



MEETING DATE: 5-5-2008

AGENDA ITEM: 1

COUNCIL AGENDA REPORT

DATE: MAY 1, 2008

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 AN EXISTING QUALITY RESTAURANT WITH FULL LIQUOR SERVICE ONLY WITH THE SERVICE OF MEALS INTO THE ADJOINING TENANT SPACE CURRENTLY OCCUPIED BY A RETAIL WINE SHOP ON PROPERTY ZONED C-2; APN: 529-04-053. CONDITIONAL USE PERMIT U-08-003; PROPERTY LOCATION: 364-368 VILLAGE LANE; PROPERTY OWNER: JOAN FRANK, FRANCK FAMILY TRUST; APPLICANT: GLOBAL GRAPE L.P.

RECOMMENDATION:

Adopt resolution approving a request to modify an existing conditional use permit to expand an existing quality restaurant with full liquor service only with the service of meals into the adjoining tenant space currently occupied by a retail wine shop on property zoned C-2.

DISCUSSION:

On April 21, 2008, Council approved an application to expand an existing quality restaurant with full liquor service only with the service of meals into the adjoining tenant space currently occupied by a retail wine shop on property zoned C-2. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Reports\364-368 Village Lane CUP.wpe]

Reviewed by: <i>OK</i>	Town Manager	<i>PSS</i>	Assistant Town Manager	_____	Clerk
	Finance	<i>OK</i>	Community Development		

Rev: 5/1/08 6:39 pm

Reformatted: 7/19/99

File# 301-05

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING A REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT TO EXPAND AN EXISTING QUALITY RESTAURANT WITH FULL LIQUOR SERVICE ONLY WITH THE SERVICE OF MEALS INTO THE ADJOINING TENANT SPACE CURRENTLY OCCUPIED BY A RETAIL WINE SHOP ON PROPERTY ZONED C-2.

APN: 529-04-053

CONDITIONAL USE PERMIT: U-08-003

PROPERTY LOCATION: 364-368 VILLAGE LANE

PROPERTY OWNER: JOAN FRANK, FRANCK FAMILY TRUST

APPLICANT: GLOBAL GRAPE L.P.

WHEREAS:

A. This matter came before Council for public hearing on April 21, 2008, 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 April 15, 2008, along with any and all subsequent reports and materials prepared concerning this application.

C. On March 12, 2008, the Planning Commission recommended approval of an application to amend a Conditional Use Permit (CUP) for a fine dining restaurant with full liquor service only with the service of meals to extend that service into the adjoining retail space.

D. Applicant seeks approval to modify its CUP to allow for expansion of its restaurant and the service of full alcohol only with the service of meals into the adjoining 571 square foot retail space, increasing the maximum number of seats from 96 to 105,

and extending the operating hours to include all hours from 11:30 am to 11:00 pm
Sunday through Thursday and 11:30 am to midnight Friday and Saturday

E. Town Council finds as follows:

i. 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 and character 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 proposed modification to the CUP would encourage economic and social activity consistent with a small-scale, small town atmosphere and image. Modification of the CUP will have the community benefit of establishing a late night fine dining opportunity in the Town and the restaurant will be operated consistent with its membership in the Bay Area Green Business Program.

ii. Pursuant to the Town Alcohol Policy, the applicant has an established positive record of compliance with its conditions of approval and Town law, there is no evidence that late night service will adversely impact adjacent residential neighborhoods, and lastly, Council finds that the applicant has demonstrated a clear benefit to the community as demonstrated in the findings above made pursuant to Town Code section 29.20.190, which are fully incorporated herein.

iii. The project is categorically exempt from environmental review pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

iv. The proposed use is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (section IV.B), as evidenced by the Council Agenda report dated April 15, 2008.

RESOLVED:

1. Application U-08-003 is approved.
2. The Conditions of Approval attached hereto as Exhibit A are adopted as the Conditions of Approval of this permit.
3. The decision constitutes a final administrative decision pursuant to California 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 California 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 May 2008 by the following vote.

COUNCIL MEMBERS:

AYES: Steve Glickman, Barbara Spector, Diane McNutt,
Mayor Joe Pirzynski
NAYS: None
ABSENT: None
ABSTAIN: Mike Wasserman

SIGNED: _____
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

April 21, 2008

RECOMMENDED CONDITIONS OF APPROVAL FOR:

364-368 Village Lane

Conditional Use Permit U-08-003

Requesting approval to modify an existing Conditional Use Permit to expand an existing quality restaurant (Café Marcella) with full liquor into the adjoining space currently occupied by a retail wine shop on property zoned C-2. APN: 529-04-053

PROPERTY OWNER: The Franck Family Trust

APPLICANT: Global Grape L. P.

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 approved plans (received February 19, 2008). 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. **MODIFICATION OF BAR:** The existing bar shall be maintained as laid out on the approved plans (received on February 19, 2008); any expansion will require approval from the appropriate decision making body.
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. **NUMBER OF SEATS:** The maximum number of seats for the restaurant shall not exceed 105.
5. **HOURS OF OPERATION:** Maximum hours of operation for the restaurant shall be 11:30 a.m. to 11:00 p.m. Sunday thru Thursday and 11:30 am to 12:00 midnight Friday and Saturday.
6. **ALCOHOL SERVICE:** The service of alcoholic beverages 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.
7. **EXISTING BAR:** The service of alcoholic beverages at the existing bar is permitted only with meals.
8. **LIVE ENTERTAINMENT:** Live entertainment is prohibited.
9. **TAKE OUT SERVICE:** There shall be no dedicated walk up counter.
10. **REVIEW:** One year from the approval date the Town Council shall conduct a review of the Conditional Use Permit. The applicant shall submit information demonstrating a clear community benefit as required by the Town's Alcohol Policy for alcohol service beyond the hours of 10 pm, and shall specifically include the following:
 - The applicant has received membership in The Bay Area Green Business Program, and
 - There has not been an adverse impact on the nearby residences.

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.

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

16. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the 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.
17. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
18. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering 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.
19. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

April 21, 2008

20. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.