



MEETING DATE: 8/6/12
ITEM NO: 14
DESK ITEM

COUNCIL AGENDA REPORT

DATE: AUGUST 6, 2012

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

A handwritten signature in black ink, appearing to read "Greg Larson".

SUBJECT: CONDITIONAL USE PERMIT APPLICATION U-12-004. PROJECT LOCATION: 424 N. SANTA CRUZ AVENUE. PROPERTY OWNER: LOS GATOS SHOPPING CENTER, LLC. APPLICANT: MICHAEL GUERRA AND JOE CANNISTRACI FOR SAN CALOGERO, INC.
CONSIDER A REQUEST TO APPROVE CONDITIONAL USE PERMIT U-12-004.

STAFF REMARKS:

A. Conditional Use Permit Review

When reviewing a Conditional Use Permit (CUP), the deciding and recommending bodies should consider the information in the applicant's business plan; however, the key consideration should be the explicit proposed use since the business plan can change from owner to owner. The explicit use may be, and is often, defined in the recommended conditions of approval as a "use" condition. The CUP runs with the land, and the deciding and recommending bodies should review applications based on the explicit use as opposed to the applicant or the applicant's business plan.

The Town has recently conditioned projects to require an Operational Agreement to ensure the operation of a project is consistent with the applicant's proposal and to ensure any future changes to the business plan are consistent with an approved CUP. If the deciding body finds merit with the proposal, staff recommends the following condition:

OPERATIONAL AGREEMENT: Prior to the initiation of any operational changes permitted under this approval, the applicant shall enter into an operational agreement with the Town guaranteeing the performance of the business per the representations of the application and the applicant at the public hearings, as well as the observance of the conditions of approval. Said agreement

PREPARED BY: Wendie R. Rooney, Director of Community Development

Reviewed by: PS Assistant Town Manager Q Town Attorney _____ Finance

shall be subject to approval of the Chief of Police, the Director of Community Development, and the Town Attorney, and will be signed by the applicant. Operators who are successors in interest to the business and Conditional Use Permit shall be required to meet with the Director and Chief and agree to all the terms of the Operational Agreement by executing a copy of the Agreement. The Operational Agreement shall be reviewed by the Director of Community Development and the Town Attorney, biannually for the first five years and annually thereafter, to ensure compliance with the Conditional Use Permit and operating covenants, including the food service requirement.

B. Definitions

Town Code Section 29.10.020 provides the following definitions for a bar and a restaurant:

Bar means a drinking place where alcoholic beverages and snacks are served; possibly with entertainment such as music, television screens, video games or pool tables.

Restaurant means a retail food service establishment in which food or beverage is prepared, served and sold to customers for on-site or take-out consumption.

The Town does not have a standard definition for a wine bar. Enoteca La Storia at 416 N. Santa Cruz Avenue was approved as a retail wine establishment with food, beer, and wine service as generally described in the applicant's letter of justification. Rootstock Wine Bar was approved as a wine shop and wine bar without commercial cooking facilities or equipment. The Town is working towards revising the Alcoholic Beverage Policy that will include a definition for a wine bar. The current draft definition for a wine bar is as follows:

A Retail Wine Service Establishment, also called a wine bar or other similar use, is defined as an establishment providing wine beverage service as may be determined by the deciding body. A Retail Wine Service Establishment shall, at a minimum, provide food service until closing. Specific hours of operation for each establishment are determined in the operational agreement required pursuant to the Conditional Use Permit. A Retail Wine Service Establishment shall meet the Purpose and General Policy of this Alcoholic Beverage Policy.

C. Business Operation

It should be noted that the condition of approval requires the establishment to operate in substantial compliance with the development plans received on May 23, 2012. A floor plan was included with the applicant's business plan received on February 28, 2012. The conditions of approval do not explicitly reference the business plan.

The wholesale bakery operation proposed for the rear of the subject space will operate at different hours than when the wine and tapas bar is open. Staff recommends the following revised hours of operation condition to clarify that the bakery may operate outside of the hours of the wine and tapas bar (additions underlined):

HOURS OF OPERATION: Maximum hours of operation for the wine bar are Sunday and Monday 3:00 p.m. to 10:00 p.m.; Tuesday and Wednesday 3:00 p.m. to 11:00 p.m.; and Thursday through Saturday 3:00 p.m. to 12:00 a.m. The bakery is not restricted to these hours.

The applicant submitted a draft menu (Attachment 11).

D. Parking

The Northside Parking Lot is not in the Parking Assessment District or the Central Business District (C-2 zoning). Pursuant to Town Code Section 29.10.207, commercial uses located north of Highway 9 that are nonconforming to parking can make improvements to their business provided a parking in-lieu fee is paid pursuant to Resolution 1996-153 (Attachment 9). The subject shopping center is eligible for parking in-lieu fees due to previous uses that were nonconforming as to parking. The funds collected for the parking spaces are used to maintain the Northside Parking Lot.

E. Public Comments

The Town received two additional public comments in support of the application (Attachment 10).

Attachments:

Previously received with the Town Council Staff Report

1. Required Findings
2. Resolution approving the Conditional Use Permit (with Exhibit A)
3. Resolution remanding the Conditional Use Permit to the Planning Commission
4. Resolution denying the Conditional Use Permit
5. Recommended Conditions of Approval
6. Public Comments received July 19 to July 31, 2012 (2 pages)
7. Excerpt of the Planning Commission verbatim meeting minutes of May 23, 2012
8. Report to the Planning Commission for the meeting of May 23, 2012

Received with this Desk Item

9. Resolution 1996-153
10. Public Comments received August 6, 2012 (2 pages)
11. Draft Menu received August 6, 2012 (4 pages)

RESOLUTION 1996-153

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
ESTABLISHING THE PARKING IN-LIEU PROGRAM FOR NON-CONFORMING
DOWNTOWN PROPERTIES AS TO PARKING IN THE VICINITY
NORTH OF LOS GATOS-SARATOGA ROAD**

WHEREAS, it is the intention of the Town Council of the Town of Los Gatos to establish a policy to encourage tenant improvements and resolve non-conforming parking status for specific properties in the vicinity of Los Gatos-Saratoga Road and North Santa Cruz Avenue as shown in attached (Exhibit A) and;

WHEREAS, the present day value of a parking space in the "Park and Ride" lot has been established at \$3,700 by taking the original construction cost and increasing its value due to inflation and;

WHEREAS, the estimated life of building structures in the area considered is 25 years, the calculated on going cost to maintenance a parking space for 25 years is approximately \$2,550 and;

WHEREAS, the Town Council does wish to work in cooperation with the property owners to improve their buildings and the parking fee shall be established at \$4,000 per space a sum less than the total construction and maintenance costs and;

WHEREAS, the Town Council has directed the proceeds used to maintain and improve parking and transit related to the "Park and Ride" lot.

RESOLVED, that this in-lieu parking resolution is hereby approved to implement Town Code Section 29.10.207.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the 2nd day of December, 1996, by the following vote:

COUNCIL MEMBERS:

AYES: Randy Attaway, Steven Blanton, Linda Lubeck, Mayor Joanne Benjamin

NAYS: None

ABSENT: Patrick O'Laughlin

ABSTAIN: None

SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

Jennifer Savage

From: Priscilla <pdym@aol.com>
Sent: Monday, August 06, 2012 7:52 AM
To: Jennifer Savage
Subject: Enoteca La Storia

Dear Town Council Member,

My name is Priscilla Smith Dym. I am a Los Gatos resident and my address is 225 Wooded View Dr. I am writing to you to express my support for the proposed Spanish tapas restaurant at 424 N. Santa Cruz Avenue. The owners of Enoteca La Storia, who are seeking approval for this new project, have demonstrated that they are passionate and responsible business owners. They have brought something unique and exciting to Los Gatos and I am confident that their new location will not only be another wonderful dining option in town, but will also add to the growing culinary reputation of our community. I strongly urge you to approve this project.

Sincerely,

Priscilla Smith Dym

August 3, 2012

Dear Town Council Member,

Our names are Scott and Catherine Monson. We are Los Gatos residents living at 16 Bayview Ave. We are writing to you to express our support for the proposed Spanish tapas restaurant at 424 N. Santa Cruz Avenue. The owners of Enoteca La Storia, who are seeking approval for this new project, have demonstrated that they are passionate and responsible business owners. They have brought something unique and exciting to Los Gatos and we are confident that their new location will not only be another wonderful dining option in town, but will also add to the growing culinary reputation of our community. I strongly urge you to approve this project.

Sincerely,

Scott & Catherine Monson

Handwritten signatures of Scott and Catherine Monson.

RECEIVED

AUG - 6 2012

TOWN OF LOS GATOS
PLANNING DIVISION

RECEIVED

AUG 6 2012

TOWN OF LOS GATOS
PLANNING DIVISION

PARA PICAR

Almendras - Marcona Almonds

<http://www.elanaspantry.com/blog/wp-content/uploads/2010/01/marcona-almonds.jpg>

Surtido aceitunas- Manzanilla, picual and arbequina olive plate

http://t1.ftcdn.net/jpg/00/19/98/52/400_F_19985212_zLrcGCUwRcOYXLOr0FFQUKQqUZWf7vXx.jpg

Pam amb tumaca - Crusty bread, fresh tomatoes, garlic and olive oil

http://therepublicofless.files.wordpress.com/2010/05/pam_amb_tomaquet1.jpg

TABLAS

Tabla Ibéricos - Iberian meats platter (jamón, chorizo, lomo, salchichón)

<http://guiagastronomika.diariovasco.com/restaurantes/banquetes/fotos/640x/bernardina-exito-bueno-2.jpg>

Tabla Quesos - Cheese platter (Manchego, Idiazabal, Roncal, Tetilla)

<http://3.bp.blogspot.com/--gqVWIT1E9o/ThXeC5IX82I/AAAAAAAAALI/HDkDRUGVZr8/s1600/TABLA.jpg>

Tabla Kursaal - Assortment of cheeses, cured meats, olives, and spreads

PINTXOS

Gilda - Guindilla Pepper + anchovie + olive

<http://media-cdn.tripadvisor.com/media/photo-s/02/70/7c/d9/filename-atari-jpg-thumbnail0.jpg>

Indurain - Bonito tuna belly + anchovie + guindilla + onion + olive

<http://guiagastronomika.diariovasco.com/restaurantes/fotos/640x/bodega-donostiarra-clasico-los-mejores-pintxos-directo-4.jpg>

Mini Completo - Bonito tuna, guindilla pepper and anchovie sándwich

http://s3.amazonaws.com/foodspotting-ec2/reviews/4326/thumb_600.jpg?1261654384?1342276589

Tomate con bonito - Fresh tomatoe, bonito tuna and caramelized onions

http://img.directoalpaladar.com/2009/11/pincho_bonito_cebolla.jpg

Piquillo con anchoa - *Piquillo Pepper with anchovie over sliced bread*

<http://lacocinadeserrats.com/wp-content/uploads/Pintxo+de+Antxoas.jpg>

Esparrago, huevo y gamba – *White asparagus tip, egg, shrimp and olive*

http://www.afuegolento.com/img_db/noticias/9303_1287_image.jpg

TORTILLAS

Tortilla de Patata * - *Potato and onion omelette*

<http://3.bp.blogspot.com/> -

BA4OzsilPw/S75Gs2iHOWI/AAAAAAAADzc/lqBJA49mCU8/s1600/01042010147.jpg

Tortilla de Jamon * - *Iberian ham omelette*

Tortilla de Chorizo * - *Iberian chorizo omelette*

Tortilla de Bacalao * - *Codfish omelette*

<http://cocinayrecetas-static.hola.com/amigasentrefogones/files/2012/03/Tortilla-de-bacalao-300x273.jpg>

CROQUETAS

Croqueta de Jamón * - *Ibérico ham croquette*

Croqueta de Hongos * - *Boletus edulis funghi croquette*

Croqueta de Bacalao * - *Codfish croquette*

BROCHETAS

Brocheta de Setas * - *Mushroom skewer*

<http://3.bp.blogspot.com/SjEUeMhOxJs/TMGear9djCI/AAAAAAAHRk/YanTYYxSfQA/s400/DSC07393brochetas+pollo.jpg>

Brocheta de Gambas *- *Shrimp skewer*

<http://breadetbutter.files.wordpress.com/2011/06/bar-goiz-argi-gambas-brochetta.jpg?w=584&h=518>

Brocheta de Pescado * - *Monkfish, prawns and bacon skewer*

<http://inuxual.files.wordpress.com/2012/01/brocheta.jpg?w=510&h=382>

ESPECIALES

Carrilleras en salsa - *Slow cooked veal cheeks*

<http://breadetbutter.files.wordpress.com/2011/06/la-cuchara-carrilera.jpg?w=584&h=566>

Pimientos rellenos - *Codfish stuffed piquillo peppers*

http://www.lasirena.es/images/cache/files/product/platos-preparados/2517_Pimientos_rellenos_bac500x500.jpg

Chuletón de buey * con Pimientos - *Grass fed dry aged beef basque style steak with piquillo peppers*

<http://athenathickstun.files.wordpress.com/2011/06/grillingetxebarri-165.jpg>

OYSTER BAR

Fresh Oysters

Percebes - *Fresh Sea Goose Barnacles*

<http://athenathickstun.files.wordpress.com/2011/06/grillingetxebarri-146.jpg>

Berberechos - *Canned Galician Cockles*

[http://s7d2.scene7.com/is/image/LaTienda/se-83?defaultImage=placeholder_300x300&\\$medium_300\\$](http://s7d2.scene7.com/is/image/LaTienda/se-83?defaultImage=placeholder_300x300&$medium_300$)

Navajas - *Canned Galician razor shell clams*

[http://s7d2.scene7.com/is/image/LaTienda/se-84?defaultImage=placeholder_215x215&\\$small_215\\$](http://s7d2.scene7.com/is/image/LaTienda/se-84?defaultImage=placeholder_215x215&$small_215$)

SEASONAL DELICACIES

Spring:

Chuletilla cordero *- *Riojan style baby lamb chop*

http://3.bp.blogspot.com/_QEFLbrj2RII/S84hsMF6pOI/AAAAAAAAAC9U/uL-7PzkT3vk/s1600/Chuletillas+cordero+manchego.JPG

Summer:

Gazpacho - *Fresh gazpacho soup*

Guindillas fritas *- *Fried guindilla peppers*

<http://i53.tinypic.com/i6h5xl.jpg>

Pimientos Padrón *- *Fried Padrón peppers*

<http://yourmadridguide.files.wordpress.com/2010/12/pimientos-de-padron.jpg>

Autumn:

Hongos plancha *- *Boletus edulis funghi a la plancha*

http://farm2.staticflickr.com/1329/5160072399_768e15269c_z.jpg

Winter:

Patatas a la Riojana - *Stewed potatoes and chorizo Riojan style*

<http://blogs.lasprovincias.es/blogalhorno/files/patatas.jpg>

Lentejas con chorizo – *Lentil soup with chorizo*

http://www.plusesmas.com/images/recetas/432_lentejas_estofadas_con_chorizo_79964062.jpg

* Cook to order items