



MEETING DATE: 1/20/04  
ITEM NO. //

COUNCIL AGENDA REPORT

DATE: January 9, 2004  
TO: MAYOR AND TOWN COUNCIL  
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*  
SUBJECT: ADOPT RESOLUTION APPROVING A REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT TO EXPAND FROM BEER AND WINE TO FULL LIQUOR SERVICES ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT APPLICATION: U-04-6. PROPERTY LOCATION: 11 COLLEGE AVENUE. ASSESSORS PARCEL NUMBER: 529-29-052. PROPERTY OWNER: DAVE FLICK. APPLICANT: TAPESTRY RESTAURANT, LP

RECOMMENDATION:

Adopt resolution confirming Council action on January 5, 2004.

DISCUSSION:

On January 5, 2004, Council granted the approval of a request to modify an existing Conditional Use Permit for property located at 11 College Avenue.

Attachments: Resolution

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

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Tapestry.TCR.wpd]

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

Rev: 1/9/04 10:38 am  
Reformatted: 7/19/99



RESOLUTION

RESOLUTION APPROVING REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT TO EXPAND FROM BEER AND WINE TO FULL LIQUOR SERVICE ON PROPERTY ZONED C-2.

CONDITIONAL USE PERMIT APPLICATION: U-04-6  
PROPERTY LOCATION: 11 COLLEGE AVENUE  
ASSESSORS PARCEL NUMBER: 529-29-052  
PROPERTY OWNER: DAVE FLICK  
APPLICANT: TAPESTRY RESTAURANT, LP

**WHEREAS:**

- A. This matter came before Council for public hearing on January 5, 2004 , on a request from the applicant and was regularly noticed in conformance with State and Town law.
- B. Council received testimony and documentary evidence from the applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated December 16, 2004, along with subsequent reports and materials prepared concerning this application.
- C. The applicant is requesting to modify an existing Conditional Use Permit to allow full liquor service with meals at the Tapestry restaurant located at 11 College Avenue. All other existing operations, including hours of operation and seating capacity will remain unchanged.
- D. The Planning Commission considered this matter on November 12, 2003 and forwarded it to Council with a recommendation for approval.
- E. Council finds as follows:
  1. Pursuant to Town Code section 29.20.190 the proposed use of the property is desirable to the public convenience; will not impair the integrity, character, or use of the zone; would

not be detrimental to public health, safety, or general welfare; and is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code. Evidence in the record demonstrates that the restaurant has operated in the same location for the past five years without a history of complaints and is in good standing with the Police Department. In addition, full liquor service has become an expectation of many patrons of restaurants of similar quality and has become a factor in the successful operation of such restaurants.

2. Pursuant to Resolution 2001-106 the late night service will not adversely impact adjacent residential neighborhoods, as demonstrated by the fact that the applicant does not have a history of complaints or violations of local ordinances or the Alcoholic Beverage Policy, and by the fact that the police department has reported that a restaurant operating with a full liquor service does not result in a greater negative impact on the community than does one operating with a limited beer and wine permit, as has the applicant for the last five years; and the applicant has demonstrated a clear benefit to the community, in that its continued success requires that it remain competitive with restaurants of similar quality.

3. Allowing full liquor service at the applicant's location is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

4. The project is categorically exempt pursuant to State Environmental Guidelines section 15301 as adopted by the Town.

**RESOLVED:**

1. The request to modify Conditional Use Permit U-04-6 is granted.
2. Revised Conditions of Approval, attached hereto as Exhibit A, are applied to this Application.

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by Section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure Section 1094.6, or such shorter time as required by state or federal law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the        day of        , 2004 by the following vote.

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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**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.

**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.

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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