



MEETING DATE: 06-19-2006

AGENDA ITEM:

7

COUNCIL AGENDA REPORT

DATE: June 16, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY
SUBJECT: ADOPT RESOLUTION APPROVING A REQUEST TO MODIFY A CONDITIONAL USE PERMIT TO CHANGE THE HOURS OF OPERATION AND ALLOW SPECIAL EVENTS, A DELICATESSEN, OFF-SITE BEER AND WINE SALES, AND WINE TASTING ON PROPERTY ZONED C-2 . APN 529-01-025. CONDITIONAL USE PERMIT U-06-12. PROPERTY LOCATION: 91, 101 AND 109 W. MAIN STREET. PROPERTY OWNER: SUE FARWELL. APPLICANT: TERI HOPE.

RECOMMENDATION:

Adopt resolution confirming Council's decision on June 5, 2006.

DISCUSSION:

On June 5, 2006, Council approved the request to modify a Conditional Use Permit to change the hours of operation and allow special events, a delicatessen, off-site beer and wine sales, and wine tasting on property zoned C-2. The attached resolution finalizes that decision.

Attachments: Proposed Resolution
Conditions of Approval

Distribution: Teri Hope, 212 Bella Vista Avenue, Los Gatos, CA 95030
Sue Farwell, 121 Laurel Avenue, Los Gatos, CA 95030

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\LG Coffee Roasting Company\Report LG Coffee Roasting Reso.wpd]

Reviewed by: Town Manager Assistant Town Manager Clerk
Finance Community Development

Rev: 6/16/06 1:51 pm

Reformatted: 7/19/99

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING THE REQUEST TO MODIFY A CONDITIONAL USE PERMIT TO
CHANGE THE HOURS OF OPERATION AND ALLOW SPECIAL EVENTS, A
DELICATESSEN, OFF-SITE BEER AND WINE SALES, AND WINE TASTING ON
PROPERTY ZONED C-2.

APN: 529-01-025
CONDITIONAL USE PERMIT: U-06-12
PROPERTY LOCATION: 91, 101 AND 109 W. MAIN STREET
PROPERTY OWNER: SUE FARWELL
APPLICANT: TERI HOPE

WHEREAS:

1. This matter came before Council for public hearing on June 5, 2006.
2. 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.
3. The Los Gatos Coffee Roasting Company is located at 109 W. Main Street (Store A), 101 W. Main Street (Store B), and 91 W. Main Street (Store C). Store A was granted a Conditional Use Permit (CUP) on March 12, 1997, which allowed for a Creperie and no additional seating. This CUP is now expired and the store is used by The Los Gatos Coffee Roasting Company as retail space. Store B currently operates under a CUP approved on July 10, 1986 allowing for a restaurant with a maximum of 16 seats. Store C currently operates under a CUP approved on July 23, 1986 allowing the previously approved restaurant to expand into 91 W. Main Street and for the addition of 36 seats. In all, the Los Gatos Coffee Roasting Company is currently allowed a maximum of 52 seats.
4. The approved hours of operation for the Los Gatos Coffee Roasting Company are as follows: 7:30AM to 6:00PM Monday through Wednesday; 7:30AM to 10:30PM Thursday through Saturday; and 9:30AM to 6:00PM Sundays.

5. Applicant seeks approval to modify its CUP to allow for the operation of a gourmet grocery store and full service delicatessen counter offering sandwiches made to order, bulk meats, cheeses, and other deli items, in its Store A location.

6. Applicant seeks approval to modify its CUP to allow for the sale of off-site beer and wine and for wine tasting. Applicant intends to require patrons to pay for one ounce wine tastes in accordance with Alcohol Beverage Control (ABC) requirements, and to offer pre-packaged snacks. Applicant also intends to require that patrons be served a lunch or dinner meal before being served alcoholic beverages, as required by the Town's Alcohol Policy. Alcohol service would also be restricted during special events held at the Los Gatos Coffee Roasting Company. Special events include events for individuals under 21 years of age, poetry and music weekend evening events, community meetings, and the Los Gatos Coffee Roasting Company's annual events.

7. The applicant also seeks approval to modify its CUP to change the hours of operation. The desired hours of operation are 6:00AM to 10:00PM seven days a week. The wine bar would close at 9:30PM seven days a week.

8. Town Council finds as follows:

a. 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 (1) economic and social activity consistent with a small-scale, small town atmosphere and image, (2) the development and retention of locally-owned

stores and shops, (3) the preservation of 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, (4) the development of a new image and market in the Town as the gateway to the Santa Cruz Mountains wine region, and (5) the provision of a new, attractive and well managed night time gathering place in downtown Los Gatos for local youth.

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

c. The proposed use is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (section IV.B), as evidenced by the staff report prepared for the public hearing on June 5, 2006.

RESOLVED:

A. The Conditions of Approval attached hereto as Exhibit A are hereby adopted as the Conditions of Approval of this permit.

B. 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 19th day of June 2006 by the following vote.

COUNCIL MEMBERS:

AYES: Mike Wasserman, Joe Pirzynski, Barbara Spector,
Steve Glickman, Diane McNutt

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

Diane McNutt

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST

Marlyn Rasmussen

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

CONDITIONS OF APPROVAL FOR:

91, 101 and 109 W. Main Street
Conditional Use Permit U-06-12

Requesting approval to modify a conditional use permit to change the hours of operation, allow special events, deli, off and on- site beer and wine sales and wine bar on property zoned C-2. APN 529-01-025.

PROPERTY OWNER: Sue Farwell

APPLICANT: Teri Hope

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 L 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 coffee shop-restaurant, delicatessen, wine bar, and specialty retail. Store A contains the wine bar, deli counter, off-site sales of wine, and specialty grocery/coffee retail uses. Stores B and C contain the espresso bar and coffee shop uses. The use shall be consistent with the description contained in the letter from Teri Hope dated April 21, 2006, attached and incorporated herein as Exhibit A.
4. **NUMBER OF SEATS:** The maximum number of seats for the restaurant shall not exceed 52 seats and 6 seats on the outdoor benches in front of Store B and C. No additional seats will be allowed outside of restaurant.
5. **HOURS OF OPERATION:** Maximum hours of operation for the restaurant shall be 6:00 a.m. to 10:00 p.m. seven days a week. The wine service bar will operate from 11:00 a.m. to 9:30 p.m. during normal business hours. Wine bar service not permitted during the following special events: Under 21 Events, Poetry/Music Weekend Events, and Community Meetings.
6. **ALCOHOL SERVICE:** Alcohol service shall be consistent with the description contained in the letter from Teri Hope dated June 1, 2006, attached and incorporated herein as Exhibit B. The service of wine by the glass 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.
7. **WINE TASTING:** Wine tasting is permitted at the wine bar located at the front of Store A as shown on Exhibit L of the report to Planning Commission. No seats are permitted at the wine bar. The maximum sample size for the wine tasting shall not exceed one ounce. Packaged snacks may be served as part of the wine tasting.
8. **SECURABLE BARRIER.** The applicant must install a securable barrier between Store 'A' and Store B as show on Exhibit L to the satisfaction of the Community Development Director. The barrier must be secured during all special events that do not permit the service of alcohol.
9. **LIVE ENTERTAINMENT:** No live entertainment shall be provided during the service of alcohol.

10. SPECIAL EVENTS.

Condition #	Special Event	Event Type
10a.	Events for individuals under 21	A maximum of 12 events per year. Amplified music and open microphone. Alcohol not permitted during hours of scheduled youth group events. Adult supervision provided for each under 21 event. Amplified music shall not go past 9:30 PM Sunday through Thursday. Amplified music shall not go past 10 PM Friday and Saturdays. Under 21 events shall not go past 11PM.
10b.	Poetry/Music Weekend Evening Events	A maximum of 10 events per year. One event per month scheduled on a weekend evening. Poetry and amplified music. Alcohol service not permitted during hours of weekend events. Music shall end at 9:30 PM.
10c.	Community Meetings	Weekly community meetings (including the Los Gatos Art Association Board, co-op nude figure drawing group, and wine appreciation lecture group) held within non-business hours. Music, alcohol, and food service not permitted. Events will not go past 10 PM.
10d.	Los Gatos Roasting Company Annual Events	Two Los Gatos Roasting Company events per year, by invitation only. Amplified music and alcohol permitted. Music shall end at 9:30 PM.

11. WINDOW CURTAINS. Opaque window curtains must be placed in all storefront windows during nude figure drawing classes.

TO THE SATISFACTION OF THE DIRECTOR OF BUILDING & ENGINEERING:

12. TRAFFIC IMPACT MITIGATION FEE. A traffic mitigation fee shall be paid for an

additional 126 ADT prior to the issuance of a Certificate of Use and Occupancy. \$13,008.96 shall be paid within 30-days of Town Council approval of the CUP.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

13. **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.
14. **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.
15. **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.
16. **DESIGNATED DRIVER PROGRAM:** The restaurant operator shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
17. **POSTING OF TAXICAB TELEPHONE NUMBERS:** Taxicab telephone numbers shall be posted in a visible location.

April 21, 2006

RECEIVED

APR 21 2006

To: Town of Los Gatos Planning Commissioners

TOWN OF LOS GATOS
PLANNING DIVISION

Re: **Los Gatos Coffee Roasting Company**

101 W. Main - CUP: U-85-8A (7/23/86 - w/seating max. 36)

91 W. Main - CUP: (1986 - w/seating believed to be max. 16)

109 W. Main - CUP: PRJ-96-134 (1996 - Creperie w/o seating)

~ **CUP Modification Application Letter of Justification** ~

Teri Hope has been operating her business, Los Gatos Coffee Roasting Company, on West Main Street in downtown Los Gatos since 1982. The business occupies three common-wall spaces in one building in the Historic Downtown District of Los Gatos. Internal doorways and wheelchair ramps allow customer foot traffic to flow between rooms within the building.

The primary justification for this request for CUP modification is based on economic viability. Due to substantial rising rents, increased property taxes passed on to the tenant via the triple-net lease, and other escalating overheads there is an immediate need to evolve the business by expanding the product line in an effort to remain viable in a highly competitive market.

The proposal includes expanding the existing specialty coffee product-line with new offerings that fill a niche not adequately served in the downtown area. A modified CUP is requested to allow for the operation of a specialty delicatessen and grocery store concept featuring gourmet cheeses, cured meats, hams, pates, and savory items complimented by a selection of locally produced wines. The Los Gatos Creperie formerly occupied the general area designated for these new products.

The request includes the off-site sales of locally produced boutique wines by the bottle and a wine tasting area to allow for "measured-pour" wine sampling as well as "measured-pour" wines by the glass to be served along with meals inside the establishment. This request does not call for adding any seating in any of the spaces, but will rely solely on the existing seating allowance in the 101 & 91 West Main spaces.

Note Regarding Seating: - In July 1986, Los Gatos Coffee Roasting was granted a CUP with a maximum allowance of 36 seats in the 101 West Main "*espresso bar space*" (currently the use includes 4 stools, 24 chairs and 1 bench which seats 3 = 31 seats currently provided). Later that same year, an additional CUP was granted for the adjoining space, 91 West Main "*café & coffee roaster space*" with an allowance believed to be a maximum of 16 seats, (currently 12 chairs and one bench which seats 3 = 15 seats currently provided). In 1996, a third CUP was approved allow a Creperie to be operated in the 109 West Main adjoining space with no allowance seating. Similarly, the current application requests no new seating.

Cont.

EXHIBIT A

The secondary justification for some elements of this request is community benefit driven. Los Gatos Coffee Roasting has a long history of giving back to the community through in-kind contributions to good causes. In addition, we allow the use of our space after hours for Los Gatos Art Association board meetings, a co-op figure drawing group on Monday evenings, and other activities benefiting local non-profit community groups including the Under 21 Club, a program established by a local youth group.

The request includes expanding the hours of operation to allow for special events featuring live music. In particular, we wish to accommodate the Under 21 Club functions, coffeehouse style music and poetry readings and the Coffee Company's annual holiday and anniversary parties. In the recent past, the Under 21 Club has held several pilot-program events, exclusively intended for teens, which proved to be popular and very successful. The gatherings were coordinated by local high school students with adult supervision and guidance. The events were held after business hours, from 7:00 p.m. to 10:00 p.m. on Friday evenings, and included live music and open-microphone amateur entertainment performed by and for the teens. These events provided a unique venue for teens to gather for wholesome activities in the downtown. Currently, this program is on hold due to our CUP restrictions. The modified CUP application requests expanded hours and a permit for live music to allow the Under 21 Club to hold their special events. **(Requesting a maximum 12 "Under 21" events annually)** *Please note that the area designated for off-site sale of wine and the wine tasting counter located in the 109 W. Main space would be secured under lock & key and strictly off-limits after hours during any youth activities held in the adjoining rooms.*

For the past 24-years the Coffee Company has held an annual holiday open house and anniversary party which includes live music. In addition, the Coffee Roasting Company has a long history of featuring live music in the classic coffeehouse tradition. These events are currently in conflict with the existing CUP. These events are intended to be community-spirited, no cover charge, primarily and for the purpose of customer enjoyment, while also supporting local musicians. **(Requesting 2 Open House events annually and 10 live music/poetry events annually - total 12 annually.)**

In summary, I submit that this application meets the Town's criteria in the following ways:

- a.) Use is desirable to public convenience and welfare
- b.) Use will not impart the integrity or character of the zone
- c.) Use will not be detrimental to public health or safety
- d.) Use preserves the mix of land use without over concentration.
- e.) Use is in harmony with various elements and objectives of the General Plan

I respectfully request the granting of all of the elements included in this CUP modification requests to preserve this unique locally owned business, and allowing the business to continue providing multiple benefits to the community.

Sincerely,


Teri Hope, Proprietor

Los Gatos Coffee Roasting Company

CUP Modification Application - Revised April 21, 2006

Re: Los Gatos Coffee Roasting Company

101 W. Main - CUP: U-85-8A (7/23/86 - w/seating max. 36)

91 W. Main - CUP: (1986 - w/seating believed to be max. 16)

109 W. Main - CUP: PRJ-96-134 (1996 - Creperie w/o seating)

Note: This application does not request any seating in the 109 W. Main space or any additional seating in the adjoining spaces. Applicant will rely on the existing 52 seats available in the adjoining spaces.

Description of Proposed Project:

1. Standardize the CUPs for the three common-wall spaces housing Los Gatos Coffee Roasting Company:

- 91 West Main, 101 West Main, and 109 West Main Street

2. Standardize maximum operating hours for three adjoining spaces

- Seven days a week maximum operating hours - 6:00 AM to 10:00 PM

3. Allow coffeehouse special event functions as listed below:

- **Annual Coffee Company's Anniversary party & Holiday Open House event**
Includes live acoustic music. Events from 6:30 PM to 9:30 PM. Max 2 annually
- **Poetry & live acoustic music - Low volume amplification - maximum 10 annually.**
Hours of music and poetry reading 6:30 PM to 9:30 PM
- **Los Gatos Art Association Board Meetings:** *The LGAA board of directors meet in the café space, after business hours, from 7:00 PM to 9:00 PM, and complementary coffee is provided. The board generally meets once a month except in December when they take a recess.*
- **Co-op figure drawing group - A private non-profit co-op group of up to a maximum of 10 semi-professional and professional artists, meeting Monday nights, after business hours, from 7:30 PM to 9:30 PM.** *Professional model hired from the Bay Area Models Guild posing nude and/or simi-nude. Windows & doors are fully draped with canvas screening for privacy & doors are locked during sessions for security. Group has been meeting for more than six years.*
- **Under 21 Club functions with live acoustic music and open mic, meeting once a month from 7:00 PM to 10 PM, music and open mic to finish by 9:30 PM.** *Event has constant adult supervision. Store will be closed to the public during the U21 club functions. Maximum 12 annually.*

Note: The gourmet grocery space 109, which plans to display and store bottled wines, will be strictly off limits during U21 events and will be segregated by means of a locking security gate and electronic security system.

Cont.

4. Allow retail gourmet grocery & delicatessen products to be added to existing specialty coffee section space in 109 W. Main space

- *Emphasis will continue to be placed on retail sales of specialty coffees, bulk teas & related retail merchandise including coffee cups, grinders & brewing items.*
- *Retail sales of Artisan cheeses, proscuitto, salamis & pates*
- *Retail sales of California & imported olive oils, Balsamic & assorted vinegar's*
- *Retail sales of mustards, chutneys & relishes, olives, tapenades & spreads*
- *Retail sales of seasonal white & black truffles, herbs, spices and gourmet salts*
- *Retail sales of cheese & charcuterie platters for on-site & take out service.*

5. Allow Type 41 license for onsite service at 109 W. Main space

- *Allowing for off-site retail sales of regional wines by the bottle*
- *Allow on-site wine tasting area for 1oz. measured pour sampling*
- *Allow 100 sq. ft. area designated as wine display and sampling counter*
- *Allow on-site service of wines by the glass served with meals.*
Wines service with meals. "Meal" as defined per Town ordinance to be a combination of food intended for a lunch meal or dinner meal ordered from a menu. Selections to include items currently offered - i.e. Grilled Pinninis, Croque Monsieur or Empanada served with condiments, hot soup and/or salad.

Note: Snacks or appetizers do not qualify as meals and will not be substituted as meals.

- *No Beer sales - although the ABC Type 41 beer and wine license is required, only wine will be displayed, sold, sampled or served.*

NOTE: *It is not the intention, on the part of the applicant, to establish a "bar" or a "wine bar" operation. The business model is best compared to an "Oakville Grocery" or "AG Ferrari" style operation that includes a small wine-sampling counter. The wine sampling activity is expressly intended to drive retail sales of wine products for home consumption.*

*Submitted by: Teri Hope, Owner-operator
Los Gatos Coffee Roasting Company
April 21, 2006*

June 1, 2006

Attn: Town of Los Gatos Mayor and Council Members
Town of Los Gatos Planning Commissioners

Re: Conditional Use Modification APN 529-01-025

This letter is intended as additional clarification to questions posed at the Planning Commission hearing held on April 26th, relating to the service of wine under the CUP modification we have requested.

- 1.) There will be only one point-of-sale for the purchase of wine which will be located in space "A" at the delicatessen counter adjacent to the tasting counter and retail wine bottle display to insure that the management and/or qualified staff person can monitor ID's and overall wine sales.
- 2.) A sign will be posted at the point-of-sale, clearly explaining that each customer who purchases wine for consumption on premises may only do so when it is accompanied by a meal. A qualified meal menu list will be provided at all times and will be a prerequisite with the service of wine.
- 3.) Customers will not be allowed to purchase wine at the espresso bar or at the coffee counter in space "B" or space "C".
- 4.) Customers will not be allowed to take wine for on site consumption outside of the building.
- 5.) Customers consuming wine with meals will use the seating provided inside space "B" and "C".
- 6.) If a customer is still enjoying their meal and would like to purchase an additional glass of wine, or bottle of wine, a qualified staff person will be required to make a judgement call to determine if the sale will make the customer intoxicated. If the staff person is unsure, the decision will be referred to the manager on duty.
- 7.) A LEAD certified employee shall be on duty during hours of operation. Staff working in the wine service department, will be required, as part of their training, to attend the ABC LEAD (Licensee Education on Alcohol & Drugs) class given by the ABC. The class teaches attendees the law

EXHIBIT B

and limitations of the ABC License, and how to properly ID individuals, the consequences for not following the law and how to determine if a customer is intoxicated. A question and answer test is provided to receive LEAD certification.

- 8.) We understand that it is the responsibility of the licensee to determine whether a customer is obviously intoxicated; i.e., signs such as staggering, slurred speech, dilated pupils, and/or poor muscular coordination would be indicators, as per section 25602 of the ABC code.
- 9.) We understand that it is our responsibility to be sure we are not selling to intoxicated customers. We understand it is a misdemeanor, with a minimum of a \$1,000 fine, and that we may be held liable for any harm or damage caused to or by the intoxicated customer if we sell to them.
- 10.) We will use higher standards than set for by the ABC, but will use ABC standards as a baseline for evaluation customers intoxication. If any of our customers are deemed to be intoxicated, we will first determine if they have a designated driver, if not, we will call a taxi to insure they have a safe ride home. Taxi and safe ride numbers will also be posted. Should the customer refuse, we will report any intoxicated customer refusing this service to the local authorities.

Respectfully submitted by Teri Hope & Faun Skyles