MEETING DATE: 4/3/06
ITEM NO. 11

COUNCIL AGENDA REPORT

DATE: March 22, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER A REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT FOR A RESTAURANT/ BAKERY (LA MAISSON DU CROISSANT) TO INCREASE THE NUMBER OF SEATS, HOURS OF OPERATION AND TO SERVE BEER AND WINE FOR A NEW RESTAURANT (JAMES RANDALL) ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT APPLICATION U-06-3. PROPERTY LOCATION: **303 N. SANTA CRUZ AVENUE (APN 510-14-048).** PROPERTY OWNER: BERT MILLEN. APPLICANT: BRENDA HAMMOND.

RECOMMENDATION:

1. Hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Approve the application. If the application is approved, the Council should make the required findings (Attachment 1) and approve the application subject to the proposed conditions (Attachment 2)(Motion Required).
4. Refer to the Town Attorney for preparation of the appropriate resolution.

BACKGROUND:

On November 10, 1982, Conditional Use Permit (CUP) Application U-82-20 was approved by the Planning Commission to operate a restaurant in conjunction with a bakery at 303 N. Santa Cruz Avenue (La Maisson Du Croissant). The approval allowed 16 seats, hours of operation from 7:30 AM to 6:00 PM, and did not allow service of alcoholic beverages. On September 11, 1985, CUP Application U-82-20A was approved by the Planning Commission allowing outdoor seating for the existing restaurant / bakery on the portion of the existing sidewalk on private restaurant / bakery on the portion of the existing sidewalk that is located on private property.

PREPARED BY: BUD N. LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PSD Assistant Town Manager ___ Town Attorney ___ Clerk ___ Finance
___ Community Development Revised: 3/22/06 4:06 pm

Reformatted: 5/30/02

DISCUSSION:

1. Project Summary

The applicant is requesting approval to modify the existing CUP to permit the following:

- operate a quality restaurant (quality restaurant is defined in the Zoning Code);
- allow an expansion from 16 seats to 24 seats (of which 12 seats would continue to be permitted outdoors on the existing sidewalk and/or the existing outdoor deck that are located on private property);
- extend the hours from 7:30 AM to 6:00 PM to 7:30 AM to 10:00 PM; and
- allow beer and wine service in conjunction with meals.

Please see Exhibit E of Attachment 4 for further information regarding the applicant's justification for the proposed modifications.

The applicant had requested approval of up to 40 seats and has illustrated 28 seats on the floor plan, not including any outdoor seating (Exhibit F of Attachment 4). However, the subject parcel only has two additional parking credits in the parking district that are not being utilized. Therefore, only a maximum of 8 additional seats can be added to the 16 currently approved. It should be noted that a condition has been added to require a barrier for the outdoor seating on the existing sidewalk on private property (Condition #5 of Attachment 2). This requirement was not previously included because alcohol service was not approved.

2. Planning Commission:

The Planning Commission considered this matter on March 8, 2006. A copy of the verbatim Planning Commission minutes are included as Attachment 3. Pursuant to the Town's Alcoholic Beverage Policy (Attachment 5), the Commission forwarded the matter to Town Council and unanimously (6-0) recommended that the Council approve the application. The Commission supported the request because they were able to make the required findings for the approval of a CUP (Attachment 1) and they determined that the request is consistent with the Town's Alcohol Policy (Attachment 5).

The Commission requested that the applicant provide a site plan to the Council showing the area where outdoor seating would be located and that the Council consider requiring the barrier for the outdoor seating be curved rather than rectangular so the flow of the sidewalk traffic was not adversely impacted. The applicant has provided a site plan showing a proposal to accommodate those requests (Attachment 6). Additionally, the Commission added an additional condition to regulate outdoor furniture. An additional condition has been added to accommodate this request, see Attachment 2 Condition #6.

3. Alcohol Policy:

The Council reviews CUP requests for new alcohol service on a case by case basis. The issue of allowing beer and wine service for a restaurant has been an issue that the Commission and Council have carefully reviewed to ensure that the proposed restaurant is appropriate for the proposed location. The Council reviews requests given the location, type of restaurant, hours of operation, and any other additional issues associated with the proposal and to ensure that the requests meet the requirements of the Alcohol Policy (Attachment 5).

CONCLUSION:

Staff has reviewed this proposal and believes the request to allow beer and wine service should not create any adverse impacts.

It should be noted that if the Council approves this application and the approved quality restaurant decides to cease operations and another restaurant type other than quality restaurant (such as high turn over sit down or fast food) proposes to utilize the existing CUP for this location a modification of the CUP will be required.

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:

1. Required findings from the Staff Report for the Planning Commission meeting of March 8, 2006
2. Recommended Conditions of Approval
3. Verbatim Planning Commission minutes for the meeting of March 8, 2006
4. Report to the Planning Commission dated March 1, 2006 for the meeting of March 8, 2006
5. Alcoholic Beverage Policy
6. Site Plan showing the location of the proposed outdoor seating

Distribution:

Bert Millen, 18364 Oak Drive, Monte Sereno, CA 95030
Brenda Hammond, 18131 June Court, Los Gatos, CA 95033

BNL:JP:mdc

N:\DEV\CNCLRPTS\2006\303NSC.wpd

REQUIRED FINDINGS FOR

303 N. Santa Cruz Avenue
Conditional Use Permit U-06-013

Requesting approval to modify a Conditional Use Permit for a restaurant/bakery (La Maisson Du Croissant), to increase the number of seats, hours of operation and to serve beer and wine for a new restaurant (James Randall), on property zoned C-2. APN 510-14-048
PROPERTY OWNER: Bert Millen
APPLICANT: Brenda Hammond

- 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 uses of the property are essential or desirable to the public convenience or welfare; and
  (2) The proposed uses will not impair the integrity and character of the zone; and
  (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
  (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

- That the work proposed is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.

N:\DEV\FINDINGS\303NSC.wpd

RECOMMENDED CONDITIONS OF APPROVAL FOR:

303 N. Santa Cruz Avenue
Conditional Use Permit U-06-013

Requesting approval to modify a Conditional Use Permit for a restaurant/bakery (La Maisson Du Croissant), to increase the number of seats, hours of operation and to serve beer and wine for a new restaurant (James Randall), on property zoned C-2. APN 510-14-048
PROPERTY OWNER: Bert Millen
APPLICANT: Brenda Hammond

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 plans approved and noted as Exhibit F 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.
2. 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.
3. USE: The approved use is a quality restaurant.
4. NUMBER OF SEATS: The maximum number of seats for the restaurant shall not exceed 24, with a maximum of 12 of those seats permitted outdoors on the portion of the sidewalk on private property and the existing deck.
5. OUTDOOR SEATING: A physical delineation shall be installed and shall be a minimum of 3 feet high, but no higher that 4 feet for outdoor seating on the portion of the sidewalk on private property, to the satisfaction of the Director of Community Development, Chief of Police, and Director of Parks and Public Works.
6. **OUTDOOR FURNITURE: Outdoor furniture shall be of high quality in terms of materials and appearance (Plastic furniture is not permitted). If the outdoor furniture is left outside it must be of a quality that provides a high quality appearance.**
7. HOURS OF OPERATION: Maximum hours of operation for the restaurant shall be 7:30 a.m. to 10:00 p.m. seven days a week.
8. ALCOHOL SERVICE: The service of beer and wine for the restaurant 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. There shall be no separate bar for the restaurant.
9. LIVE ENTERTAINMENT: No live entertainment shall be provided.
10. TAKE OUT SERVICE: There shall be no dedicated walk up counter.

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.

N:\DEV\CONDITNS\2006\303NSC.wpd

A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Phil Micciche, Chair John Bourgeois D. Michael Kane Tom O'Donnell Lee Quintana Stephen M. Rice Joanne Talesfore
Assistant Director of Community Development:	Randy Tsuda
Town Attorney:	Orry Korb
Transcribed by:	Vicki L. Blandin (510) 526-6049

P R O C E E D I N G S:

CHAIR MICCICHE: Item #2, 303 North Santa Cruz Avenue. Conditional Use Permit U-06-013. Requesting approval to modify a conditional use permit for a restaurant/bakery, to increase the number of seats, hours of operation, and to serve beer and wine for a new restaurant, James Randall, on property zoned Z-2. APN 510-14-048. Is the applicant in the audience? Would you please come up and make your presentation? Excuse me one moment. Randy, could you give us a prelude?

RANDY TSUDA: Sure. This application is for a restaurant entitled Restaurant James Randall. This is a conversion of a previously approved restaurant/bakery at 303 North Santa Cruz. The applicant in a nutshell is proposing to increase the number of seats from 16 to 24, to change the hours of operation, and to operate a quality restaurant, and one last point, to add a beer and wine service in conjunction with meals. They will not have a separate bar operation in the restaurant.

One thing to note is that under the existing CUP they are allowed to have up to 12 seats outside, and it specifies in the private portion of the sidewalk. We have an

Attachment 3

if there were 12 chairs on the outside, there would be only 12 chairs on the inside? I don't understand that, but I'll wait for the applicant. I'll wait to hear more about the business plan, because that just doesn't seem workable. I know there's 28 chairs that were drawn on the design, which is further confusing, but I wouldn't want to support a restaurant that's going to fail, and if we can do chairs on the inside, chairs on the outside, if that's permissible—it may not be desirable, but if it's permissible—then you give the restaurant a chance for success. But a total of 24 chairs is what, based on the prior use of the restaurant?

RANDY TSUDA: No.

COMMISSIONER KANE: It's based on the parking.

RANDY TSUDA: It's based on the parking that is allowed. So the existing use permit allows for 16 seats, 12 of which can be outside. There are currently two unused parking credits on this site, which raises it to 24 total.

COMMISSIONER KANE: Fascinating. Well let's hear from the applicant.

CHAIR MICCICHE: Are we clear? Commissioner Talesfore.

COMMISSIONER TALESFORE: Randy, I have a question, and that's about ADA. I was looking through conditions, et cetera, and I didn't see anything regarding that. Can you please explain that to me?

RANDY TSUDA: It wasn't included as a condition, but it's a standard part of the building division's plan check process when they come through the construction plan review process. A standard requirement, but for clarification you could add that as a specific condition that the building division review the construction plans for ADA compliance and to determine whether or not the cost of the construction triggers ADA compliance.

COMMISSIONER TALESFORE: Okay, fine. Thank you for clearing that up.

COMMISSIONER O'DONNELL: That would be the case in any event, isn't that correct? I mean the law would supercede whether we say it or not. It's just that's the law.

RANDY TSUDA: Regardless of what the condition states, the code requires the building division to do that evaluation.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: What is the trigger that would require the addition of ADA?

RANDY TSUDA: I believe under the code it's 20% of the value of the current improvements, but I couldn't swear to that, but that's the number that sticks in my head. It's a code that the building division will administer.

exhibit that we can show you that delineates what the private portion of the sidewalk is. In this case the building is not set at the front property line, it's set between 8' and 10' back, so there is a area that is still their property.

Now, if they're going get approval for the beer and wine service they will need to install a barrier to meet the alcohol requirements, so that would come back to Staff on the design and appearance and location of that. So with that I can answer any questions.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: You said that the application was for 24 seats? The applicant's letter indicates 40.

CHAIR MICCICHE: Inside is 16 going to 24. Those additional ones outside make up the 40 then.

RANDY TSUDA: Allow me to clarify. The applicant originally requested 40. When Staff did the parking analysis we come up with a total of 24 seats that are allowed under the current parking code, so the commissioner is correct, the applicant's original proposal was 40.

COMMISSIONER QUINTANA: So it's 24, including the 12 seats outside, a total of 24?

RANDY TSUDA: Right, a total of 24.

COMMISSIONER QUINTANA: But is the applicant's proposal 40 or has the applicant changed their proposal?

RANDY TSUDA: The applicant's information states 40, and then as the Staff Report states, under the floor plan that they submitted is 28, so there's a number of different seat counts in the application material. But in Staff's analysis, the parking yields 24 seats.

COMMISSIONER QUINTANA: And so if we approve this, we're approving 24?

RANDY TSUDA: Twenty-four seats.

COMMISSIONER QUINTANA: Including the 12 on the outside?

CHAIR MICCICHE: Total. Go ahead.

COMMISSIONER KANE: Well I can make a decision as well as anybody else at the eleventh hour, but I had a few days to prepare this and didn't know what the heck to do with it. I don't know if it's two, four, forty, twelve, nine. I was there when the facility was closed and wondered where the 40 seats were going to go, because the information we were given is the information we were given, and the supplemental information that I received today is that there is 12 seats outside. So it's a little frustrating on gosh, I wish I would have known that before because it might have affected which way I was leaning or my concerns or considerations. I'm not happy with this drawing, that's all I'm saying.

We haven't heard from the applicant yet, but to clarify again, what we think we're looking at right now is

COMMISSIONER QUINTANA: So if there have been relatively minor improvements on the inside, it's not likely to trigger it. Thank you.

CHAIR MICCICHE: I'm going to bring up the applicant. Did you fill out a card?

BRENDA HAMMOND: No.

CHAIR MICCICHE: Would you state your name and then fill out a card just for the record afterwards?

BRENDA HAMMOND: Yes. My name is Brenda Hammond, and I guess I'll first address the discussion that you all just had. And also thank you to those of you that did stop by. That was great. I did enjoy meeting some of you and showing you my vision for this restaurant.

The confusion over the number of seats, when I first had my discussion with the planning department, they were a little unclear on what the parking availability was for this particular space, so I approached it from a standpoint that in a perfect world 40 seats would be awesome, but also stated and did reflect in my documentation I provided to you that I'm willing to go with the maximum number of seats I'm allowed to have based on parking, which at this point, as Randy said, it was 24. So my paperwork does indicate the 40, and I'm sorry that was confusing to you. It's 12 outside during the summer months, and during the winter months when the weather doesn't permit, then it's 24 seats inside.

With regard to the building department, they do have my plans right now for the remodel of the inside, and it is 20% on the ADA compliancy, so we're working on that with them at this time.

One of the major reasons why I approached all of you to ask for those changes to the permit is that the existing bakery had been there for probably I was told about 45 to 46 years. Most of the existing equipment in that location was about 45 years old, some of it actually was, so basically almost everything in there needed to be replaced.

My vision, along with my son, who is also our chef, is not a bakery, and so when we looked at the location it was very charming and we thought that it would be a really good location for the kind of menu and the kind of casual relaxed atmosphere that we want to create, along with our fabulous menu.

So the addition of the beer and wine is something that I wanted to address a little bit as well. It's pretty difficult these days to find a large percentage of the public that does not enjoy a glass of wine with their dinner. I'm going to skip forward. There are obvious reasons why I would like to have beer and wine as part of my service, and my number one reason obviously is the revenue. With 24 seats it's probably not a good idea to go into that without being able to serve beer and wine. And also

customers don't want to come to a restaurant where they can't have a glass of wine.

The other thing I wanted to say too is that what we are going to do here is to provide the community with a really great dining experience in an atmosphere that is very, very casual and affordable. In addition to the other great restaurants we have in town, I think ours would be a great addition to that and also help to create Los Gatos as a destination for really great dining.

And so if you have any other questions I'm happy to answer them.

CHAIR MICCICHE: Thank you. Any questions, Commissioners?

COMMISSIONER BOURGEOIS: So you think you have a viable business plan with 24 seats? I mean you're okay with that?

BRENDA HAMMOND: Well, I have a lease, and so I think that basically my plan has to be fairly flexible. If I can't be open later to serve dinner and I can't serve beer and wine, then I maybe would offer the best breakfast you ever had, but that's not my dream. I mean I understand that I have to be able to make this work regardless of what conditions are put on me. We love food and love serving the community and being here.

COMMISSIONER BOURGEOIS: Thanks.

CHAIR MICCICHE: Commissioner O'Donnell.

COMMISSIONER O'DONNELL: This is curiosity on my part. I'm quite familiar with that location; I've gone to it myself for years. You have that porch out in front. Could you just, so I'd know, where would the 12 people sit? I mean Randy talked about setbacks. You've got part of what would otherwise appear to be a sidewalk. How would you arrange, just generally speaking, the 12 seats?

BRENDA HAMMOND: The balcony itself is 7' by approximately 10', and then the actual sidewalk, if you go down those steps, is 9' by about 16' of space that we have discussed utilizing as our outdoor seating. So it's not just the deck that is the outdoor seating. The property line goes to the middle of the sidewalk, and that's kind of hard to tell. But if you've walked through there you know that there's the brick line that goes through the middle of the sidewalk, and the property owner owns to the bricks.

But I also just wanted to state too that in order to accommodate 12 seats out there, it doesn't have to go to those bricks, and that's something also that I'm working with the building department and also the police department on the separation between public and private area for the service of the beer and wine, so we have addressed that as well.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: A couple of questions. Currently there are how many seats inside the restaurant?

BRENDA HAMMOND: Inside right now there are 16. I don't have any outside just because the weather is not good enough.

COMMISSIONER QUINTANA: I drove by yesterday and saw an open sign and went home and immediately walked back, but you were closed. But I was peeking through the window and I thought that's what I had counted. You're going to be doing interior renovations?

BRENDA HAMMOND: Only in the kitchen.

COMMISSIONER QUINTANA: So the actual dining space is not going to change?

BRENDA HAMMOND: No, it stays just like it is.

COMMISSIONER QUINTANA: Okay. It seemed tight. I was trying to envision a full 24 seats in there.

BRENDA HAMMOND: I think actually based on the square footage, you actually can do probably 30 or 36 based on the clearance, but we're talking about 24, and I've measured it out and 3' between tables. Maybe a part of it too is that some of the tables are against walls where you don't need 3' on either side.

COMMISSIONER QUINTANA: What do you envision for the furniture for the outside?

BRENDA HAMMOND: My thought is either the sort of iron type of garden type furniture, or the same furniture that we have on the inside, which is mahogany chairs and mahogany tables.

COMMISSIONER QUINTANA: Are you going to be storing them or are they going to stay outside all the time?

BRENDA HAMMOND: No, we would store them, the extra tables, and actually the seating, if it's approved, is 24 seats, so in summertime there would just be 12 outside and they would come inside in the winter. But there's also a full basement in that building as well for storage of things like umbrellas or whatever is needed at the outdoor service.

COMMISSIONER QUINTANA: So you don't plan to leave them outside all the time?

BRENDA HAMMOND: No, unless I was to do the iron, but I'm a little torn on that because I like the look of the wood.

COMMISSIONER QUINTANA: I agree with that. Let's see, what other questions did I have? Well, how would you envision splitting the 24 seats?

BRENDA HAMMOND: My thought on it is that I would probably have seating for four actually on the deck and then possibly eight to ten seats down onto the sidewalk. But I have to be careful with that, mainly because I don't want the inside of the restaurant to look too sparse either. So I'm kind of looking at it probably being the 12 and the 12, just for the look of it.

COMMISSIONER QUINTANA: Thank you. That's all for now.

CHAIR MICCICHE: Commissioner Talesfore.

COMMISSIONER TALESFORE: Hi, I came by today and visited. How many (inaudible)?

BRENDA HAMMOND: Well there are 16 seats, so that's actually eight tables.

COMMISSIONER TALESFORE: There are only eight tables?

BRENDA HAMMOND: And I only have tables for two, but we push them together for groups of four.

COMMISSIONER TALESFORE: And so the other question is, there would be no way you would consider remodeling to allow more room inside the restaurant? You'd have to take a little away from the kitchen area.

BRENDA HAMMOND: Well, it's not that I wouldn't consider that, but I think from a cost standpoint for me, my major objective right now is to add additional seats and serve beer and wine and see how the revenue goes.

COMMISSIONER TALESFORE: That's all for now.

COMMISSIONER KANE: If you could get more seats you would take them?

BRENDA HAMMOND: Yes.

COMMISSIONER KANE: I know a tiny restaurant called Crimson and I think she's got 34 seats in there, and I think gee, that's a small place and gosh, I hope she's making it. And you're going to be like 70% of that, and so I worry. I mean even if I didn't like the business, it wouldn't matter, but if ipso facto the business is going in,

I don't want to see it fail. So I wanted to establish that you take more if you could get them...

BRENDA HAMMOND: Yes.

COMMISSIONER KANE: ...and then when it comes time to ask Staff, I'd ask them how to do that if possible.

BRENDA HAMMOND: How do we get that done, yeah.

COMMISSIONER KANE: Thank you.

BRENDA HAMMOND: Thank you.

CHAIR MICCICHE: You have one more question, Commissioner Quintana?

COMMISSIONER QUINTANA: I've forgotten what it is. I'll remember later.

BRENDA HAMMOND: I had one thing. Do people get to speak? I don't know in what order we do this. It's my first time.

CHAIR MICCICHE: Yeah. You speak first and then I call the public up, providing they've given me a card.

BRENDA HAMMOND: Got it. Which I didn't do and I'm sorry.

CHAIR MICCICHE: And then you will have an opportunity to come back up and rebut at that point. So I'm going to open this up to the public. Anybody wishing to speak? I only have one card so far, and that's Kathleen King.

KATHLEEN KING: I'm sorry I'm anxious. I am supposed to be signing a loan document at 8:00 o'clock. So Joann, it's very nice to see you. Michael.

I'm Kathleen King. I'm on the city council of Saratoga. I was the mayor last year. I'm also the chair of the Silicon Valley Children's Hospital Foundation, and over the last five years have worked on some businesses with Brenda, had extremely successful experiences with Brenda, some through the Chamber of Commerce of Los Gatos. I'm very impressed with Los Gatos Chamber of Commerce. Brenda does so much work for that chamber, has done a lot of work for the hospital.

As a person that spends quite a bit of time looking at business areas, as a city we have looked all around the Valley and we compare Los Gatos, Pleasanton and Mountain View as three of the best run downtown areas, and I want to tell you why.

You have a good mix of businesses, small companies and national brands. And I would like to encourage what Brenda is doing because it very much fits the mix of what makes businesses run well in a downtown area from my experience.

For example, last week we were in Pleasanton and their model is to have many restaurants like this, small inside, small outside, lots of outside dining. I am not a resident of Los Gatos, but I can tell you I use Los Gatos

downtown almost every other week to eat, and I think this is just a perfect opportunity to encourage a business member who can survive well long-term in what is a very tough economy for small downtown areas. I know you don't want too many chains, and Brenda I believe can survive with the economy we have these days.

Casual sidewalk bistro dining is really what's being encouraged in almost every downtown that there is, and if Brenda hadn't signed the lease I wouldn't be here today, because I have tried desperately to get her to go to Saratoga, and I could not convince her to go to Saratoga, so I want to make sure what she's doing in Los Gatos will be successful and I can use it.

And one small other piece is she's going to have a Weight Watchers meal that's going to be a good meal, eight points, and I'm really excited about that. A glass of wine, eight-point dinner, you just can't beat that.

So personally I would encourage you to put more seating. We have just done away with our parking ordinance for three years as a moratorium, so we may give you a little competition over time. Thanks for listening to a Saratoga resident.

CHAIR MICCICHE: Do you have any questions of this speaker? I guess not. Thank you.

KATHLEEN KING: Michael, I'm not moving, I'm just refinancing, if anybody wants to know. I'm not starting a story tonight. He didn't have a question for me.

COMMISSIONER KANE: The same thing I said at the Chamber. When it comes time, how much is it going to cost for you to work for me? Thank you very much.

KATHLEEN KING: Well right now I make about two dollars an hour.

CHAIR MICCICHE: Once more, if anybody else would like to speak on this item, please fill out a card and hand it in.

RAY DAVIS: I wasn't going to speak because it's a little bit out of my line. Architecture, you know, is more where I'm at normally. However, in my Citizen Ray outreach I regularly go to city council meetings of Saratoga. I want to tell you that Mayor King fits Citizen Ray's requirement for honesty and integrity to the Nth degree. My experience in the last three or four years in appearing before the Saratoga Council and Ms. King show me quite clearly that her judgment was impeccable. Impeccable. So I'm going to support her. She's supporting the applicant. Hooray for our side. Thank you.

CHAIR MICCICHE: Are there any other speakers? Seeing none, I will call the applicant back up for additional questions since it doesn't appear you'll be rebutting anything.

BRENDA HAMMOND: No.

CHAIR MICCICHE: Commissioner Talesfore.

COMMISSIONER TALESFORE: I very much want to see you succeed as well and I want to make sure we can help you out here.

But I'm a little concerned about the 12 seats outside, especially if it takes up sidewalk space. I like the harmony that that whole area is like, although it could use some softening with some landscaping, but that's not the issue tonight. So I would have real concerns about what the outside barrier will look like if you go down on the sidewalk. I know before the owner put about two or three tables, they were plastic, against the wall, and I'm not speaking about the material of the tables, but against the wall, and that didn't really seem to be a problem at all. They just were casually placed there and they were taken in every night, and I thought that was fine. I would rather have that than anything permanent.

CHAIR MICCICHE: Is there a question?

COMMISSIONER TALESFORE: There's a question here. I'm sorry, I had to lead into it. The thing is that I took your grid and I put it on here, and you could get about eight seats here. So here's my question: Is there a chance you could build the deck closer this way? Does that make sense? So you would probably encroach on the landscaping

that's there now, but I was thinking that way you could get more of the tables up on the deck than out on the sidewalk.

BRENDA HAMMOND: I have discussed that with the property owner and he indicated that he would be willing to work with me on that to aid financially in a remodel like that at some point in the future.

As far as the separation between the public and a private area, we also discussed that it would be something that isn't permanent, something along the lines of maybe a 3' high row of planter boxes so that it would soften that up with additional landscaping and flowering plants, and in our case herb and things like that because it's a restaurant.

My thought was that right there at the bottom of the stairs, that would be the entrance to that outdoor area with some type of arch of some sort that could have, I would like to see grapevines or something, but I just envision it being a lot of additional flowering plants along a 3' high border that is moveable.

COMMISSIONER TALESFORE: Because here's nothing here to show us what that barrier looks like, it's hard to approve something when you don't see it.

BRENDA HAMMOND: You know, it wasn't included in this as part of my presentation because I wasn't asking really to change what was already approved on the outdoor. It's already approved for 12 seats. And so the only thing that really needs to be changed is if the beer and wine is

approved, then based on the regulations from the police department I believe, there has to be a clear separation between the public and private because of the beer and wine. So there was never a structure or any kind of barrier put up before because there was never any beer and wine.

COMMISSIONER TALESFORE: Thank you.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: When you say moveable structure, do you mean moveable in the sense that eventually I can roll it toward the street? I'm sorry; you didn't let me finish. I mean eventually when you're so successful and you need a bigger place, that they can be taken down.

BRENDA HAMMOND: I just mean not attached into the sidewalk, so it's just not permanent. Obviously they'd be quite heavy; they'd be full of wet dirt.

CHAIR MICCICHE: Any other questions?

COMMISSIONER QUINTANA: I have questions of Staff.

CHAIR MICCICHE: Well we'll get to that. Are we through with the applicant? Thank you.

BRENDA HAMMOND: Thank you.

CHAIR MICCICHE: I'm going to close the public hearing and open it to the commissioners for comments, a motion, or questions of Staff. Commissioner Quintana, you have a question of Staff?

COMMISSIONER QUINTANA: Yes, I have two questions of Staff.

This is an application for a modification of the CUP for the restaurant, plus to add beer and wine. Can the Commission approve the restaurant portion and just pass the alcohol portion as a recommendation to Council, or do we have to do it all as one package, a recommendation to Council?

CHAIR MICCICHE: You can break into two, I believe.

COMMISSIONER QUINTANA: I'm getting looks of I don't understand from my fellow commissioners.

CHAIR MICCICHE: You're asking if you can split the motion into two.

COMMISSIONER QUINTANA: Exactly. Approve the restaurant. We'll have to recommend the alcohol to the Council.

CHAIR MICCICHE: We're getting an answer, Commissioner.

ORRY KORB: Though it's a practical question, it's a single application, it's a single CUP, so the CUP goes to Council. I trust that the Council would be most concerned with the alcohol portion of the application, but I can't say that they don't have the power to look at the remainder of the application as well. And the policy is clear that it does need to go to the Council.

COMMISSIONER QUINTANA: For both, okay.

My second question relates to the barrier. In looking at the plan over there, it seems like extending that area onto their sidewalk does sort of interrupt the flow. So my question is can that barrier be configured so it doesn't appear to interrupt the flow as much. In other words, not in a rectangle perhaps on the south side at an angle, because there are projections on the buildings to the north side that it might fit in better, so it doesn't just look like an arbitrary rectangle.

RANDY TSUDA: So you want it to be angled rather than perpendicular from the building, is that what you're saying?

COMMISSIONER QUINTANA: Yeah, or curved, or whatever. My question is can we make that kind of a condition?

RANDY TSUDA: Yes.

CHAIR MICCICHE: Commissioner Kane.

COMMISSIONER KANE: Just so I have it in mind, this is a circumstance that it's already there, and one of the variables is the beer and wine, and although there are strong feelings on alcohol and we do have an alcohol policy, it's almost suicide for a restaurant in this town to try to compete without that license, so I would probably be supporting that if we're going to support the restaurant and the restaurant is already there. And we do want it to be a success.

And I must also say in good conscience that Ms. Hammond is a dear friend of mine and I worked very closely with her on the board of directors of the Chamber. So having said that, it still goes to the fact that if we approve something, we should have it be approved so it has a chance of being successful, and if she wants up to 40 seats, that doesn't mean she's going to use 40 seats. It would mean that the permission to do so was there if she needed it to be a success.

Well I think 40 seats is too much anyway, so what I was thinking is, Mr. Tsuda, how do we play the game? How do we go after two or three more parking credits? How do we get an additional six to eight chairs? If I was the applicant, what should I do?

RANDY TSUDA: Well two things I can think of. One is that I think on various other applications we have discussed, and I think there is about 15 unused parking credits that are floating around out there. Now the CDAC and this commission have in the past been very skeptical about approving those and transferring those parking credits, so that's one option.

Two is you could request that the Council change the parking ordinance, the parking requirements, for the downtown.

COMMISSIONER KANE: And short of that?

RANDY TSUDA: Third, you could apply for a variance. They'd have to approve why there is an extraordinary circumstance here, and you know how difficult that can be.

COMMISSIONER KANE: We can go under extraordinary circumstances. Okay. I've been in on about ten or fifteen restaurant issues in the past two-and-a-half years when I was sitting up here, and the issue with the suspect logic on bargaining chips and parking credits have to do with new restaurants, as I recall, and I had a strong opinion on that.

This is an existing condition that is there, and I'm thinking how can we help it be a success. I don't know if I'm as bright eyed and bushy tailed about 24 seats being the maximum.

RANDY TSUDA: I might suggest that you take action on the application before you tonight. This whole idea of them purchasing additional credits, I'm not sure if they can reach a financial agreement on that.

CHAIR MICCICHE: They can always come back, Mike.

COMMISSIONER KANE: They can always come back and modify the CUP once the business (inaudible).

CHAIR MICCICHE: We can't do it tonight.

COMMISSIONER KANE: Thank you. I would suggest you take action on this particular application.

CHAIR MICCICHE: Any other questions?

COMMISSIONER BOURGEOIS: If there's no other questions, I'll go ahead and make a motion.

CHAIR MICCICHE: By all means, please do.

COMMISSIONER BOURGEOIS: I move that we forward this to the Town Council for approval of the request to increase the number of seats, the hours of operation, and to serve beer and wine for the new restaurant, and make the findings that based on the evidence we have heard tonight and received in the Staff Report that we find that the conditional use permit, that the proposed uses are desirable to the public convenience, will not impair the integrity and character of the zone, are not detrimental to the public health and safety and welfare, and are in harmony with the various elements of the General Plan, that it is consistent with the redevelopment plan for central Los Gatos redevelopment project area, and is categorically exempt under Section 15301 under the state environmental guidelines.

COMMISSIONER TALESFORE: I'll second.

CHAIR MICCICHE: Commissioner Bourgeois?

COMMISSIONER BOURGEOIS: Yes?

CHAIR MICCICHE: Would you want to add the condition that Commissioner Quintana suggested about the curved area, not a straight area, because she did ask for that? If not, then fine.

COMMISSIONER BOURGEOIS: I think I'd like that to be a consideration, but not necessarily a condition of my motion.

CHAIR MICCICHE: Okay. Any second?

COMMISSIONER TALESFORE: I'll second.

CHAIR MICCICHE: I got three seconds. I don't know who won.

COMMISSIONER TALESFORE: It was me.

CHAIR MICCICHE: We concede Commissioner Talesfore has won the second.

COMMISSIONER TALESFORE: I would like a condition on this though. Can I do that?

CHAIR MICCICHE: What's that?

COMMISSIONER TALESFORE: I want to put a condition on this.

CHAIR MICCICHE: You can ask the maker of the motion if he'd like to.

COMMISSIONER TALESFORE: Would you consider a condition? Okay, the condition is that the, and maybe this is already in the conditions, I'm not sure, but for outside seating that the tables would be brought in, not left stacked, as I see sometimes they are at some outdoor seating areas in town.

CHAIR MICCICHE: You don't like Forbes Mill's chains? Is that what you're trying to say?

COMMISSIONER TALESFORE: I didn't say that. Orry, I didn't say that. He did.

CHAIR MICCICHE: Go ahead, I'm sorry. You'd like the tables to go inside at night?

COMMISSIONER TALESFORE: Yes. Otherwise they're going to have to be nailed down or something, I'm not sure. Or maybe not, I don't know. Maybe not every day.

CHAIR MICCICHE: Wait a minute. We have a request. Would the maker of the motion like to add the condition that these tables be removed at night and brought somewhere else?

COMMISSIONER BOURGEOIS: I would not like to add that condition.

CHAIR MICCICHE: He does not. Are you still seconding the motion?

COMMISSIONER TALESFORE: I already did. So then okay.

have another one, if you might accept this, that we try to keep most of the seating up on the deck if possible, so that not all 12 seats are down on the sidewalk. I'm not sure how that will work, the 12 seats.

COMMISSIONER BOURGEOIS: I think that the applicant has already indicated that they are going to have seating as much as possible up on the deck.

COMMISSIONER TALESFORE: Okay, thank you.

COMMISSIONER BOURGEOIS: So I don't know that that necessarily needs to be a condition.

CHAIR MICCICHE: The result is we're not adding it as a condition. It appears like they're going to do that anyway.

ORRY KORB: And I think you've given Staff an idea of your concerns regarding the design, and should Council accept the recommendation and approve the application, then Staff will have to work on that with your concerns in mind.

CHAIR MICCICHE: Okay, we have a motion and a second. Are there any comments or questions? Let's start with Commissioner Quintana and get that out of the way.

COMMISSIONER QUINTANA: I'd like the maker of the motion to consider an amendment that the outdoor furniture be of high quality and not plastic, and that if they choose to leave the tables outside and not to store them, that they be a of material that is aesthetic at all times with or without tablecloths. That's too long. Staff, could you make it shorter?

CHAIR MICCICHE: We get the gist. Do you want to add that as a condition, Commissioner Bourgeois?

COMMISSIONER BOURGEOIS: Sure.

COMMISSIONER TALESFORE: And I accept it as well.

CHAIR MICCICHE: Okay. Anything else? Commissioner Kane.

COMMISSIONER KANE: For the Town attorney. These are my friends. Should I back off on this vote? These are my

good friends, and I have expressed myself passionately and excessively.

ORRY KORB: Well it's probably a question that might have been addressed earlier.

COMMISSIONER KANE: Can you not recognize progress? I got around to it.

ORRY KORB: But given all that you have said and the concerns that you are now expressing, my best advice is not you no longer participate.

CHAIR MICCICHE: Recuse yourself. If you recuse yourself, under our conditions you have to leave the area.

ORRY KORB: Well actually you can step down and not participate in the vote. That would be sufficient. This is not based on a conflict under any of the statutory rules of the FPPC, so you're not required to leave the room.

COMMISSIONER KANE: I have no conflict. I just had a concern.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: Thank you. I think I should make the statement also that I did meet the applicant socially one night and she began to talk about the restaurant she was going to open. I asked her where it was going to be and she told me and I said, "No more discussion. I can't talk about it." So I just want to make you aware, put it on the record.

CHAIR MICCICHE: Thank you. Maker of the motion, is it possible to add a condition that adds fried calamari? We could call it el ducce? I don't expect you to add it. Any other questions or comments? Oh, we have another one.

COMMISSIONER QUINTANA: I would like to request, and I don't know if this needs to be a part of the motion or not, but I'd like to request that when this is forwarded to the Council that the site plan be updated and accurate to show the seats inside and the exterior seating space as well.

CHAIR MICCICHE: Okay, done. Seeing nothing else, I will call the motion. All those in favor? Against? Six-zero, passes.

ORRY KORB: This is not an appealable decision because it is a recommendation to Council. There will be a notice of public hearing before the Town Council for anybody interested in the application. Then of course the applicant should contact the community development department and obtain information on when the hearing will be scheduled.

Date: March 1, 2006
For Agenda Of: March 8, 2006
Agenda Item: 2

REPORT TO: The Planning Commission

FROM: The Development Review Committee

LOCATION: 303 N. Santa Cruz Avenue
Conditional Use Permit U-06-013

Requesting approval to modify a Conditional Use Permit for a restaurant/bakery (La Maisson Du Croissant), to increase the number of seats, hours of operation and to serve beer and wine for a new restaurant (James Randall), on property zoned C-2. APN 510-14-048
PROPERTY OWNER: Bert Millen
APPLICANT: Brenda Hammond

DEEMED COMPLETE: February 28, 2006
FINAL DATE TO TAKE ACTION: September 8, 2006

FINDINGS:

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
- 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.

ACTION: The decision of the Planning Commission is final unless appealed within ten days.

EXHIBITS:

A. Required Findings
B. Resolution 2001-106 (6 pages)
C. Existing Conditions of Approval
D. Proposed Conditions of Approval (2 Pages)
E. Letter of Justification, received February 6, 2006 (7 pages)
F. Floor Plan

RECOMMENDATION SUMMARY: Forward a recommendation to the Town Council.

A. BACKGROUND:

On November 10, 1982, Conditional Use Permit Application U-82-20 was approved by the Planning Commission to operate a restaurant in conjunction with a bakery at 303 N. Santa Cruz Avenue. The approval allowed up to 16 seats, hours of operation from 7:30 AM to 6:00 PM, and did not allow

2. If the Commission has concerns with the application, it can:
   a. Recommend approval of the application with modified conditions, or
   b. Make the findings and recommend denial of the application.

Prepared by:
Joel Paulson, Associate Planner

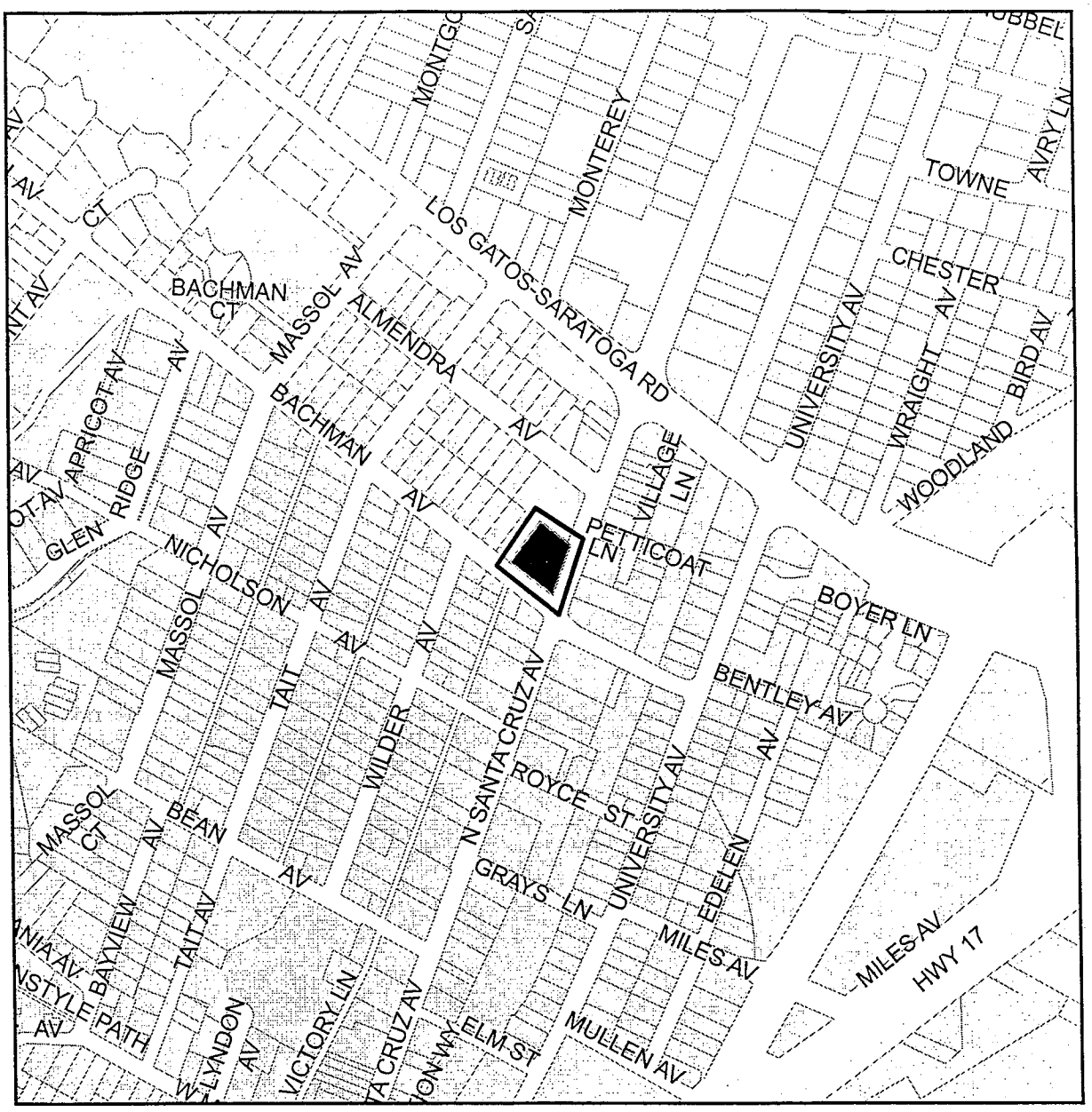
Approved by:
Bud N. Lortz,
Director of Community Development

BNL:RT:JP:mdc

cc: Bert Millen, 18364 Oak Drive, Monte Sereno, CA 95030
Brenda Hammond, 18131 June Court, Los Gatos, CA 95033

N:\DEV\REPORTS\2006\303NSC.wpd

303 N. Santa Cruz Avenue



REQUIRED FINDINGS FOR

303 N. Santa Cruz Avenue
Conditional Use Permit U-06-013

Requesting approval to modify a Conditional Use Permit for a restaurant/bakery (La Maisson Du Croissant), to increase the number of seats, hours of operation and to serve beer and wine for a new restaurant (James Randall), on property zoned C-2. APN 510-14-048
PROPERTY OWNER: Bert Millen
APPLICANT: Brenda Hammond

- 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 uses of the property are essential or desirable to the public convenience or welfare; and
  (2) The proposed uses will not impair the integrity and character of the zone; and
  (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
  (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

- That the work proposed is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.

N:\DEV\FINDINGS\303NSC.wpd

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.

Exhibit B

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.

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 29.30.310(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 29.20.310(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 ~~which~~ **that** are a direct result of patrons actions;

II. The number of complaints received from residents ad 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.

N:\DEV\SUZANNE\Council\Alcohol Policy\2001alcohol policy.wpd

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.