




MEETING DATE: 8/1/05
ITEM NO. 11
DESK ITEM

COUNCIL AGENDA REPORT

DATE: AUGUST 1, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: CONSIDER A REQUEST TO MODIFY A CONDITIONAL USE PERMIT FOR A RESTAURANT (THE WINE CELLAR) TO LEGALIZE THE INCREASE IN THE NUMBER OF SEATS, TO MODIFY THE TYPE OF ALLOWED ENTERTAINMENT AND TO INCREASE THE DAYS WHEN ENTERTAINMENT IS AVAILABLE ON PROPERTY ZONED C-2:PD:LHP. CONDITIONAL USE PERMIT U-03-7 APN 529-02-044 LOCATION: **50 UNIVERSITY AVENUE, SUITE 180** PROPERTY OWNER: FEDERAL REALTY APPLICANT: STEVE HAUCK

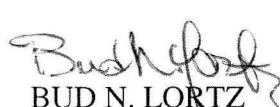
REMARKS:

The applicant has submitted revised conditions of approval that replace the conditions previously submitted (Alternative 2 Attachment 10). The changes are as follows:

7. ENTERTAINMENT. There shall be no outdoor entertainment. Amplified musical entertainment is permitted inside until 1:00 am on **Thursdays**, Friday, Saturday, Holidays, ~~& n~~ ~~Nights before Holidays~~, and ~~Midnight Sunday through Thursdays~~ **2:00 am for Special Events.**
9. DANCING. Dancing shall be allowed ~~no later than the hours of Entertainment on Thursday, Friday, Saturdays, Holidays and nights before Holidays~~ **on Fridays, Saturdays, Holidays, Nights before Holidays and for Special Events with a "Sunset Review Clause" of two years.**

Also attached are an email and letters from interested citizens (Attachments 18 & 19).

(Continued on Page 2)


PREPARED BY: BUD N. LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PSJ Assistant Town Manager OK Town Attorney _____ Clerk _____ Finance
✓ Community Development Revised: 8/1/05 2:56 pm

Page 2

MAYOR AND TOWN COUNCIL

SUBJECT: 50 University Avenue, Suite 180

August 1, 2005

Attachments:

- 1 - 16. Previously Submitted.
- 17. Revised conditions from the applicant (two pages), received July 28, 2005.
- 18. Email from Ahmad and Meyssa Alaadel (one page), received July 29, 2005.
- 19. Letters from residents (2 pages), received August 1, 2005.

BNL:SLB:mdc

N:\DEV\CNCLRPTS\2005\winecellar.dsk.wpd

CONDITIONS OF APPROVAL

50 University Avenue Suite 180

Conditional Use Permit U-03-7

RECEIVED

JUL 28 2005

TOWN OF LOS GATOS
PLANNING DIVISION

~ D RAFT

Requesting approval to modify a Conditional Use Permit to legalize the increase in the number of seats, to modify the type of allowed entertainment and to increase the days when entertainment is available on property zoned C-

2:PD:LHP. APN 529-02-044 PROPERTY OWNER: Federal Realty

APPLICANT: Steve Hauck (Wine Cellar)

CONDITIONS FOR YOUR CONSIDERATION:

*Items that have been modified from our Existing Use Permit are marked in red.

1. EXPIRATION. Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
2. SEATS. The maximum seating allowed is 140 (94 inside)
3. ALCOHOLIC BEVERAGES. No alcoholic beverages outside of the bar area shall be served without meal service. 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. Meal Service shall be available until closing or 11:00pm Sunday through Thursday, and until 12 midnight Fridays, Saturdays, Holidays, and evenings before Holidays, whichever is *earlier*, if late night bar service is available. (TOWN of LOS GATOS ALCOHOL POLICY III.2)
4. UTENSILS. All meals shall be served on reusable utensils.
5. HOURS OF OPERATION. The hours of operation are as follows:
Saturday and Sunday - 9:30 AM to 2:00 AM.
Monday through Friday- 11:00 AM to 2:00 AM.
6. RESTAURANT USE. A high quality restaurant and full service bar is permitted.
7. ENTERTAINMENT. There shall be no outdoor entertainment. Amplified musical entertainment is permitted inside until 1:00am on Thursdays, Friday, Saturday, Holidays, Nights before Holidays, and 2:00am for Special Events. *(We currently enjoy Non-Amplified Musical Entertainment until 2am Thursday, Friday and Saturday)*
8. NOISE. Pursuant to the Noise Ordinance, the exterior noise level shall be no louder than as follows, measured from the property line:
1 PM to 10 PM - 56 decibels
10PM to 6AM - 51 decibels
6 AM to 1 PM - 52 decibels
9. DANCING. Dancing shall be allowed on Fridays, Saturdays, Holidays, Nights before Holidays and for Special Events with a "Sunset Review Clause" of two years.
10. DOORS. When music is playing, exterior door on Mullen Avenue shall not be propped open.
11. REVIEW. Town staff shall review the use permit three months from approval to evaluate any complaints received relating to the extended days of entertainment and/or the amplified entertainment. If it is determined that the entertainment is resulting in a public nuisance, the permit will be referred to the Planning Commission for modification of the conditions of approval.

J~J

DRAFT

12. NOISE METER. The restaurant operator shall purchase and receive training on the operation of the noise meter. The operator shall monitor the noise levels on an on-going basis and record the meter readings in a log. The log shall be made available to Town staff for review upon request.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS: (Engineering Division)

13. TRAFFIC IMPACT MITIGATION FEE (COMMERCIAL) The developer shall pay a proportional to the project's share of transportation improvement needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the use permit is issued. The fee shall be paid within 30 days of use permit approval. The traffic impact mitigation fee for this project, using the current fee schedule and the preliminary plans is \$12,300. This preliminary fee is based on the addition of 40 seats to the existing approved 100-seats. The project will generate 115 additional daily trips (2.86 daily trips per seat), and 11 PM peak hour trips (0.26 peak hour trips per seat). The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the use permit is approved, using a trip generation rate based on high quality restaurant use.

TO THE SATISFACTION OF THE POLICE CHIEF:

14. GENERAL. The restaurant/bar is subject to the following:
- a. 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.
 - b. 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.
 - c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
 - d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
 - e. Taxicab telephone numbers shall be posted in a visible location.
15. OUTDOOR DINING. A host/hostess station shall be staffed at the entrance to the outside dining area.

From: Patsy Garcia
To: trigernet@verizon.net
Date: 7/29/2005 1:31:21 PM
Subject: Re: Contact/Feedback

Thank you for your e-mail. Please note that your comments will be forwarded to Council for consideration at the August 1 meeting.

Patsy Garcia
Executive Assistant to the Town Manager
Town of Los Gatos
PO Box 949/110 E Main St
Los Gatos, CA 95031/95032
408/354-6832 -- 408/399-5786 FAX
pgarcia@losgatosca.gov

>>> <trigernet@verizon.net> 07/29/05 1:22 PM >>>

A contact/feedback form has been processed for the Town of Los Gatos and forwarded courtesy of Boardwalk Internet Corporation. The information provide follows:

Name: Ahmad Alaadel
Address: 128 Uninversity Ave
City: Los Gatos
State: California
Zip Code: 95030
Telephone: 408.395.8211
Facsimile:
Email: trigernet@verizon.net
Info: Feedback
Comments: To the respected Los Gatos Mayor and Council Members:

I am writing in regards to the application of the wine cellar restaurant on University Avenue-Old Town, who are requesting a permit for late night dancing. It was brought to our attention that this consideration is in violation of the town policy/ resolution 2001-106.

As a resident of University Avenue and because of our close distance to the restaurant, we are concerned about the impact such an activity will have on us and our neighbors.

We kindly request your consideration of the town council resolution 2001-106 and hope for its implementation.

Sincerely,

Ahmad & Meyssa Alaadel

Note:

We would like to commend the town staff and personnel for a job well done on the recent repaving of N. Santa Cruz Ave, having been timely, with excellent planning and execution. Thanks.

Processed: July 29, 2005 (Friday)

July 13, 2005

To Los Gatos Town Council:

I am a resident of the Town of Los Gatos and I went to Blossom Hill, Fisher and graduated from Los Gatos High School.

I support the Wine Cellar Restaurant's efforts to provide musical entertainment and dancing. The Town of Los Gatos needs an upscale alternative to the current entertainment scene. It would be a great place for family events such as birthdays, anniversaries, and reunions. Additionally, it would provide a wonderful venue for business entertainment.

Sincerely,



Sherri Y. Doehmann
Senior Professional Sales Representative
Johnson & Johnson Pharmaceutical, Inc.

RECEIVED

AUG 1 2005

TOWN OF LOS GATOS
PLANNING DIVISION

July 29, 2005

To the Town of Los Gatos:

My name is Blair Susan Bittner, DDS. I was born and raised in Saratoga. I am a sole proprietor in Los Gatos and my dental practice is located at 100 Los Gatos Saratoga Road, here in Los Gatos.

I am writing this letter to encourage your development of new avenues of business retention & expansion for local businesses. I support the Wine Cellar in their application for amplified music and occasional dancing. Los Gatos is home to many active discerning consumers that have no local upscale options. The Wine Cellars underground location provides a win-win option as it is both elegant and out of the way. I feel this new addition would be an asset to our community.

Sincerely,

Blair Susan Bittner, DDS

RECEIVED
AUG 1 2005
TOWN OF LOS GATOS
PLANNING DIVISION