone; and
- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

- As required by Resolution 2001-106 for policies regulating the sale of alcoholic beverages.

The deciding body shall make the following findings prior to approving an application for conditional use permit to serve alcoholic beverages past 10 PM:

- (1) Late night service will not adversely impact adjacent residential neighborhoods; and
- (2) The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy; and
- (3) The applicant has demonstrated a clear benefit to the community.

- That the work proposed is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.

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PLANNING DEPARTMENT
(408) 354-6872

Dave Flick
P. O. Box GF
Los Gatos, CA 95031

RE: 34 E. Main & 11 College Avenue
a. Project Application PRJ-96-68
b. Negative Declaration Application ND-96-12

Requesting approval of an Architecture and Site Application and a Conditional Use Permit Application to demolish a pre-1941 retail/residential building, to construct a new retail/residential building, to demolish and reconstruct the historic Soda Works building and to rehabilitate a pre-1941 residence into a restaurant with outside seating and retail use on property in the C-2 and R-M:5-12 zone. If no significant environmental impacts are identified as a result of this project, a Negative Declaration will be recommended and an Environmental Impact Report will not be required.
PROPERTY OWNER: Dave Flick

The Town of Los Gatos Planning Commission, at its meeting of October 23, 1996, approved the above application, subject to the conditions below. The conditions in bold are applicable to the Conditional Use Permit for the restaurant.

TO THE SATISFACTION OF THE PLANNING DIRECTOR:
(Planning Section)

1. **SODA WORKS BUILDING.** The Soda Works building shall be dismantled, materials salvaged and be reconstructed. The reconstruction shall include replacing the facade with the existing sign, including the insertion of the new wooden storefront and replacing the wall of the building facing College Avenue.
2. **EXTERIOR MATERIALS.** Real wood frame windows shall be used with true divided lites.
3. **HISTORIC MARKER.** A historic marker with photos of the site shall be in at least one of the buildings.
4. **DENTILS.** Dentils shall be added to the elevations of the E. Main Street building.
5. **RESTAURANT USE.** A high quality restaurant use is permitted in the Puccinelli building. A separate conditional use permit will be required if a restaurant is proposed in any of the other buildings on the lot.
6. **HOURS.** Maximum hours of operation for the restaurant shall be 7:30 a.m. to 11 p.m. seven days a week. No alcohol shall be served earlier than 11:00 a.m.
7. **SEATS.** The maximum number of seats for the restaurant shall not exceed 76. A maximum of 44 outside seats are permitted.
8. **ALCOHOL SERVICE.** The service of beer and wine for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.

(Engineering Section)

9. **GRADING PERMIT.** A grading permit is required for the on-site parking lot. A separate application for a grading permit (with grading plans) shall be made to the Development Engineering Section of the Planning Department. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control.

18. WHEEL STOPS. The concrete wheel stops in the northwest portion of the parking lot shall be removed and replaced with a continuous curb. The proposed 4 foot wide sidewalk within this area shall be widened to provide a 6 foot width.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS, FORESTRY AND MAINTENANCE SERVICES:

19. LANDSCAPE PLAN. A concise landscaping plan will be required prior to issuance of a building permit. The landscaping plan is required to have Town approved trees, shrubs, and groundcovers. A plant legend is also required with type, size, and quantity of proposed plant materials.
20. TREE REMOVAL. A tree removal permit shall be obtained prior to the issuance of any permits.
21. GENERAL. All existing trees listed on the plan are specific subjects of approval of this plan, and must remain on the site.
22. TREE PROTECTION. No construction or grading shall take place within the dripline of existing trees. Prior to any permits being issued, the applicant shall meet with the Parks Superintendent concerning the need for protective tree fencing. Such fencing shall be installed prior to and maintained during construction.
23. IRRIGATION. All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation.
24. NEW TREES. Newly planted trees shall be double staked, using rubber tree ties and shall be planted prior to final occupancy.
25. WATER CONSERVATION ORDINANCE. This landscape is required to meet the Town of Los Gatos Water Conservation Ordinance as per Article IV of Chapter 26 of the Town Code. Working landscape and irrigation plans shall be submitted for review and approved prior to issuance of a building permit. A review fee based on current Council Resolution shall be paid when filed.

TO THE SATISFACTION OF THE DIRECTOR OF BUILDING AND ENGINEERING SERVICES:

26. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Standard Specifications for Public Works Construction. All work shall conform to the applicable Town ordinances. Adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of day. Dirt and debris shall not be washed into storm sewers. The storing of goods and materials on the sidewalk and/or street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
27. PG&E PARCEL. Written verification that the applicant has rights to use the PG&E parcel must be provided when a building permit is filed. In addition, when permits are filed, PG&E will be required to be part of the permit process.
28. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Construction Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading, or paving; and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
29. EROSION CONTROL (COMMERCIAL). Interim and final erosion control plans shall be prepared and submitted to the Engineering Development Section of the Planning Department. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on this area if grading that is allowed to go on during the rainy season. In addition, straw bales

42. **FOUNDATION INSPECTIONS:** A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
43. **MULTI-FAMILY ACCESSIBILITY REGULATIONS:** The apartments shall be designed in accordance with the requirements of the current State of California multi-family accessibility regulations.
44. **TITLE 24 ENERGY COMPLIANCE:** California Title 24 Energy Compliance forms for residential and non-residential shall be blue lined on the construction plans.
45. **PLANS:** The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer. (Business and Professions Code Section 5538)
46. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** On site parking facility shall comply with the latest California Title 24 Accessibility Standards.
47. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** On site general path of travel shall comply with the latest California Title 24 Accessibility Standards for disabled. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
48. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** The building shall comply with the latest California Title 24 Accessibility Standards.
49. **COMMERCIAL - RESTAURANT USE:** Meet all requirements of the County Health Department and West Valley Sanitation District for the interception, separation, or pretreatment of effluent. Proper size grease trap shall be required for any restaurant use. The following agencies will review the grease trap requirements before issuance of the building permit:
 - a. West Valley Sanitation District: 378-2408
 - b. County Health Department: 299-6060
 - c. Town Parks, Forestry & Maintenance Services Department: 354-6808
50. **SPECIAL INSPECTIONS:** When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Department Service Counter. The Town Special inspection schedule shall be blue lined on the construction plan.
51. **NONPOINT SOURCE POLLUTION STANDARDS:** The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (Size 24" X 36") is available at the Building Department service counter.
52. **APPROVALS REQUIRED:** The Project requires the following agencies approval before issuing a building permit:
 - a. West Valley Sanitation District: 378-2408
 - b. Central Fire District: 378-4015
 - c. Los Gatos School District: 395-5570

Note: Obtain the School district form from the Town Building Department, after the Building Department has approved the application for permit.

 - d. County Health Department: 299-6060

Dave Flick - Page 7
34 E. Main Street & 11 College Avenue
October 22, 2003

Enclosed you will find important information to assist you in completing your project. If you have any questions, please contact Sandy Baily of this department at (408) 354-6873.

Very truly yours,

Lee E. Bowman
Planning Director

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RECOMMENDED CONDITIONS OF APPROVAL FOR:

11 College Avenue

Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052

PROPERTY OWNERS: Dave Flick

APPLICANT: Tapestry Restaurant, LP

TO THE SATISFACTION OF THE PLANNING DIRECTOR:

(Planning Section)

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit E in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development or the Planning Commission, depending on the scope of the changes.
2. **LAPSE FOR DISCONTINUANCE:** If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
3. **RESTAURANT USE:** A high quality restaurant use is permitted in the Puccinelli building. A separate conditional use permit will be required if a restaurant is proposed in any of the other buildings on the lot.
4. **NUMBER OF SEATS:** The maximum number of seats for the restaurant shall not exceed 76. A maximum of 44 outside seats are permitted.
5. **HOURS OF OPERATION:** Maximum hours of operation for the restaurant shall be 7:30 a.m. to 11 p.m. seven days a week. No alcohol shall be served earlier than 11:00 a.m.
6. **HOURS OF ALCOHOLIC BEVERAGE SERVICE:** The maximum hours of alcoholic beverage service shall be from 11:00 a.m. till 11:00 p.m. seven days a week.
7. **ALCOHOL SERVICE:** The service of beer, wine, and liquor for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
8. **LIVE ENTERTAINMENT:** No live entertainment shall be provided unless the applicant receives future approval of live entertainment.
9. **SEPARATE BAR:** A separate bar is not permitted at this location.
10. **TAKE OUT SERVICE:** There shall be no dedicated walk up counter and no more than 10% of the business shall be take out.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

11. **UNIFORMED SECURITY:** Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
12. **CONSULTATION AND TRAINING:** At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.

11 College Avenue / U-04-6

January 5, 2003

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13. **TRAINING MANUAL:** The restaurant operator shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association
14. **DESIGNATED DRIVER PROGRAM:** The restaurant operator shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
15. **POSTING OF TAXICAB TELEPHONE NUMBERS:** Taxicab telephone numbers shall be posted in a visible location.
16. **MUSIC:** There shall be no amplified music or public address system in the outside patio area.

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- (1) MR. KORB: Right.
- (2) COMMISSIONER TREVITHICK: Thank you.
- (3) CHAIRMAN DUBOIS: Okay. Commissioner
- (4) Quintana.
- (5) COMMISSIONER QUINTANA: What is the
- (6) difficulty of there being four lots instead of
- (7) three?
- (8) MR. WILLIAMS: The Council directed three
- (9) lot subdivision. I think if the concern is, as the
- (10) Town Attorney pointed out, is make a condition to
- (11) grant an easement over that open space and condition
- (12) the CC&Rs to maintain it.
- (13) COMMISSIONER QUINTANA: Okay. I can see
- (14) that, but I think the Council's intent was three
- (15) houses, not necessarily just three lots.
- (16) MR. WILLIAMS: It was specifically three
- (17) lots.
- (18) COMMISSIONER QUINTANA: Okay.
- (19) CHAIRMAN DUBOIS: Okay. Do we wish to
- (20) make any more modifications to the motion or suggest
- (21) modifications?
- (22) COMMISSIONER QUINTANA: Well - go ahead.
- (23) COMMISSIONER TALESFORE: Are you -
- (24) CHAIRMAN DUBOIS: Commissioner Talesfore.
- (25) Turn your mike on.

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- (1) COMMISSIONER TALESFORE: I'd like to make
- (2) the condition that you just offered to us about the
- (3) CC&Rs and the easement.
- (4) MR. KORB: Let me make -
- (5) COMMISSIONER TALESFORE: For the - or how
- (6) we - okay.
- (7) MR. KORB: If I could make -
- (8) COMMISSIONER TALESFORE: Yes.
- (9) MR. KORB: If I could make a suggestion.
- (10) COMMISSIONER TALESFORE: Thank you.
- (11) MR. KORB: As you know, this is a PD,
- (12) which means that your decision will be a recommended
- (13) decision to the Council. If you state in your
- (14) motion a - an added condition be added - addressed
- (15) to insure that the open space is available to
- (16) person - to users other than the owner of that
- (17) parcel, then we will, separate and apart from, you
- (18) know, working here tonight on language, develop
- (19) language with the applicant to insure that when it
- (20) goes to Council that intent will be fulfilled.
- (21) COMMISSIONER DREXEL: All right. Then
- (22) I - then I so recommend.
- (23) COMMISSIONER TALESFORE: And I second it.
- (24) CHAIRMAN DUBOIS: Okay. We have a motion
- (25) on the floor. There are no more comments. I'm

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- (1) going to call for the question. All those in favor
- (2) of the motion, signify by saying aye.
- (3) (Ayes.)
- (4) CHAIRMAN DUBOIS: Opposed?
- (5) COMMISSIONER QUINTANA: No.
- (6) CHAIRMAN DUBOIS: Motion carries with one
- (7) dissenting, Commissioner Quintana dissenting.
- (8) MR. KORB: As stated, this is a
- (9) recommended decision on a zone change to the Town
- (10) Council. Having been approved, it will
- (11) automatically be scheduled for hearing before the
- (12) Town Council. Notice will be provided to all
- (13) interested parties.
- (14) CHAIRMAN DUBOIS: Next item on the agenda
- (15) is 11 College Avenue, Conditional Use Permit U-04-6 
- (16) requesting approval to modify an existing
- (17) Conditional Use Permit application to expand from
- (18) beer and wine to full liquor service. This is the
- (19) Tapestry Restaurant. Property zoned C-2. Can I
- (20) have the applicant please come forward and identify
- (21) yourself for the record. Yes.
- (22) COMMISSIONER TREVITHICK: - recuse myself
- (23) from this. I'm within 500 feet of the property.
- (24) CHAIRMAN DUBOIS: Thank you, Commissioner
- (25) Trevithick.

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- (1) GARY MESSICK: Good evening. I'm Gary
- (2) Messick, representing Tapestry. And we're simply
- (3) asking to have our Conditional Use Permit changed so
- (4) that we would be allowed to pursue a full and
- (5) complete liquor license in our existing (inaudible).
- (6) CHAIRMAN DUBOIS: Okay. Are there
- (7) questions for Mr. Messick? Commissioner.
- (8) COMMISSIONER TALESFORE: I'm just curious,
- (9) you're - are you planning on also making available
- (10) to the outside patio area your change in the
- (11) liquor - I mean, in hard liquor as well? Will that
- (12) be part of it?
- (13) GARY MESSICK: No.
- (14) COMMISSIONER TALESFORE: And how - pardon
- (15) me?
- (16) GARY MESSICK: At this point, you know,
- (17) it's walled, and we are - we've been serving wine
- (18) and beer out there for about a year, so -
- (19) COMMISSIONER TALESFORE: That's what I
- (20) wanted to know. It's walled?
- (21) GARY MESSICK: Yes.
- (22) COMMISSIONER TALESFORE: Okay. Thank you.
- (23) CHAIRMAN DUBOIS: Are there any other
- (24) questions for Mr. Messick? Commissioner Drexel.
- (25) COMMISSIONER DREXEL: Do you - do you do

ATTACHMENT 4

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- (1) much take-out? Do you do any?
 (2) GARY MESSICK: We do some.
 (3) COMMISSIONER DREXEL: Okay, you do a
 (4) little bit, all right. And that's -
 (5) GARY MESSICK: Not as much we'd like,
 (6) but -
 (7) COMMISSIONER DREXEL: Okay. That's just a
 (8) question for the future. Wouldn't - it wouldn't
 (9) bother you if we - if we limited your take-out to,
 (10) say, ten percent of your business or something like
 (11) that, would it?
 (12) GARY MESSICK: No. I'd be happy for it to
 (13) grow to ten percent.
 (14) COMMISSIONER DREXEL: All right. That
 (15) sounds - that sounds good, thank you.
 (16) CHAIRMAN DUBOIS: Okay. Any other
 (17) questions? Seeing no other questions, I thank you,
 (18) sir. I have one card from the audience, and that is
 (19) Mr. Flick. Dave Flick.
 (20) DAVE FLICK: Good evening. I'm Dave
 (21) Flick. 130 Stacia Street, Los Gatos. I'm the owner
 (22) of (inaudible) Plaza and Tapestry Restaurant
 (23) building. And I just wanted to point out to you
 (24) that it is entirely managed and owned, all the
 (25) buildings on the site are owned and controlled by

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- (1) us, so there isn't an issue with the tenants in the
 (2) upstairs apartments. They don't have any problem
 (3) with it.
 (4) They've been really excellent tenants, the
 (5) restaurant, for - for a long time. We've never had
 (6) any problems with them. I think he's in a little
 (7) bit of an unfair disadvantage right now with the
 (8) other restaurants in Town that have full bar
 (9) service, and I - personally, I've planned things
 (10) there before and had recommendations from people,
 (11) well, we'd like to go someplace where we can have a
 (12) cocktail or two, some of the people that don't drink
 (13) the wine. I think it kinds of puts them on a even
 (14) keel with some of the other restaurants, that they
 (15) do have that.
 (16) Again, it's not a bar. It's not -
 (17) alcohol's not allowed without the service of food.
 (18) What it is is just an extension of his restaurant
 (19) services, and I think he deserves it, and I think he
 (20) really needs (inaudible).
 (21) CHAIRMAN DUBOIS: Are there any questions
 (22) for Mr. Flick? Commissioner Talesfore.
 (23) COMMISSIONER TALESFORE: Did you say that
 (24) you also managed the apartments that are nearby?
 (25) DAVE FLICK: Yeah. The - the upstairs

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- (1) above The Tangles, I own all those buildings, and
 (2) part of -
 (3) COMMISSIONER TALESFORE: Okay. And so -
 (4) DAVE FLICK: - one (inaudible).
 (5) COMMISSIONER TALESFORE: - you were
 (6) notified about this, obviously, 'cause you're here.
 (7) I'm just curious, did you -
 (8) DAVE FLICK: I own all the buildings on
 (9) site.
 (10) COMMISSIONER TALESFORE: I know that.
 (11) DAVE FLICK: Oh, okay.
 (12) COMMISSIONER TALESFORE: And those are
 (13) apartments above?
 (14) DAVE FLICK: Yes. They're penthouses, but
 (15) they're - they're owned by me.
 (16) COMMISSIONER TALESFORE: Okay. So my
 (17) question is did you also inform your tenants that
 (18) this is going to -
 (19) DAVE FLICK: The tenants are well aware of
 (20) it, yeah.
 (21) COMMISSIONER TALESFORE: Thank you.
 (22) DAVE FLICK: They're the ones who get
 (23) take-out.
 (24) CHAIRMAN DUBOIS: Okay. Are there any
 (25) other questions? Okay. Are there any other

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- (1) questions for the applicant? Seeing no other
 (2) questions, I'm going to close the public hearing,
 (3) return this to the Commission for questions of
 (4) Staff, comments or a motion. Commissioner Drexel,
 (5) were you waving your finger at something?
 (6) COMMISSIONER DREXEL: I can do a motion -
 (7) CHAIRMAN DUBOIS: Let's go for it. You're
 (8) a good motion maker.
 (9) COMMISSIONER DREXEL: Okay. I move we
 (10) forward this request to the Town Council with the
 (11) recommendation to modify the applicant's Conditional
 (12) Use Permit, U-04-6, with the conditions in
 (13) Exhibit D, plus the following conditions:
 (14) That there shall be no dedicated walk-up
 (15) counter, no more than ten percent of applicant's
 (16) business shall be take-out. That really isn't
 (17) directed to the applicant so much as future holders
 (18) of this who might be affected by the CUP in the
 (19) future, so this is just like posterity.
 (20) As required by Section 29.20.190 of the
 (21) Town Code for granting a Conditional Use Permit, we
 (22) find that the proposed use of the property is
 (23) desirable to the public convenience, since it
 (24) provides choice for those wishing to have cocktails
 (25) with dinner.

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- (1) The proposed use will not impair the
- (2) integrity and character of the zone, since the
- (3) restaurant will continue to operate.
- (4) The proposed use will not be detrimental
- (5) to public health, safety or general welfare as shown
- (6) by other similar restaurants in the area, such as
- (7) Colletto's and Forbes Mill, which have bars and
- (8) don't seem to have any trouble from Scott Seamans,
- (9) the Chief of Police, so your facility without a bar
- (10) should even present lesser of a threat.
- (11) The proposed uses of the property are in
- (12) harmony with the various elements and objectives of
- (13) the General Plan and its purposes.
- (14) As required by Council Resolution 2001-106
- (15) for policies regulating the sale of alcoholic
- (16) beverages, we make the following findings:
- (17) The late night service will not adversely
- (18) affect or impact adjacent residential neighborhoods,
- (19) since the hours of alcohol service are limited and
- (20) conditions have been included which can require
- (21) security guards.
- (22) The applicant does not have a history of
- (23) complaints and noncompliance with local ordinance or
- (24) the Alcohol Beverage Policy as stated in our Staff
- (25) Report.

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- (1) The applicant has demonstrated a clear
- (2) benefit to the community by providing choices for
- (3) diners.
- (4) As required by Section 15301 of the State
- (5) Environmental Guidelines as Adopted by the Town of
- (6) Los Gatos, this project is categorically exempt from
- (7) environmental review.
- (8) CHAIRMAN DUBOIS: Question - question,
- (9) Commissioner Talesfore?
- (10) COMMISSIONER TALESFORE: No. Oh, I'll
- (11) second it.
- (12) CHAIRMAN DUBOIS: Do you have a question?
- (13) You're seconding?
- (14) COMMISSIONER TALESFORE: Yeah.
- (15) CHAIRMAN DUBOIS: Okay.
- (16) COMMISSIONER TALESFORE: With - and the
- (17) reason -
- (18) CHAIRMAN DUBOIS: I have a question of
- (19) Staff here. Do we have a - do we have to a - find
- (20) a consistency for redevelopment plan?
- (21) MR. WILLIAMS: No. 'Cause you're just
- (22) forwarding the recommendation on the CUP to -
- (23) CHAIRMAN DUBOIS: Okay. I mean, it's one
- (24) of the findings in here. I was just checking.
- (25) COMMISSIONER DREXEL: Oh, did I miss

Page 35

- (1) something?
- (2) CHAIRMAN DUBOIS: Well, I just want to
- (3) check with - I -
- (4) MR. WILLIAMS: Yes, you should make that
- (5) finding, that it's consistent with the General Plan.
- (6) CHAIRMAN DUBOIS: And our redevelopment
- (7) plan.
- (8) COMMISSIONER DREXEL: Oh, I didn't do
- (9) that.
- (10) CHAIRMAN DUBOIS: No.
- (11) COMMISSIONER DREXEL: Redevelopment, okay.
- (12) Where is it?
- (13) CHAIRMAN DUBOIS: It's consistent with the
- (14) Redevelopment Plan for the Central Los Gatos
- (15) Redevelopment Project Area.
- (16) COMMISSIONER DREXEL: It's consistent with
- (17) the Redevelopment Plan for the Central Los Gatos
- (18) Redevelopment Area.
- (19) CHAIRMAN DUBOIS: Project Area.
- (20) COMMISSIONER DREXEL: Project Area.
- (21) COMMISSIONER MICCICHE: I still second.
- (22) CHAIRMAN DUBOIS: You're still seconding
- (23) it. Okay. Do we have questions? Commissioner
- (24) Talesfore.
- (25) COMMISSIONER TALESFORE: No, I - I just

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- (1) wanted to make a comment that I would support this,
- (2) because I don't believe that the intent here is to
- (3) turn this into a bar area inside the restaurant.
- (4) Okay. And that's why I'm supporting it. I know you
- (5) have a little tasting bar there, but I don't think
- (6) that you're going to encourage a standing crowd.
- (7) Thank you.
- (8) CHAIRMAN DUBOIS: Okay. All those in
- (9) favor of the motion - you have a comment,
- (10) Commissioner Quintana, before I call the motion?
- (11) COMMISSIONER QUINTANA: Do we want to make
- (12) that one of the conditions? That -
- (13) CHAIRMAN DUBOIS: It's already in there.
- (14) COMMISSIONER QUINTANA: It's already in
- (15) there? Okay.
- (16) CHAIRMAN DUBOIS: Yeah. Okay. All those
- (17) in favor of the motion, signify by saying aye.
- (18) (Ayes.)
- (19) CHAIRMAN DUBOIS: Carries unanimously,
- (20) with Commissioner Trevithick recused. I'm sorry?
- (21)
- (22)
- (23)
- (24) ///
- (25) ///

Page 37

- (1) MR. KORB: Okay. Again, this is a
- (2) recommended decision to the Town Council. A public
- (3) hearing will be held before the Council. Separate
- (4) notice will be provided.
- (5) (End of Items 2 and 3.)
- (6)
- (7) --oOo--
- (8)
- (9)
- (10)
- (11)
- (12)
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- (1)
- (2) I, LISA A. GLANVILLE, C.S.R. #9932, a
- (3) Certified Shorthand Reporter in and for the State of
- (4) California, do hereby certify:
- (5) That the preceding tape transcription was
- (6) taken down by me in shorthand to the best of my
- (7) ability and thereafter reduced to computerized
- (8) transcription under my direction and supervision,
- (9) and I hereby certify the foregoing transcript is a
- (10) full, true and correct transcript of my shorthand
- (11) notes so taken.
- (12) I further certify that I am neither
- (13) counsel for nor related to any party to said action
- (14) nor interested in the outcome of this action.
- (15) Witness my hand this day of
- (16) December, 2003.
- (17)
- (18)
- (19) LISA A. GLANVILLE
- (20) CSR No. 9932
- (21) State of California
- (22)
- (23)
- (24)
- (25)

Date: November 3, 2003
For Agenda Of: November 12, 2003
Agenda Item: 3

REPORT TO: The Planning Commission
FROM: The Development Review Committee
LOCATION: 11 College Avenue
Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052
PROPERTY OWNERS: Dave Flick
APPLICANT: Tapestry Restaurant, LP

DEEMED COMPLETE: September 23, 2003
FINAL DATE TO TAKE ACTION: March 23, 2003

- FINDINGS:
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
 - As required by Resolution 2001-106 regulating the sale of alcoholic beverages.
 - As required by Section IV.B of the Redevelopment Plan for the Central Los Gatos Redevelopment Project that it meets the use set forth in the Town's General Plan.
 - It has been determined that this project is Categorical Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

ACTION: The decision of the Planning Commission is final unless appealed within ten days.

- EXHIBITS:
- A. Required Findings
 - B. Resolution 2001-106
 - C. Existing Conditions of Approval
 - D. Proposed Conditions of Approval including the modification requested by the applicant
 - E. Letter of Justification, received August 28, 2003

RECOMMENDATION
SUMMARY: Forward a recommendation to the Town Council.

REQUIRED FINDINGS FOR

11 College Avenue

Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052

PROPERTY OWNERS: Dave Flick

APPLICANT: Tapestry Restaurant, LP

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare; and
- (2) The proposed uses will not impair the integrity and character of the zone; and
- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

- As required by Resolution 2001-106 for policies regulating the sale of alcoholic beverages.

The deciding body shall make the following findings prior to approving an application for conditional use permit to serve alcoholic beverages past 10 PM:

- (1) Late night service will not adversely impact adjacent residential neighborhoods; and
- (2) The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy; and
- (3) The applicant has demonstrated a clear benefit to the community.

- That the work proposed is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.

N:\DEV\FINDINGS\11College.wpd

EXHIBIT A

RESOLUTION 2001 - 106

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE TOWN'S ALCOHOLIC BEVERAGE POLICY

WHEREAS, the sale of alcoholic beverages, if not regulated, can jeopardize public safety, result in an increase of calls for police services and compromise the quality of life for Town residents; and

WHEREAS, The Town Council wants to balance the regulation of alcoholic beverage service and protection of residential neighborhoods with the goal of maintaining a vibrant and successful Downtown and commercial areas throughout Los Gatos; and

WHEREAS, the Town Council held a study session on July 2, 2001 to discuss issues relating to service of alcoholic beverages; and

WHEREAS, the Town Council has indicated a desire to review all applications for new alcohol service or change in existing service, and a need to amend the existing Alcohol Policy,

THEREFORE BE IT RESOLVED: the Town Council of the TOWN OF LOS GATOS does hereby adopt the amended Alcoholic Beverage Policy attached hereto as Exhibit A.

POLICY REGULATING THE CONSUMPTION AND SERVICE OF ALCOHOLIC BEVERAGES

I. Purpose

The consumption or service of alcoholic beverages, if not regulated, can jeopardize public safety; result in an increase of calls for police services and compromise the quality of life for Town residents. This policy provides parameters for alcoholic beverage service, particularly addressing late night service when alcohol related incidents are most likely to occur and when the disturbances to Town residents is least tolerable.

The service of alcoholic beverages, with or without meals, past 10 PM is a discretionary privilege to be determined on a case by case basis. The following provisions are intended to balance the protection of residential neighborhoods in close proximity to commercial districts and still maintain the viability of our commercial centers in which restaurants have an essential role. Hours of operation may be regulated based on an establishment's proximity to residential neighborhoods or schools, the concentration of establishments in an area serving alcoholic beverages or for other reasons that may arise at the public hearing.

The deciding body may approve a conditional use permit to serve alcoholic beverages based on the merits of the application and subject to the following requirements:

II. General policy

1. The Town shall continue to strongly discourage new applications for stand alone bars or restaurants with separate bars.
 2. The Town shall continue to discourage applications for entertainment establishments serving alcoholic beverages.
 3. Entertainment in association with an eating or drinking establishment may be allowed if standards and a permit process are adopted.
 4. Alcoholic beverage service for new conditional use permit applications or applications for modification of a conditional use permit shall not be allowed:
 - A. After 11 PM Sunday through Thursday, except for holidays and evenings before holidays.
 - B. After 1 AM Friday, Saturday, holidays or evenings before holidays.
- An existing establishment with a conditional use permit in good standing allowed to serve alcoholic beverages past the hours stated above may continue to operate under their existing hours of operation.

III. Specific Policy

1. Restaurants:

Alcoholic beverages may only be served with meals.

2. Restaurants With Separate Bars:

Alcoholic beverage service is permitted in the dining area only in conjunction with meal service. Meal service shall be available until closing or 11 PM Sunday through Thursday and until 12 midnight Friday, Saturday, holidays and evenings before holidays, whichever is earlier, if late night bar service is available. Specific hours of operation for each establishment are determined upon issuance of a conditional use permit.

IV. Review Process

1. Proposals for new bars or restaurants with bars and all requests for new alcohol service or a change to existing service shall be reviewed by the Planning Commission. The Commission will make a recommendation to the Town Council and the Council shall have final review authority.

2. Changes in ownership for businesses involving service of alcoholic beverages shall be reviewed by the Community Development Department. The following process will be followed:

- a. The Director of Community Development shall contact the new business owner to make them aware of the conditions of approval attached to the Use Permit for the location.
- b. One year following issuance of a business license, surrounding/impacted property owners shall be notified and any comments regarding the operation of the business shall be solicited.
- c. If the Director of Community Development becomes aware of any alcohol related impacts on the surrounding neighborhood, the Director shall review the operation of the business to determine whether there is a violation of the use permit.

PLANNING DEPARTMENT
(408) 354-6872

Dave Flick
P. O. Box GF
Los Gatos, CA 95031

RE: 34 E. Main & 11 College Avenue
a. Project Application PRJ-96-68
b. Negative Declaration Application ND-96-12

Requesting approval of an Architecture and Site Application and a Conditional Use Permit Application to demolish a pre-1941 retail/residential building, to construct a new retail/residential building, to demolish and reconstruct the historic Soda Works building and to rehabilitate a pre-1941 residence into a restaurant with outside seating and retail use on property in the C-2 and R-M:5-12 zone. If no significant environmental impacts are identified as a result of this project, a Negative Declaration will be recommended and an Environmental Impact Report will not be required.
PROPERTY OWNER: Dave Flick

The Town of Los Gatos Planning Commission, at its meeting of October 23, 1996, approved the above application, subject to the conditions below. The conditions in bold are applicable to the Conditional Use Permit for the restaurant.

TO THE SATISFACTION OF THE PLANNING DIRECTOR:
(Planning Section)

1. SODA WORKS BUILDING. The Soda Works building shall be dismantled, materials salvaged and be reconstructed. The reconstruction shall include replacing the facade with the existing sign, including the insertion of the new wooden storefront and replacing the wall of the building facing College Avenue.
2. EXTERIOR MATERIALS. Real wood frame windows shall be used with true divided lites.
3. HISTORIC MARKER. A historic marker with photos of the site shall be in at least one of the buildings.
4. DENTILS. Dentils shall be added to the elevations of the E. Main Street building.
5. **RESTAURANT USE. A high quality restaurant use is permitted in the Puccinelli building. A separate conditional use permit will be required if a restaurant is proposed in any of the other buildings on the lot.**
6. **HOURS. Maximum hours of operation for the restaurant shall be 7:30 a.m. to 11 p.m. seven days a week. No alcohol shall be served earlier than 11:00 a.m.**
7. **SEATS. The maximum number of seats for the restaurant shall not exceed 76. A maximum of 44 outside seats are permitted.**
8. **ALCOHOL SERVICE. The service of beer and wine for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.**

(Engineering Section)

9. **GRADING PERMIT. A grading permit is required for the on-site parking lot. A separate application for a grading permit (with grading plans) shall be made to the Development Engineering Section of the Planning Department. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control.**

EXHIBIT C

18. WHEEL STOPS. The concrete wheel stops in the northwest portion of the parking lot shall be removed and replaced with a continuous curb. The proposed 4 foot wide sidewalk within this area shall be widened to provide a 6 foot width.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS, FORESTRY AND MAINTENANCE SERVICES:

19. LANDSCAPE PLAN. A concise landscaping plan will be required prior to issuance of a building permit. The landscaping plan is required to have Town approved trees, shrubs, and groundcovers. A plant legend is also required with type, size, and quantity of proposed plant materials.
20. TREE REMOVAL. A tree removal permit shall be obtained prior to the issuance of any permits.
21. GENERAL. All existing trees listed on the plan are specific subjects of approval of this plan, and must remain on the site.
22. TREE PROTECTION. No construction or grading shall take place within the dripline of existing trees. Prior to any permits being issued, the applicant shall meet with the Parks Superintendent concerning the need for protective tree fencing. Such fencing shall be installed prior to and maintained during construction.
23. IRRIGATION. All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation.
24. NEW TREES. Newly planted trees shall be double staked, using rubber tree ties and shall be planted prior to final occupancy.
25. WATER CONSERVATION ORDINANCE. This landscape is required to meet the Town of Los Gatos Water Conservation Ordinance as per Article IV of Chapter 26 of the Town Code. Working landscape and irrigation plans shall be submitted for review and approved prior to issuance of a building permit. A review fee based on current Council Resolution shall be paid when filed.

TO THE SATISFACTION OF THE DIRECTOR OF BUILDING AND ENGINEERING SERVICES:

26. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Standard Specifications for Public Works Construction. All work shall conform to the applicable Town ordinances. Adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of day. Dirt and debris shall not be washed into storm sewers. The storing of goods and materials on the sidewalk and/or street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
27. PG&E PARCEL. Written verification that the applicant has rights to use the PG&E parcel must be provided when a building permit is filed. In addition, when permits are filed, PG&E will be required to be part of the permit process.
28. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Construction Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading, or paving; and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
29. EROSION CONTROL (COMMERCIAL). Interim and final erosion control plans shall be prepared and submitted to the Engineering Development Section of the Planning Department. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on this area if grading that is allowed to go on during the rainy season. In addition, straw bales

42. **FOUNDATION INSPECTIONS:** A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
43. **MULTI-FAMILY ACCESSIBILITY REGULATIONS:** The apartments shall be designed in accordance with the requirements of the current State of California multi-family accessibility regulations.
44. **TITLE 24 ENERGY COMPLIANCE:** California Title 24 Energy Compliance forms for residential and non-residential shall be blue lined on the construction plans.
45. **PLANS:** The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
46. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** On site parking facility shall comply with the latest California Title 24 Accessibility Standards.
47. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** On site general path of travel shall comply with the latest California Title 24 Accessibility Standards for disabled. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
48. **TITLE 24 ACCESSIBILITY - COMMERCIAL:** The building shall comply with the latest California Title 24 Accessibility Standards.
49. **COMMERCIAL - RESTAURANT USE:** Meet all requirements of the County Health Department and West Valley Sanitation District for the interception, separation, or pretreatment of effluent. Proper size grease trap shall be required for any restaurant use. The following agencies will review the grease trap requirements before issuance of the building permit:
 - a. West Valley Sanitation District: 378-2408
 - b. County Health Department: 299-6060
 - c. Town Parks, Forestry & Maintenance Services Department: 354-6808
50. **SPECIAL INSPECTIONS:** When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Department Service Counter. The Town Special inspection schedule shall be blue lined on the construction plan.
51. **NONPOINT SOURCE POLLUTION STANDARDS:** The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (Size 24" X 36") is available at the Building Department service counter.
52. **APPROVALS REQUIRED:** The Project requires the following agencies approval before issuing a building permit:
 - a. West Valley Sanitation District: 378-2408
 - b. Central Fire District: 378-4015
 - c. Los Gatos School District: 395-5570
Note: Obtain the School district form from the Town Building Department, after the Building Department has approved the application for permit.
 - d. County Health Department: 299-6060

Dave Flick - Page 7
34 E. Main Street & 11 College Avenue
October 22, 2003

Enclosed you will find important information to assist you in completing your project. If you have any questions, please contact Sandy Baily of this department at (408) 354-6873.

Very truly yours,

Lee E. Bowman
Planning Director

LEB:SLB:sm

SM17LETTERS\10-23-96.#2

RECOMMENDED CONDITIONS OF APPROVAL FOR:

11 College Avenue

Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052

PROPERTY OWNERS: Dave Flick

APPLICANT: Tapestry Restaurant, LP

TO THE SATISFACTION OF THE PLANNING DIRECTOR:

(Planning Section)

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit E in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development or the Planning Commission, depending on the scope of the changes.
2. **LAPSE FOR DISCONTINUANCE:** If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
3. **RESTAURANT USE:** A high quality restaurant use is permitted in the Puccinelli building. A separate conditional use permit will be required if a restaurant is proposed in any of the other buildings on the lot.
4. **NUMBER OF SEATS:** The maximum number of seats for the restaurant shall not exceed 76. A maximum of 44 outside seats are permitted.
5. **HOURS OF OPERATION:** Maximum hours of operation for the restaurant shall be 7:30 a.m. to 11 p.m. seven days a week. No alcohol shall be served earlier than 11:00 a.m.
6. **HOURS OF ALCOHOLIC BEVERAGE SERVICE:** The maximum hours of alcoholic beverage service shall be from 11:00 a.m. till 11:00 p.m. seven days a week.
7. **ALCOHOL SERVICE:** The service of beer, wine, and liquor for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
8. **LIVE ENTERTAINMENT:** No live entertainment shall be provided unless the applicant receives future approval of live entertainment.
9. **SEPARATE BAR:** A separate bar is not permitted at this location.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

10. **UNIFORMED SECURITY:** Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
11. **CONSULTATION AND TRAINING:** At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
12. **TRAINING MANUAL:** The restaurant operator shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant

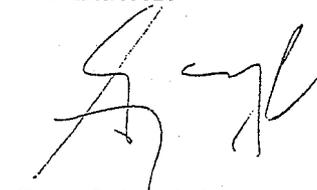
To Whom It May Concern,

We, Tapition, Ltd., as General Partner for Tapestry Restaurant, L.P., are requesting that the Town of Los Gatos amend our existing Conditional Use Permit to allow us to pursue a Type 47 Liquor License.

Tapestry was opened five years ago. We applied for a Type 41 (On-Sale Beer and Wine) license for a number of reasons. We had very limited seating for our bar (6 seats) and not much storage space to work with. We wanted our focus to be on food and wine, as Tapestry is a restaurant, not a bar. Most of the other local restaurants were working with wine and beer licenses, so we felt that we would be on equal footing with the competition. The trend at that time among diners at restaurants such as Tapestry was to drink wine with dinner, and the pre-dinner cocktail was not a part of most people's experience.

Much has changed during the past five years. We still have limited seating and storage, and no desire to transform ourselves into a bar. However, since we opened our doors, the competitive landscape has changed. Willow Street Pizza added a full bar as did the Los Gatos Brewing Company. California Café and Steamers both reopened, with full bars. Café Primavera came to town, with a full bar, as have both Kuleto's and most recently, Forbes Mill Steak House. This, along with the opening of Santana Row and all of its restaurants, has significantly altered the restaurant business landscape. We feel that we are now at a competitive disadvantage, and seek permission to address this problem. As I'm sure you know, the economic slowdown has created a multitude of problems for small businesses. Many such businesses are struggling to survive. We feel that it is crucial to our continued survival that we be permitted to purchase the liquor license we now need.

Thank you very much for your consideration of this request. According to the ABC, new Type 47 licenses will be available in a few weeks, and we hope to be able to obtain one. We appreciate your help in this matter.



Gary Messick
For Tapestry Restaurant L.P.

RECEIVED
AUG 28 2003
TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT

EXHIBIT E

Date: November 10, 2003

For Agenda Of: November 12, 2003

Agenda Item: 3

ADDENDUM

REPORT TO: The Planning Commission
FROM: The Director of Community Development
LOCATION: 11 College Avenue
Conditional Use Permit U-04-6

Requesting approval to modify an existing Conditional Use Permit Application to expand from beer and wine to full liquor service (Tapestry) on property zoned C-2. APN 529-29-052
PROPERTY OWNERS: Dave Flick
APPLICANT: Tapestry Restaurant, LP

EXHIBITS: A-E. Previously Submitted
F. E-mail from neighbor, received November 5, 2003

REMARKS:

Exhibit F was received after the report on this matter was finalized.



Bud N. Lortz, Director of Community Development

Prepared by: Joel Paulson, Planner

BNL:JP:mdc

cc: Dave Flick, P.O. Box GF, Los Gatos, CA 95031
Tapestry Restaurant, Attn: Gary Messick, 11 College Ave.,
Los Gatos, CA 95030

N:\DEV\REPORTS\11College2ADD.wpd

Marilyn Cosden - CUP U-04-6

RECEIVED

From: BOB SIMONS <bob.simons@usa.net>
To: <attorney@town.los-gatos.ca.us>
Date: 11/4/2003 8:35 PM
Subject: CUP U-04-6

NOV 05 2003

TOWN OF LOS GATOS
PLANNING DEPARTMENT

Mrs. Simons and I have resided at 51 College Ave for 25+ years. We are unable to attend the Planning Commission's 11/12 meeting and would appreciate having our views passed along to the Commission. We are in FAVOR of permitting the Tapestry restaurant to have full liquor service. This is a relatively small restaurant that caters to locals for outstanding food. Full liquor service is a good idea to complement this specific restaurant's menu and clientele and we envision no problems whatsoever. Thank you. BoB Simons

Exhibit F

RESOLUTION 2001 - 106

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE TOWN'S ALCOHOLIC BEVERAGE POLICY

WHEREAS, the sale of alcoholic beverages, if not regulated, can jeopardize public safety, result in an increase of calls for police services and compromise the quality of life for Town residents; and

WHEREAS, The Town Council wants to balance the regulation of alcoholic beverage service and protection of residential neighborhoods with the goal of maintaining a vibrant and successful Downtown and commercial areas throughout Los Gatos; and

WHEREAS, the Town Council held a study session on July 2, 2001 to discuss issues relating to service of alcoholic beverages; and

WHEREAS, the Town Council has indicated a desire to review all applications for new alcohol service or change in existing service, and a need to amend the existing Alcohol Policy,

THEREFORE BE IT RESOLVED: the Town Council of the TOWN OF LOS GATOS does hereby adopt the amended Alcoholic Beverage Policy attached hereto as Exhibit A.

POLICY REGULATING THE CONSUMPTION AND SERVICE OF ALCOHOLIC BEVERAGES

I. Purpose

The consumption or service of alcoholic beverages, if not regulated, can jeopardize public safety; result in an increase of calls for police services and compromise the quality of life for Town residents. This policy provides parameters for alcoholic beverage service, particularly addressing late night service when alcohol related incidents are most likely to occur and when the disturbances to Town residents is least tolerable.

The service of alcoholic beverages, with or without meals, past 10 PM is a discretionary privilege to be determined on a case by case basis. The following provisions are intended to balance the protection of residential neighborhoods in close proximity to commercial districts and still maintain the viability of our commercial centers in which restaurants have an essential role. Hours of operation may be regulated based on an establishment's proximity to residential neighborhoods or schools, the concentration of establishments in an area serving alcoholic beverages or for other reasons that may arise at the public hearing.

The deciding body may approve a conditional use permit to serve alcoholic beverages based on the merits of the application and subject to the following requirements:

II. General policy

1. The Town shall continue to strongly discourage new applications for stand alone bars or restaurants with separate bars.
 2. The Town shall continue to discourage applications for entertainment establishments serving alcoholic beverages.
 3. Entertainment in association with an eating or drinking establishment may be allowed if standards and a permit process are adopted.
 4. Alcoholic beverage service for new conditional use permit applications or applications for modification of a conditional use permit shall not be allowed:
 - A. After 11 PM Sunday through Thursday, except for holidays and evenings before holidays.
 - B. After 1 AM Friday, Saturday, holidays or evenings before holidays.
- An existing establishment with a conditional use permit in good standing allowed to serve alcoholic beverages past the hours stated above may continue to operate under their existing hours of operation.

III. Specific Policy

1. Restaurants:

Alcoholic beverages may only be served with meals.

2. Restaurants With Separate Bars:

Alcoholic beverage service is permitted in the dining area only in conjunction with meal service. Meal service shall be available until closing or 11 PM Sunday through Thursday and until 12 midnight Friday, Saturday, holidays and evenings before holidays, whichever is earlier, if late night bar service is available. Specific hours of operation for each establishment are determined upon issuance of a conditional use permit.

IV. Review Process

1. Proposals for new bars or restaurants with bars and all requests for new alcohol service or a change to existing service shall be reviewed by the Planning Commission. The Commission will make a recommendation to the Town Council and the Council shall have final review authority.
2. Changes in ownership for businesses involving service of alcoholic beverages shall be reviewed by the Community Development Department. The following process will be followed:
 - a. The Director of Community Development shall contact the new business owner to make them aware of the conditions of approval attached to the Use Permit for the location.
 - b. One year following issuance of a business license, surrounding/impacted property owners shall be notified and any comments regarding the operation of the business shall be solicited.
 - c. If the Director of Community Development becomes aware of any alcohol related impacts on the surrounding neighborhood, the Director shall review the operation of the business to determine whether there is a violation of the use permit.

