



MEETING DATE: 8/1/05

ITEM NO. 11

COUNCIL AGENDA REPORT

DATE: July 28, 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

RECOMMENDATION:

To take action on this application the Council should:

1. Make the required findings (Attachment 8)
2. Approve the application subject to one of the alternatives listed below. Each of the alternatives allows the requested increase in seating.
 - a. Private Party Alternative 1 (Attachment 9)
 - b. Wine Cellar Alternative 2 (Attachment 10)
 - c. Wine Cellar (staff version) Alternative 3 (Attachment 11)
 - d. Planning Commission Alternative 4 (Attachment 12)
 - e. No increased entertainment Alternative 5 (Attachment 13)
3. Refer to the Town Attorney for preparation of the appropriate resolution.

REMARKS:

The applicant, the Wine Cellar, is requesting to modify the existing Conditional Use Permit (CUP) to increase the number of seats (from 100 to 140 seats) and to intensify the entertainment aspect of

(Continued to Page 2)

PREPARED BY: BUD N. LORTZ *BWL*
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: OK Assistant Town Manager PSJ Town Attorney _____ Clerk _____ Finance
 ✓ Community Development Revised: 7/28/05 1:08 pm

their business (from unamplified acoustic music Thursday through Saturday to amplified music and dancing seven days a week). The matter was considered by the Planning Commission with a recommendation from staff supporting the increased seating. However, staff did not recommend the intensification of entertainment because the Town's Alcoholic Beverage Policy (Attachment 16), states that "entertainment in association with an eating or drinking establishment may be allowed if standards and a permit process are adopted". This request is unique in that the Wine Cellar already is allowed to have entertainment and is requesting to modify the type of entertainment and when entertainment is allowed.

The Planning Commission concurred with staff's recommendations and recommended that Council approve the increased seating but not the modification of entertainment.

Council considered this matter on June 20, 2005. The Council had an extensive discussion (Councilmember Spector was recused and did not participate) involving many issues regarding the modification of entertainment. The following is a summary of some of the key issues which were discussed at the meeting.

- Maintain fine dining but permit dancing.
- Days and hours when entertainment with dancing may be allowed.
- Noise levels which would be acceptable outside the restaurant to ensure the residential neighborhood is not impacted.
- Sunset of approval for the entertainment use.

Council continued this matter with the direction that staff develop conditions of approval to address the various issues discussed by Council to assist in reaching a decision on this matter. Due to the range of issues discussed by Council, staff has provided five alternative sets of conditions as described below. The applicant was asked to develop their own conditions based on Council comments which is included as Alternative 2. If Council is inclined to modify the entertainment, staff recommends Alternative 1. If Council determines that no changes should be made to the entertainment, staff recommends Alternative 5. All five alternatives allow for the requested increase in seating.

Alternative 1 - Private Parties, (Attachment 9) - Staff is concerned about how to appropriately regulate the operation of two distinctively different types of businesses; a quality dining restaurant and what essentially equates to a night club. Staff developed this alternative in response to the various comments offered by Council and given the close proximity of the Wine Cellar to the adjacent residential area. It also respects the good neighbor management approach of the Wine Cellar over many years but recognizes that the use permit is a land use entitlement that runs with the land, not the owners of the restaurant.

This alternative allows the Wine Cellar the flexibility to operate a quality dining restaurant or have private parties which are not open to the public. Both uses may not occur at the same time. When the restaurant is rented out for a private party, this alternative allows dancing and

amplified music and the service of food and alcohol throughout the interior of the restaurant. Alcohol service is also allowed without meal service. This permits the applicant a variety of options for organizing private parties. The conditions that will regulate the operational aspects of the private parties are summarized below. They are designed to give the applicant a great deal of flexibility but with enforcement controls to address potential neighborhood impacts.

- **Hours of operation** - The hours of operation for private parties shall end at 12:00 midnight on Friday, Saturday, holidays or evenings before holidays and 10:00 PM on Monday through Thursday.
- **Use** - As stated above, this alternative allows a quality restaurant and full service bar or the option to have private parties. To ensure that a quality restaurant is the principle use, it is recommended that private parties be limited as follows:
 - The restaurant may not be used by the same private party more than one time per calendar quarter. This restriction is consistent with the Town's Special Event Ordinance.
 - The restaurant may not be used by any other private party more than once a month, except during the month of December, where a total of three private parties are permitted.

These limitations allow a maximum of 14 private parties per year.

- **One time neighborhood notification** - The applicant is required to inform the adjacent residential property owners and occupants that their permit has been modified to allow private parties. A phone number shall be provided to the neighbors in the event an issue arises during an event so that neighbors may contact the restaurant management to resolve the issue. This notice would be sent out only one time and must be sent prior to holding the first private party.
- **Parking** - The users of the facility are required to be provided with a map and instructions for parking. The instructions shall direct patrons not to use the Mullen Avenue parking lot for events which end after 10:00 PM.

As previously mentioned, this alternative also allows the continuation of a quality restaurant and unamplified acoustic music inside the restaurant on Thursday, Friday and Saturday only (as currently allowed). However, staff is suggesting that the hours of operation be restricted to conform with the Town's Alcohol Policy. The suggested hours are Sunday through Thursday - 9:30 AM to 11:00PM and Friday, Saturday, holidays or evenings before holidays - 9:30 AM to 1:00 AM. The current Conditions of Approval allow the restaurant to operate until 2:00 AM seven days a week. In the downtown, there are a total of four bars and two high turnover restaurants with bars that are permitted to be open until 2:00 AM. These uses predate the current alcohol policy. If Council is inclined to retain the current hours of operation, Council need only to indicate this when approving this alternative.

Alternative 2 - Wine Cellar, (Attachment 10) - This alternative was developed by the owners of the Wine Cellar. This alternative allows amplified music until 1:00 AM on Friday, Saturday, holidays and nights before holidays, and midnight Sunday through Thursday (condition #7). It also allows dancing with the same hours of the amplified music (condition #9).

Alternative 3 - Wine Cellar (Staff Version), (Attachment 11) - This alternative is taken from the conditions developed by the applicant (Alternative 2), but has been revised to be more realistic in terms of addressing Town issues as discussed below. The conditions as shown in Attachment 11 show the changes proposed by staff in bold print. The major differences deal with the hours of operation and the allocation of the inside seats.

- **Hours of operation** - Staff has adjusted the hours of operation to be consistent with the Town's Alcohol Policy. Although the applicant is currently permitted to exceed the policy's hours of operation, the approval of these hours were granted with the condition that amplified music was not allowed.
- **Seats** - The applicant is requesting a maximum number of 94 inside seats without a restriction on the number of seats in the bar. A restriction is necessary to regulate the number of seats in the bar area to preserve the use as a quality restaurant and to limit the number of patrons that can be served alcohol without a meal

Alternative 4 - Planning Commission, (Attachment 12) - This alternative merely restates the conditions of approval as recommended by the Planning Commission. This allows acoustic music to be connected to the house sound system. Subsequent to the Planning Commission offering this recommendation, the owners of the Wine Cellar have indicated that it was not feasible for the music to be hooked up to the sound system.

Alternative 5 - No Increased Entertainment, (Attachment 13) - This alternative retains the existing CUP conditions with the modification to allow the additional seating. There is no change to the entertainment use. The alternative retains the current hours of operation.

Sunset of approval for entertainment use - Based on comments raised at the Council meeting, staff has included a condition for Alternatives 1 and 3 that the approval for the private parties/entertainment, shall expire two years from approval. The applicant may request to extend the expiration date by filing an application to amend the CUP. This condition is not intended to burden the applicant or to terminate the entertainment use unless complaints have been filed about issues/concerns relating to the entertainment use. The condition allows the review of any complaints that may have been received concerning the use over the two year period and to evaluate the applicant's compliance with the required conditions of approval. The application to extend the expiration date will be expedited directly to Council and a special fee will be established next fiscal year to cover this cost and so the applicant does not have to pay the fee established for modification of a CUP. If Council determines that a sunset condition should not be required, condition #2 should be eliminated from Alternatives 1 and 3.

CONCLUSION:

Staff has attempted to develop conditions of approval for Council consideration which respond to the applicants desire for expanding their entertainment use and the Town's desire to maintain a quality restaurant, avoid setting a precedent, and preserve the neighbors' quality of life. If Council is inclined to intensify the entertainment aspect of the use, staff recommends approval of Alternative 1, which allows private parties, (conditions are set forth in Attachment 9). This alternative ensures that a quality restaurant is continually maintained except for the times when private parties are held. Since the parties will not be open to the general public, the use cannot turn into a nightclub.

If Council decides that no changes should be made concerning the entertainment use, it is recommended that Alternative 5 (Attachment 13), which only allows additional seating, be approved.

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:

Previously Submitted:

1. Required findings.
2. Recommended conditions of approval.
3. Alcoholic Beverage Policy
4. Verbatim minutes from the Planning Commission meeting of May 25, 2005.
5. Report to the Planning Commission from the Development Review Committee dated May 2, 2005 for the meeting of May 11, 2005.
6. Desk item report to the Planning Commission dated May 24, 2005 for the meeting of May 25, 2005.
7. Letter from Larry Arzie (three pages) received June 15, 2005.

New Submittals:

8. Required findings.
9. Recommended conditions of approval for Alternative 1, which allows private parties.
10. Conditions of approval recommended by the applicant (Alternative 2).
11. Recommended conditions of approval for Alternative 3, allows amplified music and dancing.
12. Conditions of approval recommended by the Planning Commission (Alternative 4).
13. Recommended conditions of approval for Alternative 5, only changes the seating.
14. Email from Linda Apichell (one page) received July 22, 2005.
15. Letter from Larry Justo Arzie (four pages) received July 25, 2005.
16. Alcoholic Beverage Policy.

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MAYOR AND TOWN COUNCIL

SUBJECT: 50 UNIVERSITY AVENUE, SUITE 180

July 28, 2005

Distribution:

Scott Seaman, Police Chief

Steve and Julie Hauck, The Wine Cellar Restaurant, 50 University Avenue, Suite 180

Los Gatos, CA 95032

Doug Badia, Federal Realty Investment Trust, 355 Santana Row, Ste 2000, San Jose, CA 95128

Randy Reedy, 19A N. Santa Cruz Avenue, Los Gatos, CA 95030

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REQUIRED FINDINGS FOR

50 University Avenue Suite 180

Conditional Use Permit U-03-7

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)

- 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 use of the property is essential or desirable to the public convenience or welfare;
 - (2) The proposed use will not impair the integrity and character of the zone;
 - (3) The proposed use would not be detrimental to public health, safety or general welfare; and
 - (4) The proposed use of the property is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.
- As required by the Town's Traffic Policy for a community benefit.
- 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 Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

CONDITIONS OF APPROVAL
ALTERNATIVE 1

50 University Avenue Suite 180
Conditional Use Permit U-03-7

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)

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT
(Planning Division)

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. SUNSET OF APPROVAL. The approval for private parties as conditioned below, shall expire two years from approval. The applicant may request to extend the expiration date by filing an application to amend the Conditional Use Permit, at least 60 days prior to expiration. The filing of this application does not guarantee the extension.
3. USE. A quality restaurant and full service bar **or** the option to have private parties on a limited basis, is permitted. Both uses shall not occur at the same time. A private party is defined as a party by an individual, organization or group, not opened to the public. The restaurant may not be used by the same private party more than one time per calendar quarter. The restaurant may not be used by any other private party more than once a month, except during the month of December, where a total of three private parties are permitted.
4. SEATS. The maximum seating allowed is 140 (79 inside dining seats, 15 inside bar seats, and 46 outside dining seats).
5. UTENSILS. All meals shall be served on reusable utensils.
6. 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
 - 10 PM to 6 AM - 51 decibels
 - 6 AM to 1 PM - 52 decibels
7. NOISE METER. The restaurant operator shall purchase and receive training on the operation of the noise meter. If available, the noise meter shall include a function to allow the readings to be recorded. 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.
8. RESTAURANT USE
 - a. 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.
- b. HOURS OF OPERATION. 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. The maximum hours of operation are as follows:
Sunday through Thursday - 9:30 AM to 11 PM
Friday, Saturday, holidays or evenings before holidays - 9:30 AM to 1 AM
 - c. ENTERTAINMENT. There shall be no outdoor entertainment. Unamplified acoustic musical entertainment is permitted inside only and shall be limited to Thursday, Friday, and Saturday only.
 - d. DOORS. When music is playing, exterior doors shall not be propped open.
9. PRIVATE PARTY USE
- a. HOURS OF OPERATION. The maximum hours of operation are as follows:
Sunday through Thursday - 9:30 AM to 10 PM
Friday, Saturday, holidays or evenings before holidays - 9:30 AM to 12 midnight.
 - b. ALCOHOLIC BEVERAGE. Alcoholic beverages without meals are permitted outside of the bar area, inside only. No alcoholic beverages shall be served outside without a meal. 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.
 - c. ENTERTAINMENT. There shall be no outdoor entertainment. Amplified musical entertainment with a dance area is permitted inside only.
 - d. DOORS. When music is playing, exterior doors shall not be propped open.
 - e. ONE TIME NOTIFICATION. The applicant shall inform the adjacent residential property owners and occupants by written correspondence that they are permitted to have private parties. The notification shall include a local phone number for persons to call if an issue arises during an event. This notice shall be sent only one time and must be sent prior to holding the first private party. The notification area shall be approved by Town staff.
 - f. PARKING FOR PRIVATE PARTIES. The users of the facility shall be provided with a map and instructions for parking. The instructions shall include a comment to avoid using the Mullen Avenue parking lot for events which end after 10 PM. The map and instructions shall be reviewed and approved by the Director of Community Development.
10. REVIEW. Town staff shall review the use permit three months from approval to evaluate any complaints received relating to the 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.

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

11. 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:

12. 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.
13. OUTDOOR DINING. A host/hostess station shall be staffed at the entrance to the outside dining area.

CONDITIONS OF APPROVAL

50 University Avenue Suite 180

Conditional Use Permit U-03-7

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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)

TO THE SATISFACTION OF THE WINE CELLAR RESTAURANT

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 Friday, Saturday, Holidays & nights before Holidays, and Midnight Sunday through Thursdays.
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 no later than the hours of Entertainment on Thursday, Friday, Saturdays, Holidays and nights before Holidays.
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.

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Attachment 10

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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.

CONDITIONS OF APPROVAL
ALTERNATIVE 3

50 University Avenue Suite 180
Conditional Use Permit U-03-7

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)

~~TO THE SATISFACTION OF THE WINE CELLAR~~

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT
(Planning Division)

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. **SUNSET OF APPROVAL.** The approval for the entertainment and dancing as conditioned below, shall expire two years from approval. The applicant may request to extend the expiration date by filing an application to amend the Conditional Use Permit, at least 60 days prior to expiration. The filing of this application does not guarantee the extension.
3. **SEATS.** The maximum seating allowed is 140 (~~94 inside~~) **(79 inside dining seats, 15 inside bar seats, and 46 outside dining seats)**. ~~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.~~
4. **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.
5. **UTENSILS.** All meals shall be served on reusable utensils.
6. **HOURS OF OPERATION.** **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.** The maximum 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.~~
 - Sunday through Thursday - 9:30 AM to 11 PM**
 - Friday, Saturday, holidays or evenings before holidays - 9:30 AM to 1 AM**
7. **RESTAURANT USE.** A high quality restaurant and full service bar is permitted.
8. **ENTERTAINMENT.** There shall be no outdoor entertainment. Amplified musical entertainment **and dancing**, is permitted inside only ~~until 1:00 am on Friday, Saturday, Holidays & nights before Holidays, and Midnight Sunday through Thursdays.~~

9. 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
 - 10 PM to 6 AM - 51 decibels
 - 6 AM to 1 PM - 52 decibels
10. ~~DANCING. Dancing shall be allowed no later than the hours of Entertainment on Thursday, Friday, Saturdays, Holidays and nights before Holidays.~~
11. DOORS. When music is playing, exterior door on Mullen Avenue **doors** shall not be propped open.
12. 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.
13. NOISE METER. The restaurant operator shall purchase and receive training on the operation of the noise meter. **If available, the noise meter shall include a function to allow the readings to be recorded.** 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.
14. **PARKING. The applicant shall post a sign to encourage customers to avoid using the Mullen Avenue parking lot after 10 PM.**

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

15. 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:

16. 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.

17. OUTDOOR DINING. A host/hostess station shall be staffed at the entrance to the outside dining area.

CONDITIONS OF APPROVAL
RECOMMENDED BY PLANNING COMMISSION

50 University Avenue Suite 180
Conditional Use Permit U-03-7

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)

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT
(Planning Division)

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 (79 inside dining seats, 15 inside bar seats, and 46 outside dining seats).
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.
4. UTENSILS. All meals shall be served on reusable utensils.
5. HOURS OF OPERATION. Meals must be available up to the closing hour. 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 acoustic musical entertainment is permitted inside only and shall be limited to Thursday, Friday, and Saturday only.
8. NOISE. All amplified entertainment shall be connected to the house sound system. The music coming from the sound system shall be no louder than the sound that is heard standing in front of the stage. 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
 - 10 PM to 6 AM - 51 decibels
 - 6 AM to 1 PM - 52 decibels
9. DANCE FLOOR. A dance floor is prohibited.
10. DOORS. When music is playing, exterior doors 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.

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.

CONDITIONS OF APPROVAL
ALTERNATIVE 5

50 University Avenue Suite 180
Conditional Use Permit U-03-7

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)

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT
(Planning Division)

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 (79 inside dining seats, 15 inside bar seats, and 46 outside dining seats).
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.
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 quality restaurant and full service bar is permitted.
7. ENTERTAINMENT. Acoustic musical entertainment is permitted inside only and shall be limited to Thursday, Friday, and Saturday only. There shall be no amplified music inside or outside the restaurant.

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

8. 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:

9. 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.
10. OUTDOOR DINING. A host/hostess station shall be staffed at the entrance to the outside dining area.

Sandy Baily - Wine Cellar

From: "Linda Apichell" <LApichell@LarkspurHotels.com>
To: <blortz@town.los-gatos.ca.us>, <mwasserman@losgatosca.gov>
Date: 07/22/2005 2:21:13 PM
Subject: Wine Cellar
CC: <Lisa@winecellarslogatos.com>

Good Day:

I would like to take this opportunity to ask for your support in regards to the modification of the Wine Cellars live music permit. The enhancement is a benefit to our hotel guests staying at the Toll House Hotel. We are committed to keeping the business in our lovely community of Los Gatos. The more the town has to offer our guests/visitors, we all win.

The Toll House is happy to report that we are a busy "wedding" house on the weekends. The wedding parties and attendees are always looking for fun entertainment into the later hours of the evening. Let's keep our guests and visitors entertained and I know it will have a positive effect on commerce. Thank you for your time and consideration. I hope you will be a guest at the lovely Toll House Hotel for lunch, dinner, brunch or try our 3-D Happy Hour Monday – Friday 3:30pm – 6:30pm.

Linda Apichell

General Manager

Toll House Hotel

140 S. Santa Cruz Avenue

Los Gatos, CA 95030

Direct Line: 408-884-1111

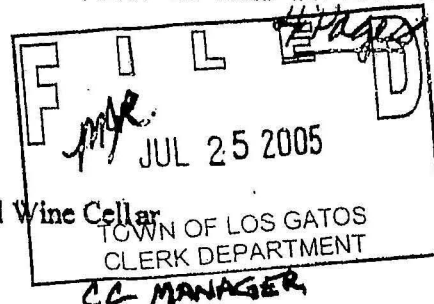
Hotel Line: 408-395-7070

Fax: 408-395-3730

Please visit our website at www.larkspurhotels.com

Larkspur Hospitality welcomes its newest member of the family, the Sainte Claire, a Larkspur Hotel in San Jose, CA. We invite you to find out more by [clicking here](#) for additional information on this historical hotel.

Please visit our website at www.larkspurhotels.com



Town Council, Town of Los Gatos

Re: Changes in conditional use permits for Café Rouge and Wine Cellar

Dear Council members,

I would like to point out to you as I did on the letters attached to Planning and to you, that the vitality of the CBD is at the most precarious point that I have seen since the 1970s. We have vacant store fronts with for lease signs that have been up for months. Normally it takes 30 days or less to rent a space. This is not because of the effects of the recession. Willow Glen does not seem to have this problem. Rather this is due to the transformation of the CBD from a comfortable mix of tenants to a ghetto of food oriented and service professional operations. The heady days prior to the recession kept us going no matter the disproportionate High Use encroachments. Due to inappropriate choices of tenants and lack of proper planning there is considerably less retail in town (not including Old Town) than there was during the 90s. The days of "we can do no wrong" are over with.

The reality of this lopsided mix is not just less parking and poor circulation but the loss of truly what made Los Gatos Shine and the desire for upper end stores to locate here. They brought in the carriage trade that patronized the mom and pops as well. We have lost most of these operations to mediocrity and redundancy. The handwriting has been on the wall for years but unfortunately we have a history of making wrong decisions during downturns in the economy. The recommendations of the general plan review committee have yet to be addressed on this issue and instead of decreasing the intensification of the CBD we have in actuality passed up opportunities to bring in more retail and allowed new or replacement high use operations to open.

The two applications before you present problems because we have not taken the action the general plan review committee has suggested by legislating a halt and reduction of further intensification in the CBD in order to keep it a viable RETAIL district. I would hope that you take steps forthwith to do this and deny ANY request for increase in USE. We do not need a dance hall in Old Town, we approved their existing permits with limitations due to existing high density. If you approve it you will be setting a precedence that others will want as well. We do not need beer and wine served in coffee houses of which the precedence has already been set with Café Rouge. What will you say to Terri Hope if she too wants to serve beer and wine in her coffee house.

Further intensifications are unacceptable in the CBD. The planning commission made the correct decision in not allowing the removal of a parking space, allowing more seating, and changes of hours. You can not approve one application without the other. The solution is therefore simple: follow the will of the community through the direction of the plan review committee and start reducing intensification in the CBD.

Respectfully,

Larry Justo Arzie

July 25.05

RECEIVED

JUL 25 2005

*Attachment (A)*Planning Commission
Town of Los Gatos

Re: 42 44 Elm st. U 05 013

The normal progression in Los Gatos for increasing table space over and above the allowed seating is to just do it or go outside to do it. The progression in changing type of use for a food operation is from a bakery to a coffee house to a cafe and now a wine bar is more duplicitous but with veracity and time it can be done as is the case here. We were to have stopped issuing further use permits for food operations in the C.B.D. or allowing existing ones to grow in size after the finding of the general plan review committee were issued. But that is not the case. If we allow increased use of this cafe we are setting ourselves up. This premises is currently underutilized but with the addition of more outdoor seating it becomes a viable product to put on the market and sell to a more aggressive restaurateur and therefor increasing the density and use of the property.

If allowed to happen the logical consideration by you would be to close down part of the building in order to reduce the size if appropriate since a parking space will be removed. I presume this space was factored into the use permit and without it the property owner will have to either pay more into the parking district or reduce the size of the building. This is a private on site space but never the less it was used for loading and unloading. Without it where do the tenants trucks unload? The Parking lot? The Street? In any event to the disadvantage of thier neighbors. This parking space was part of the original permits and should be kept as same.

Not too long ago to the shock of a few council members I talked with you allowed this coffee house a beer and wine permit to be served with food only. To my knowledge there is not even a proffession or legal county health food code approved kitchen in there and they offer a salad and sandwich etc not coffee shop or restaurant meals. I have often walked by or gone inside to see wine or beer served outdoors without the normal fenced in area required or served inside and in both cases without food of which no it was not forthcoming. If we approve this it will again come before you to increase thier hours of operation. And again we will re-inforce the belief that in this town it is the normal way to turn a bakery, a Ice cream parlor, a juice bar or any minimal food operation into a full fledged restaurant and in this case a want to be wine bar.

I respectfully request that you deny this continued overintensification of the C.B.D. and draw a line in the sand to let it be known that we have enough of these kinds of progressions.

Respectfully

Justo
L. Justo A. Hernandez

Attachment (B.)

Town of Los Gatos
Planning Commission

Re: 50 university 180 U-03-7

Those of you who followed or were on the Town general plan review committee will remember that we finalized our 2 years with a list of recommended changes to the general plan. One of these clearly indicated that we wanted to keep the character of a small town and one way to do this was to reduce the use and activity or density of the Central Business District.

Lately we have had a number of cases where this could have been done and in one case even overtly going against the recommendations of the will of the community through the general plan review committee, by allowing a previous closed down Swensons coffee and Ice cream parlor to be split into two new restaurant uses and with the addition of more seating outside. We had the opportunity to allow only the new Ice cream "National Franchise" to occupy part of that space. By the way I don't think they went through the process of a formula operation review through you, another loophole in our ordinances. Instead approved even though there was no obligation on our part to do so a second eatery thereby further increasing destination operations instead of allowing more retail commerce to occupy the space in order to try to return the C.B.D. to a retail district with less food orientation. We currently have other similar problems happening when professional offices vacate and release to professional offices instead of attempting to lease to retail as required by ordinance. Another is the retail jewelers at the corner of Bachman being turned into professional medical.

With this in mind we are obligated to be diligent in not allowing further intensification no matter how small it may seem to reduce not increase traffic, parking, and congestion in the central business district in order to vitalize retail commerce instead of making it more difficult for them. To add more seating inside or out and to increase hours of operations or music venues to a use permit when not part of the original requests for operating is not acceptable or fair to the residents who live adjacent to this restaurant and the other merchants in an already overburdened C.B.D.

In this community it is normal to just do things and ask for permission later, and in most cases it works. But in this case if this request brings even one more car into town it is one more straw that in the total outweighs our ability to operate an economically viable C.B.D.

Respectfully,

L. Justo, A. Hernandez

Justo May 19th

attachment (C)

TOWN COUNCIL : re: 50 University Ave. Suite 180 Conditional Use Permit U-0307

Dear Council Members

Some day I will learn how to use my computer to write letters and use spell check. I just can't get it printed on the paper correctly. But I am getting there. In the Mean time you have to suffer through my using the IBM typewriter.

I have been accused by some of you as too exagerating. This I don,t do but will admit to a bit of dramatization for sure. In the case of continued approval of increased density in the C.B.D. exageration might be called for but I,ll stick with numbers instead.

Danielle Surdin recently outlined the quantatative number of 18% national or formula operations in Town. I have discussed with her that this figure would be more informative if it were based on other factors such as square footage, and locations to give a truer picture of how they effect the community. More important might be calculations incorporating many factors of what effects high USE operations have on the Central Business District. By this I mean anything not retail and incumpasing, office, proffessional, service proffessional, food service, bars, etc. I pose this thought as I trully believe that the vitality of the C.B.D. has been so incumbered by non-retail operation that we are at a point of true concerne.

To refine the impact of non retail operation we need to grid out the C.B.D. to find true ratios of comparison before we can continue to grant increased seating, music, hours, or concessions to high use operations. Untill this is done I hope that you allow no further intensification no matter how small.

On Main st. alone from Lyndon Plaza to the Bridge there are 27 store fronts. Of this there are 11 in use for food operations. Slightly around 40%. Now I am going to speculate not exagerate. If you factor in how much square footage they occupy I would guess 50% of the ground space. If you factor all other high use operations and throw in residential as well based on square footage it might be around 80%. Santa Cruz ave. from Main St. to Bachman is even more dense.....

I realize that Old Town is asking for very little now that Oakville grocery is no longer serving food which would bring it back to statûs quo but that is not the point. We have been asked by the General Plan Review Committee to reduce the usage not increase it in the C.B.D. With 80% (speculation) of the square footage in the C.B.D. being destination locations, it has to be a hardship on both the nearby residents and merchants and we must do everthing possible to eliviate this.

Please say no to this request for further increase of intensity in the Use Permit and any others untill a proper equation can be arrived at that alerts us to the danger of being lopsided with destination locations. I trully believe we are at a turning point to the worse (a little exageration) and need to protect the vitality of the Village.

Sincerely,

Larry Justo Arzola

2 letters attached for your review.

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.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 17th day of September, 2001, by the following vote:

COUNCIL MEMBERS:


AYES: Randy Attaway, Steven Blanton, Sandy Decker, Steve Glickman,
Mayor Joe Pirzynski.

NAYS: None

ABSENT: None

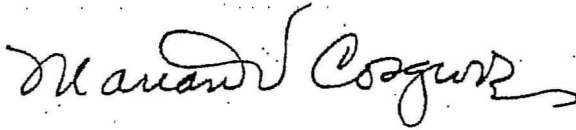
ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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.

5. Any establishment serving alcoholic beverages shall be 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 Californian 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.
6. The deciding body shall make the following findings prior to approving an application for conditional use permit to serve alcoholic beverages past 10PM:
 - A. Late night service will not adversely impact adjacent residential neighborhoods.
 - B. The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy.
 - C. The applicant has demonstrated a clear benefit to the community.
7. A meal is defined as a combination of food items selected from a menu (breakfast, lunch or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
8. Alcoholic beverage service in approved outdoor seating areas may be permitted if adequate separation from public areas is provided as determined by the Town Manager. The separation shall clearly suggest that alcohol is not allowed outside the restaurant seating area.

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.

- d. If there are violations of the use permit that have not been voluntarily corrected by the business owner the matter will be forwarded to the Planning Commission for public hearing pursuant to Section 29.20.310 of the Zoning Ordinance.
- e. Pursuant to Section 29.20.315 of the Zoning Ordinance the Planning Commission may revoke or modify the conditional use permit if it finds that sufficient grounds exist.

IV. Enforcement

All conditional use permits issued to establishments for alcoholic beverage service on-site shall be subject to Section 29.20.318(b) of the Town Code authorizing the Town Manager to take enforcement action if it is determined that the sale of alcohol has become a nuisance to the Town's public health, safety or welfare. Enforcement of section 29.20.318(b) of the Town Code will be based on, but not limited to, the following factors:

- I. The number and types of calls for service at or near the establishment that are a direct result of patrons actions;
- II. The number of complaints received from residents and other citizens concerning the operation of an establishment;
- III. The number of arrests for alcohol, drug, disturbing the peace, fighting and public nuisance violations associated with an establishment;
- IV. The number and kinds of complaints received from the State Alcoholic Beverage Control office and the County Health Department;
- V. Violation of conditions of approval related to alcoholic beverage service.

The Alcoholic Beverage Policy is not to be construed to be a right of development. The Town retains the right of review and approval (or denial) of each project based on its merits.