



MEETING DATE: 11-06-2006

AGENDA ITEM:

4

## COUNCIL AGENDA REPORT

DATE: NOVEMBER 3, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: ADOPT RESOLUTION GRANTING A REQUEST TO ALLOW WINE TASTING AND RETAIL WINE SALE ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT U-07-2 APN 529-01-026 PROPERTY LOCATION: 45 W. MAIN STREET PROPERTY OWNER: JAY CONOVER AND JOELLA WANAMAKER APPLICANT: CLOS LACHANCE WINES AND FLEMING JENKINS, LLC.

### RECOMMENDATION:

Adopt resolution granting a request to allow wine tasting and retail wine sale for off-site consumption on property zoned C-2.

### DISCUSSION:

On October 16, 2006, Council agreed with the Planning Commission's recommendation made on September 27, 2006, to grant a request to allow wine tasting and retail wine sale for off-site consumption on property zoned C-2. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

Distribution: Jay Conover, 25 Reservoir Rd, Los Gatos, CA 95030  
Joella Wanamaker, 2007 University Ave, San Jose, CA 95128  
Clos LaChance Wines, Inc., Bill and Brenda Murphy,  
1 Hummingbird Lane, San Martin, CA 95046  
Fleming Jenkins LLC, Greg and Peggy Jenkins,  
300-A College Avenue, Los Gatos, CA 95030

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Report LaChance & Fleming.wpd]

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

Rev: 11/3/06 12:03 pm

Reformatted: 7/19/99

File# 301-05

## **RESOLUTION**

### **GRANTING A REQUEST FOR APPROVAL TO ALLOW WINE TASTING AND RETAIL WINE SALE ON PROPERTY ZONED C-2.**

**APN: 529-01-026**

**CONDITIONAL USE PERMIT U-07-2**

**PROPERTY LOCATION: 45 W. MAIN STREET**

**PROPERTY OWNER: JAY CONOVER AND JOELLA WANAMAKER**

**APPLICANT: CLOS LACHANCE WINES AND FLEMING JENKINS, LLC**

#### **WHEREAS:**

A. This matter came before the Town Council for public hearing on October 16, 2006, 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 October 6, 2006, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting approval to allow a wine tasting and retail wine sale for off-site consumption on property zoned C-2.

D. The application was considered by the Planning Commission on September 27, 2006, which recommended the approval of wine tasting and retail wine sale for off-site consumption on property zoned C-2. The recommended hours when these activities may occur are from 11:00 AM to 7:00 PM, seven days a week, and from 11:00 AM to 10:00 PM for private events.

E. The Council agrees with the Planning Commission's recommendation to grant applicant's request to allow wine tasting and retail wine sale for off-site consumption on property zoned C-2.

F. Council finds as follows:

1. The findings of the Planning Commission made on September 27, 2006 are adopted and incorporated herein.
2. The request to allow wine tasting and retail wine sale for off-site consumption promotes policies and strategies of the General Plan including: L.P.1.3 (encourage economic and social activity consistent with a small-scale, small town atmosphere and image); L.P.5.1 (maintain a variety of commercial uses to meet the shopping needs of residents and to preserve the small-town atmosphere); L.P.5.2 (emphasize retail uses in the Commercial Business District); L.P.5.5 (encourage the development and retention of locally-owned stores and shops); L.G.6.2 (preserve downtown Los Gatos as the historic center of the Town with goods and services for local residents while maintaining the existing Town identity, environment and commercial viability).

**RESOLVED:**

1. The request to allow wine tasting and retail wine sale for off-site consumption on property zoned C-2 is granted. The conditions of approval are attached hereto as Exhibit "A" and by this reference incorporated herein.
2. 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 and Federal Law.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California on the 6<sup>th</sup> day of November 2006, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

Jackie Rose  
DEPUTY CLERK  
TOWN OF LOS GATOS, CALIFORNIA

## **CONDITIONS OF APPROVAL FOR:**

**45 W. Main Street**

**Conditional Use Permit U-07-2**

**Requesting approval to allow wine tasting and retail wine sale on property zoned C-2. APN. 529-01-026**

**PROPERTY OWNER: Jay Conover and Joella Wanamaker**

**APPLICANT: Clos La Chance Wines, Inc & Fleming Jenkins LLC**

**TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:**

(Planning Section)

1. **CONDITIONS:** These conditions of approval shall supercede all previously adopted conditions.
2. **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 H 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.
3. **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.
4. **USE:** The approved use is a wine tasting room operated by Clos La Chance Wines, Inc and Fleming Jenkins LLC and retail store selling wines and wine-related retail products from Clos La Chance and Fleming Jenkins wineries.
5. **NUMBER OF SEATS:** The maximum number of seats shall not exceed 4 seats total.
6. **HOURS OF OPERATION:** Hours of operation for the business shall be 11:00 a.m. to 7:00 p.m. seven days a week.
7. **WINE SALES:** Retail sale of wine for off-site consumption is permitted from 11:00 AM to 7:00 PM, seven days a week and 11:00 AM to 10:00 PM for private events.
8. **WINE TASTING:** Wine tasting is permitted. The maximum sample size for the tasting shall not exceed one ounce.
9. **PRIVATE EVENTS:** Private events such as staff meetings, special new release tastings, bottle signings, vendor presentations, and other winery related business are allowed. These events are limited to once a month with hours of operation from 11:00 AM to 10:00 PM. Entertainment is not permitted during these events.
10. **PROHIBITED USES:** Service of alcohol for consumption on-premises beyond the minimum allowed for a wine tasting is not allowed.
11. **OCCUPANCY:** The maximum occupancy shall be as required by the Fire Code.