MEETING DATE: 6/06/06
ITEM NO. 13

COUNCIL AGENDA REPORT

DATE: June 1, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER A REQUEST TO MODIFY A CONDITIONAL USE TO CHANGE THE HOURS OF OPERATION, ALLOW SPECIAL EVENTS, DELI, OFF AND ON- SITE BEER AND WINE SALES, AND WINE TASTING ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT U-06-12 APN 529-01-025. PROPERTY LOCATION: 91, 101 AND 109 W. MAIN STREET PROPERTY OWNER: SUE FARWELL APPLICANT: TERI HOPE

RECOMMENDATION:

1. Hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Approve Conditional Use Permit Application U-06-12 (requires motion).
4. Refer to the Town Attorney for the preparation of the appropriate resolution.

PROJECT BACKGROUND

The Los Gatos Coffee Roasting Company currently operates under an existing Conditional Use Permit (CUP) which allows the operation of a restaurant with 52 seats. The existing CUP allows for a restaurant use with retail. The approved hours of operation are as follows: 7:30AM to 6:00PM Monday through Wednesday, 7:30AM- 10:30PM Thursday through Saturday, and 9:30AM- 6:00PM Sundays. Please see the Planning Commission Staff Report for a complete description of the existing operation (Attachment 2).

PROJECT SUMMARY

The applicant is requesting approval to modify the Conditional Use Permit for the Los Gatos Coffee Roasting Company. The applicant is proposing to extend the hours of operation, add a delicatessen counter and wine bar, and allow special events. The business is located within three connected

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Reviewed by: PSJ Assistant Town Manager ✓ Community Development ____ Town Attorney ____ Clerk ____ Finance

Revised: 6/1/06 9:29 am

tenant spaces in a building with a total of five tenant spaces. The proposal includes minor interior improvements to Store A as noted on the proposed plans (Exhibits K and L of Attachment 2). No exterior modifications will be made to the storefronts. Please see the Planning Commission Staff Report for the applicant's letter of justification and project description (Exhibit D of Attachment 2).

The proposed hours of operation for the three tenant spaces are 6:00 AM to 10:00 PM seven days a week. The wine bar will close at 9:30 PM seven days a week.

DISCUSSION

Use

1. *Grocery Retail Store/Delicatessen- Store A:*

   The applicant is proposing to use a portion of Store A as a gourmet grocery store. The grocery store will include a full service delicatessen counter in this space which will offer sandwiches made to order, bulk meats, cheeses, and deli items.

   In 1996, the Town Council amended the Town Code to require a more comprehensive review of restaurant uses in the Downtown area. It was found that an over concentration of restaurants in the Downtown would displace retail uses that are vital to continued success of the Downtown retail environment. The intent of the amendment was to discourage the displacement of retail uses by new restaurant uses. In the case of the subject application, the delicatessen is a restaurant use but it also compliments the grocery retail element of the business.

2. *Wine Service Bar and Alcohol Sales:*

   The applicant is proposing a wine service bar and off-site sale of wine. The plans show the location of the wine service bar area (Exhibit K and L of Attachment 2). The wine bar will function as a wine tasting area for a small number of patrons, sales area, and order counter for wine sold by the glass.

   No seats will be added to the wine service bar area. Patrons will have the option to sample wine as a tasting, or purchase a glass of wine with a meal. Pursuant to Alcohol Beverage Control (ABC) requirements, patrons are required to pay for the taste, which will be limited to one ounce servings, and prepackaged snacks will be available at the bar for consumption.

   Staff advised the applicant that the Town's Alcohol Policy requires alcoholic beverages be served with a lunch or dinner meal. The applicant agreed to a condition of approval stipulating the glasses of wine may only be served with a meal. Patrons will be able to purchase a glass of wine with a meal in Store A and sit in any of the existing seats and benches available in Store B and C.

Attached:

3. Required Findings and Considerations (one page)
4. Recommended Conditions of Approval (three pages)
5. Letter of Support from Reuel Warkov dated May 29, 2006 (one page)
6. Letter of Support from Laverne Nolan date May 31, 2006 (one page)

Distribution:

Teri Hope, 212 Bella Vista Avenue, Los Gatos, CA 95030
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BNL:JSG

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ATTACHMENT 1

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

Los Gatos Planning Commissioners:	Phil Micciche, Chair John Bourgeois 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 #1. 91, 101, 109 West Main Street, and I think the desk item is related to that, so I want to give us five minutes to read it and then we'll continue with the hearing.

(PAUSE)

CHAIR MICCICHE: Randy, a question on the conditions that are attached to this. Some of them have been changed? Are the changes so noted?

RANDY TSUDA: I can go through that.

CHAIR MICCICHE: Would you do that at the beginning? We'll go over the rest of it instead.

(PAUSE)

CHAIR MICCICHE: I'm going to have Randy give us a summary of the changes to the conditions, and also give any pre-history you might like to give at this time as well.

RANDY TSUDA: As the Staff Report indicates, this application is a request to modify an existing conditional use permit for the Los Gatos Coffee Roasting Company. The

existing use permit for the site allows for a restaurant operation, which allows a total of 52 seats. The approved hours of operation are indicated in the Staff Report.

The applicant is proposing to modify the hours of operation to be 6:00am to 10pm generally, and the applicant is now proposing differing, more restrictive hours of operation for the specials events and for alcohol sales. The wine bar for example will close at 9:30 rather than the 10:00 o'clock as is being proposed for the overall Roasting Company operation.

In terms of modifications to the uses, Store A, which is the westerly most store, which is the current retail portion of the Roasting Company, the applicant is proposing to utilize that space as a gourmet grocery store that will have a full-service delicatessen counter that will serve sandwiches, meats, cheeses, et cetera. Technically that is a restaurant use because it is serving food items.

The Council, in adopting a more rigorous review process for restaurants did specify that it discourages the displacement of retail spaces by restaurant uses. In this case it is not a complete conversion from retail to

restaurant. Rather the restaurant use, or the deli use, is a portion of the overall grocery store operation.

The second area use modification is in the area of alcohol sales and the wine bar. The wine bar is proposed also in Store A, near the front entryway to the store. The applicant intends that bar area to be for standing area only, anticipating that no more then three people or so would be in the area at any one time. It would function also as a sales area where people can order individual glasses of wine, or do individual tastings of wine. The Town's alcohol policy requires that alcohol be served with a meal, and the applicant is now agreeable to a condition requiring that.

The third area of the use modification is in the area of special events. There are four broad categories as special events being proposed. First, for the Under 21 Club events, though in that case obviously alcohol would not be served. The poetry music weekend evening events would be limited to a maximum of ten events per year and alcohol would not be permitted. The applicant also allows use of her store for various community meetings, and in that case music, alcohol and food service would not occur, and the events will not go past the closing hour of 10pm.

And the last category is company annual events, which would be two per year, and the applicant is proposing to serve alcohol and provide music.

The Town's existing alcohol policy states that entertainment uses will be permitted with eating establishments if a process is adopted for those uses. The Council has not adopted a specific process for those uses, so that's an issue that will require some consideration and deliberation on the Commission's part. Factors and consideration are the limited number of events where the eating establishment would be functioning at the same time entertainment uses would be occurring.

The Staff Report addresses parking, and there is a surplus of parking credits for the site.

Then last, the applicant did hold a neighborhood meeting last week. The Staff Report provides a summary of what was discussed. You also have several letters in the desk item that make reference to the neighborhood meeting and some of the assurances and modifications that were agreed to by the applicant.

In terms of the recommended conditions of approval, let me just walk through those changes briefly.

For the recommended Condition #1, we've corrected the exhibit that is mentioned; it is now Exhibit L.

For Condition #3, we have added specificity to the types of allowed uses.

For Condition #4, we have clarified that there are 52 seats allowed inside the restaurant there are six seats on the existing outdoor benches located in front of storefronts B and C.

Condition #5 goes into more detail, and it tries to encapsulate those modifications the applicant has proposed to the hours of operation.

Condition #7, we have corrected that exhibit call out.

In the Condition #10, the special event table, again we've included those approved hours of operation that the applicant is suggesting. With that I can answer any questions.

CHAIR MICCICHE: Commissioner Talesfore.

COMMISSIONER TALESFORE: I do have a question about the conditions. On the new conditions, #6, it says an additional six seats on the outdoor benches in front. I'm confused about that. Why is that part of the restaurant?

Isn't that part of the Town, the benches, and why would we do that, or why is that in here? Could you clarify that?

RANDY TSUDA: Sure. Those benches are not Town property?

COMMISSIONER TALESFORE: They're not?

RANDY TSUDA: No, those are on private property, and in that case we have included that seat count as part of the allowed use.

COMMISSIONER TALESFORE: But not for wine consumption?

RANDY TSUDA: No, that would be inside the restaurant.

COMMISSIONER TALESFORE: That doesn't have to be cited in the conditions, does it?

RANDY TSUDA: The applicant has not incorporated that into the request for outdoor wine service, but you could add that as a condition of approval to make that crystal clear.

COMMISSIONER TALESFORE: Is that not part of the alcohol policy or guidelines for the Town that you can't have open containers?

RANDY TSUDA: If you're going to propose that, there are ABC regulations that require a barrier between the portion that serves alcohol and the public portion.

COMMISSIONER TALESFORE: I mean it's just a natural they can't do it? I mean we don't have to put a condition in?

RANDY TSUDA: The applicant hasn't proposed that. It's not part of their request.

CHAIR MICCICHE: So as result they can't do it?

RANDY TSUDA: They cannot do it.

COMMISSIONER TALESFORE: That's what I wanted to know. Then also I see that we have music, and there's not a condition in here for music. I see amplified music and I see acoustic music.

RANDY TSUDA: I'm sorry, could you repeat your question?

COMMISSIONER TALESFORE: Normally when we okay having music at a venue, we usually have it as a condition that it has to be either amplified or acoustic only.

CHAIR MICCICHE: We say amplified here.

COMMISSIONER TALESFORE: I know it says amplified here, but in one of the letters that we just received, and in the old Staff Report, it also is referred to as acoustic. If you go to the letter, reference Gina Love, there's not a number on it. It's in our desk item. Page one of one. She says, "I also support plans to offer live acoustic music." There's a big difference between acoustic, amplified acoustic, and amplified music.

RANDY TSUDA: Absolutely.

COMMISSIONER TALESFORE: I think we need to be clear about that because I don't want anyone to think we approved something when we didn't.

RANDY TSUDA: Our understanding is that for some of these events it is amplified music. Now if the applicant made concessions in the public meeting, then that should be drawn out during the public testimony.

COMMISSIONER TALESFORE: That's all my questions for now.

CHAIR MICCICHE: Any other questions? Commissioner Quintana.

COMMISSIONER QUINTANA: Could you give some background on the conditional use permit request from both Wine Cellar and The French Cellar, and how the actual requests were modified when they were approved, and what the issues involved were? I think some of that relates to what we're saying here.

RANDY TSUDA: In terms of The French Cellar, the request as submitted was for a wine tasting that would compliment their existing retail sales. Now their letter makes reference to the fact that they weren't granted approval for a wine bar. In researching the file, that was not part of their application. I talked to Sandy Bailey, who was the project planner on that. She does not recall that that was ever part of the application.

That's not to say that at one point they may have discussed this with a Staff member or a Council member for example, and may have been discouraged from submitting that kind of an application, but that's not part of the public record. So they requested wine tasting that would be ancillary to their retail sales and that's what was approved.

COMMISSIONER TALESFORE: My second question, what are their permitted hours of operation and the permitted hours for the wine tasting?

RANDY TSUDA: Let me look that up and I can get back to you on that.

Then on Wine Cellar, their application proposed a number of things. They requested an increase in the number of seats. They requested live amplified music; I believe it was Thursday through Sunday.

CHAIR MICCICHE: Every week.

RANDY TSUDA: They also requested a dance floor past a certain time. What was approved was the request to increase the number of seats. The dance floor was not approved, nor was the request to have amplified music.

COMMISSIONER QUINTANA: And what was the reason given why the amplified music wasn't approved?

RANDY TSUDA: In that case the Council had concerns given the lateness of the hour; the hours proposed

were to 2am in the morning. There were concerns about hours of operation, volume, and proximity to residential areas.

COMMISSIONER QUINTANA: Was there concern about the lack of permit process being established?

CHAIR MICCICHE: No. Well you were there.

COMMISSIONER TALESFORE: Yeah, I think there was.

ORRY KORB: Yes, at least one Council member and perhaps more were concerned about the fact that there was no policy in existence that would allow for live entertainment, and felt that no action should be taken until a policy is developed.

COMMISSIONER QUINTANA: I have one last question. In reading through the conditions, there's reference to "wine bar," "wine service bar," "wine bar service," and "wine tasting." Could you delineate the difference between all of those in the conditions?

ORRY KORB: Rachel can clarify me, but I'll take a stab at it. I think when she uses the term "wine service bar" and "wine bar," they are interchangeable. "Wine tasting" I believe refers to the actual serving of tastes as defined by the ABC. So that is essentially a sub-set of what can occur at the wine bar. But "wine bar" and "wine service bar" are synonymous.

COMMISSIONER QUINTANA: Just so I totally understand, what is the difference between that and what was approved for The French Cellar?

ORRY KORB: The French Cellar was approved for wine tasting, but again, I'll have to get back to you on the approved hours and time limitations on that to see what those stipulations were.

COMMISSIONER QUINTANA: Thank you.

CHAIR MICCICHE: You have a question, Mr. Kane?

COMMISSIONER KANE: I have two actually. I don't know if you got the clarification you needed, Commissioner Talesfore, but I have the same confusion.

The application talks about acoustic music, amplified music, and low amplified music. I know what acoustic is; the guitar is not plugged in. Amplified is it's plugged in. There's a big difference between the two, so I wanted some clarity on what Staff seems to be recommending and/or repeating in the boxes where amplified music shall be allowed.

I don't know if that's a recommendation or you're repeating. It's conditions of approval, isn't it? So you're recommending that that be part of the conditions of approval, and I'd like definition to go forward with more questions supporting/not supporting.

What kind of music exactly are we talking about? Is it a microphone in front of an acoustic guitar? Is it an electric zorba plugged in? Or is it a mic as in poetry reading and/or vocals? I think that goes to not just my concerns for the neighborhood, the character, et cetera, but

there was a great deal of discussion about amplification in the Wine Cellar case, and one of the conditions of approval for Wine Cellar was no amplified music.

Now somebody just suggested that that may have been because it went until 1:00 o'clock, 2:00 o'clock in the morning. I don't remember that being part of the objection, I just remember it being out of character for a restaurant or certain locations.

Help me out, Mr. Tsuda. If we're frowning on plugged in zorbas, if we're frowning on amplified music, then we should say so or say it's okay, because when the students come in to play, they're not likely going to be playing takamines. So what are we suggesting is okay and what are we not?

RANDY TSUDA: I'm not sure what a zorba is.

COMMISSIONER KANE: The loudest thing you've ever heard.

RANDY TSUDA: The alcohol policy, in the case of Wine Cellar a lot of that issue revolved around the service of alcohol. For a number of these events alcohol service is not at play; it's just an entertainment use. So it's a different set of factors involved than Wine Cellar, where it was an alcohol serving establishment and a restaurant full time that was proposing entertainment. So they're not directly comparable.

COMMISSIONER KANE: All right, that's what it's not. What is it is? What kind of music are we being asked to approve in terms of sound?

RANDY TSUDA: I do not know the exact style or type of music. I would suggest you ask the applicant what her intentions are.

COMMISSIONER KANE: All right. As so the Town has no discouragement on amplified music in a restaurant per se?

RANDY TSUDA: As you'll recall, one of the things the Council was considering at one time on Wine Cellar was allowing the amplified music but reminding them that it needs to comply with the Town's noise standards. The noise ordinance is always at play; it's a law of the Town no matter what you do through the CUP process.

COMMISSIONER KANE: And it needed to be kept inside?

RANDY TSUDA: That's right.

COMMISSIONER KANE: Second question: In framing the issue, in terms of the existing CUPs and the consolidation of the two, or three, or however many there are, isn't it true that this is really a case of an existing restaurant, vis-à-vis CUP, coming forward asking for a beer and wine permit? Can I frame the case that way?

RANDY TSUDA: There is an existing restaurant, yes, that's approved, allowed through a CUP. They are requesting to serve beer and wine.

COMMISSIONER KANE: Thank you.

CHAIR MICCICHE: Any other questions? If not, thank you, I am going to ask the applicant to come up and present their case.

TERI HOPE: Good evening. I'm Teri Hope. I live 212 Bella Vista in Los Gatos, and I own and operate Los Gatos Coffee Roasting Company at the addresses we've already listed.

My business is in the heart of the downtown historic district and I occupy three common walled spaces, and they're adjoined by doorways in between the three space.

I understand I have five minutes to present, so I'm going to be very brief and perhaps some questions can be addressed that will get to the heart of some of the issues that are more pointed here, and I also want to introduce my partner in this who is a professional in the area of wine and specialty foods, so that she has a chance to explain more details from her perspective.

My primary motivation for this CUP modification is based on my economic viability of my business. Due to rising rents, increased property taxes, triple net lease fees and other escalating overheads, I have the immediate need to improve my business profitability.

My plan is to expand my product line in order to produce additional revenues to maintain a viable business in a highly competitive market.

My vision includes increasing my retail sales by adding a premium quality line of gourmet grocery store products that would include artisan cheeses, cured meats, pâtés, olive oils, and a selection of local wines.

The business model could be best compared to the Oakville Grocery Store that once existed in downtown Los Gatos, but on a much smaller scale. I have listened to many customers over the years talk about missing the Los Gatos Cheese Shop and the Los Gatos Market as well, and so those are motivating factors in identifying products that are dearly missed in our downtown.

Another goal I have is to secure permission to have the community groups who have been meeting at my store after hours continue to be able to do so, as well as to accommodate the Under 21 Club's request to have their events at my store after hours. The other groups include the Los Gatos Art Association; they have a board meeting that meets once a month. I also have a group of independent artists who have a co-op drawing on Monday night that's happening. There are some private receptions that are held by artists who exhibit artwork in my store; those are hosted by the artists as well.

So those have been ongoing for many years. Indeed I've had live music, poetry, and all kinds of things going on long before the Town had ordinances or started creating some ordinances, so I have a history of some of these things

having taken place. But I do dearly want to bring these into compliance with whatever rules are going to be established so that the Town can continue to have some control over those things town wide.

And finally I am asking to continue having my annual Christmas party and my annual anniversary event. These have been going on for 24 years now and I'd like to be able to keep doing them.

Also I'd like to be able to do some poetry reading and live music, including acoustic and sometimes amplified acoustic music, but I think the decibel at which they are played has more importance than whether it's amplified or not, it's how much it's amplified, and I know there are some rules in place and ways to measure those.

I don't want to go into much more detail at this point, but I would like to introduce my business partner in the area of the gourmet food and wine. Her name is Fawn Skyles and she's going to talk to you about her professional background and the products we'd like to carry. Thank you.

FAWN SKYLES: Hi there, my name is Fawn Skyles and I'm a resident of Los Gatos. A couple of years ago I was the buyer and assistant wine buyer at Oakville Grocery here, and I currently manage the Oakville Grocery in Palo Alto. My husband and I have a home here and we've had a home here for seven years.

I'm a graduate from the California Culinary Academy. I have an extensive background in specialty food and wine buying and Teri and I have talked many times about having that space possibly converted over to do more specialty foods, charcuterie, pâtés, artisan cheese, and then also the proposal of local wines.

Basically what we're proposing is 51% of our...

(TIMER)

FAWN SKYLES: Am I up?

CHAIR MICCICHE: Your time is up, but my question would be what is the store going to consist of?

FAWN SKYLES: The store is going to consist of artisan cheeses, so primarily local like Calgo Creamery or Bellwether Farms. I don't know if anyone has ever been to the Ferry Plaza Building in San Francisco, but you go through a lot of those specialty shops and they have olive oil, balsamic, truffle oil, pâtés, Prosciutto di Parma, Sarano ham. Basically that. Local wines, and we're also proposing being able to do tastings, a little one-ounce pour, for people who are interested in purchasing our wine.

CHAIR MICCICHE: Do we have any questions of the applicant at this time? We do. Would you come back up too as well, Teri? You may as well both stay there. Commissioner Talesfore.

COMMISSIONER TALESFORE: I do, thank you. This looks great, but I wanted to ask you, referring back to

current sales ratios, it's not marked as an exhibit I don't think. Exhibit D. Can you tell me, in the projected sales ratios, the six-percent retail wines, what would be the ratio, or how would you figure out the relationship between glasses of wine and selling your cases of wine? How did you figure that and what do you think the percentage is?

TERI HOPE: I think Fawn has experience here in Los Gatos with that when she managed the Oakville store, so she can tell you about that.

FAWN SKYLES: Basically if you're asking about the difference between how much is sold by wines by the glass or how much is sold by the bottle, just from my experience of running a gourmet retail store, wines by the glass, I haven't seen it go anything above one-percent of our gross sales.

As far as retail bottles of wine, depending on your sales mix, we're actually confining it to about a hundred square feet in the store, in 109, so I don't see it making up any more than six-percent.

COMMISSIONER TALESFORE: So then it would be five-percent?

FAWN SKYLES: Okay, I see what you're saying. I separated that out, so that's in addition to the six-percent, so it's seven-percent total.

COMMISSIONER TALESFORE: Okay. Thank you.

CHAIR MICCICHE: Commissioner Kane.

COMMISSIONER KANE: Ms. Hope, in various parts of the application we talk about the amplification issue. On prior applications we got into—I don't know if we did or the Council did—we got into discussing potential possible amplifications and they actually began to put a decibel limit, a measurable limit. If that became important, would you agree to a limit?

CHAIR MICCICHE: It's not the ordinance.

COMMISSIONER KANE: I'm sorry, Mr. Chair?

CHAIR MICCICHE: No, go ahead. I'm sorry.

COMMISSIONER KANE: If that became an issue, would you agree to a decibel limit on the presumption that some amplification you feel is necessary?

TERI HOPE: Yes, we'd be very comfortable with setting that, and I understand there are means and mechanisms to check it; even the Police Department can check a decibel level.

COMMISSIONER KANE: Another question, on the concept of local wine, which I find very exciting and irrelevant, but in the General Plan we talk about enhancement, and so I'm operating under enhancement. What is your vision for the promotion of local wineries? I noticed in the desk item you've got just about everybody but David, or I missed his letter. I'll speak to him. What percent local do you think you would target, that you would need to be successful, and what percent outside?

TERI HOPE: I think the majority would be local. We have a fabulous group of wine growers and producers in the area. There are so many to pick from, it would be hard to narrow it down, it will be hard to narrow down. I think that perhaps there are some terrific wines in Northern California that will be represented in the mix, but that most of them would be local. In polling the community, it seems that they are very eager to participate and be promoted somewhere in the heart of downtown Los Gatos to shed a little more light on our great wineries of this region.

COMMISSIONER KANE: That's very clear and that goes to enhancement. I guess this is a good acid test regarding this music issue, that you've had live music in the past. Amplified?

TERI HOPE: Yes.

COMMISSIONER KANE: Low amplification, zorbas?

TERI HOPE: I'm going to call it moderate amplification. Also because we have a solid brick building and we face out onto a street, we've never had a noise complaint.

COMMISSIONER KANE: That's my question. How many years have you been doing that?

TERI HOPE: Well, 24 years we've had live music off and on.

COMMISSIONER KANE: And you've not had a complaint?

TERI HOPE: No.

COMMISSIONER KANE: Thank you.

CHAIR MICCICHE: Any other questions at this time? Commissioner Talesfore?

COMMISSIONER TALESFORE: Just a follow-up though. Could we clarify, because in the reports and what I'm reading in front of me I see "low," "soft," "acoustic," "amplified acoustic," and "amplified." Or maybe we don't even need to make that.

CHAIR MICCICHE: We don't. Commissioner Bourgeois.

COMMISSIONER BOURGEOIS: I have a couple questions. First of all, I saw your notes from the neighborhood meeting you had. Did you submit those?

TERI HOPE: Yes, I did.

COMMISSIONER BOURGEOIS: I noticed where there was one resident present, a Ms. Love.

TERI HOPE: Correct.

COMMISSIONER BOURGEOIS: And I also saw the desk item where she was in support of the application after you've addressed her concerns. Did you have any other conversations with any of the other tenants or residents? Has anyone else expressed concerns besides this one tenant?

TERI HOPE: I sent an invitation of each of the tenants in the Montebello Terrace building and I had one

that I know of that attended. Some people did not identify themselves when they attended, so there could have been others, but I did not receive any comments or questions or calls.

COMMISSIONER BOURGEOIS: Okay. Thank you. Another question if I may? Just so we're clear on what the wine bar is going to serve, you're going to sell one-ounce tastes, you're going to sell bottles and/or cases, and you're going to sell full glasses with a meal?

TERI HOPE: That's absolutely correct.

COMMISSIONER TALESFORE: Okay, logistics. When I look at the wine bar is on one side and the deli is on another side, how are you going to ensure that someone buying a glass of wine has purchased a meal?

TERI HOPE: They'll be served simultaneously.

COMMISSIONER BOURGEOIS: From one side?

FAWN SKYLES: There is only one register designed in this floor plan, and basically when you come up to the register, that's when you'll have to show your ID so we can check to make sure that you're legally able to drink and purchase a glass of wine. And at that time you'll have to order your sandwich along with your meal. We can stamp the ticket and then give that to the wine bar.

COMMISSIONER BOURGEOIS: Got it. Thank you.

CHAIR MICCICHE: Commissioner Quintana.

COMMISSIONER QUINTANA: Along the same line. I'm confused because you also serve sandwiches in the existing restaurant section. Would those be ordered from the cashier as well, or just the deli sandwiches ordered from the cashier?

TERI HOPE: I guess I'm not quite understanding your question.

COMMISSIONER QUINTANA: I think Commissioner Bourgeois's question went to how you would know that meal service was being provided along with the glass of wine. And the answer was that they would have to come up to the cashier, and at the cashier they would order their deli sandwich. Does that mean that only those people who ordered deli sandwiches from Store A could order glasses of wine?

TERI HOPE: That's correct.

COMMISSIONER QUINTANA: That is not clear to me. Was that clear to anybody else? I guess I'm the only one who didn't understand it. So if you're just ordering something from the coffee roasting restaurant, you cannot order wine?

TERI HOPE: That's correct.

COMMISSIONER QUINTANA: But you can take your wine that you've bought from the deli portion and sit in the restaurant portion?

TERI HOPE: Correct.

COMMISSIONER QUINTANA: Also just to clarify, because I'm not sure I caught it totally, the question about

local wines, and then there was an expansion to northern California. Are all the wines either going to be from northern California or local?

TERI HOPE: One of the criteria is that we want to support local artisan winemakers. As far as what the mix is, what's really going to tell us is listening to our customers, and if our customers say, "I really want a Malbec from Chile, that's what we want to carry. So I think defining what the sales mix right now, except for the fact that the majority of our wines are going to be local, I think is maybe a little bit premature.

COMMISSIONER QUINTANA: One last question. If you order a wine taste and a sandwich, can you take your wine taste into the restaurant with your sandwich? I think maybe we should clarify that in the conditions as well. What are your current hours of operation?

TERI HOPE: 6:00am till 6:00pm, seven days a week.

COMMISSIONER QUINTANA: I don't have any problems with the expansion of hours I don't think, but I am a little confused by the fact that you can operate to the 10:00pm and yet your community meetings say that they will be held outside of business hours, but they're within the business hours.

TERI HOPE: When we approached this application with some advice as to how to make sure that we don't limit ourselves, we did a global schedule of hours; I have an

exhibit on that. I don't know if that's legible, but basically the global hours for the entire operation, we're requesting that they would be allowed, but not to exceed those hours.

In section A, we're planning 8:00am till 10:00pm, and that could be that the 10:00pm would only be Friday and Saturday, but we want to have some flexibility within those parameters. And then the other two spaces we would plan 6:00am till 6:00pm. Generally we're going to be closing the coffee house certainly on Monday, Tuesday, Wednesday by 6:00pm or 7:00pm, and then allowing the after-hours use really happening after hours.

COMMISSIONER QUINTANA: Is there going to be a limit on the number of community meetings that can occur? And I'll add one other question at the same time. The list that was given, that's not the exclusive list, that's just an example of the types?

TERI HOPE: It's actually what is currently happening. There's a once a week Monday night drawing group. There's a once a month board meeting. And there's the request for the Under 21 Club, and the request for the coffee house poetry/live music. That's what's currently going on.

COMMISSIONER QUINTANA: I'm just asking this question because the Under 21 Club and the poetry reading/music have definite numbers attached to them.

TERI HOPE: Correct.

COMMISSIONER QUINTANA: And they're very specific.

TERI HOPE: Yes.

COMMISSIONER QUINTANA: But my question on the community groups is can other community groups than the ones that are already there be added? Is that part of your request, and if so, what are the total number of events?

TERI HOPE: Well there's only seven nights a week, so there is some limitation. We have cleaning services that come in two nights a week, so that would prohibit it. We may have a staff training session going on after hours. We probably wouldn't manage more than what we already have. I would probably choose not to accept many more of those kinds of requests; just logistically it isn't feasible.

COMMISSIONER QUINTANA: Would you be willing to have it limited to those that you currently have, or to two a week, or to the days that they could occur?

TERI HOPE: Yes, I would be willing to set a limit on that so it's not just open ended, and that perhaps we could say one board meeting a week, one drawing group a week, one Under 21 Club group meeting per month.

COMMISSIONER QUINTANA: It's already in there. It's the community (inaudible).

TERI HOPE: I'd be comfortable with setting a limit on that, yes, absolutely.

COMMISSIONER QUINTANA: I'd just like you to think about it and tell us what you think the limit should be.

CHAIR MICCICHE: Any other questions? Seeing none, I'm going to open this up to the public hearing and I'll call you back for rebuttal.

TERI HOPE: Thank you.

CHAIR MICCICHE: Anybody wishing to speak on this item should fill out one of these cards. You'll find them in the back, and turn them in to either side and I'll call you up as they come in.

JASON FARWELL: Good evening. My name is Jason Farwell. Thanks for the opportunity to speak tonight. I stand before you tonight representing my family as the building's ownership group, and also to support our longtime tenant, Teri Hope. My family and I are in complete support of Teri's application and respectfully request that you approve the modification of the existing conditional use permits.

As we all know, Teri is an accomplished businesswoman in our community. Since 1982 Teri has worked diligently to provide the town with the unique, inviting, and comfortable environment for our community to meet and greet one another over a great cup of coffee.

Equally important, she is committed to our town and the Los Gatos community. As evidenced in her application, she's committed to providing youth groups,

artists, and community groups with a comfortable place to meet and share an evening together. How fortunate are we to have somebody like this in our town that's willing to open up their business to these types of groups?

We feel the application before you is consistent with the Town's general plan. This is a community-oriented application, providing the Town with unique goods and services. The Coffee Roasting Company and the proposed concept of a retail grocery, deli, and wine service fits nicely within and maintains the small town character of the downtown business district. So many of our townspeople would appreciate, support, and benefit from Teri's store. I believe that, as well as evidenced by the letters of support that you've received.

Teri has been and continues to be a fantastic tenant. For over 20 years Teri has occupied the building, and in that time she's cared for our property as if it is her own. We're very thankful to her for her continued presence in the building and we look forward to her being in the building for years to come.

Teri has our complete support. We think this is a great opportunity for the Town and for the Town's community member, and once again we respectfully request the approval of this application. Thank you.

CHAIR MICCICHE: Any questions? Thank you very much. My next speaker is Jacqui Kemp.

JACQUI KEMP: Hello. My name is Jacqui Kemp and I'm a senior at Los Gatos High School and the leader of the Under 21 Club. You'll have some pictures passed around. These are of our past events so you can see all the kids enjoying the music that they've listened to at the past events that we've had at the Coffee Roasting Company.

You are probably familiar with my position as I included a letter in Ms. Hope's application. These low-amplified open-mic nights have been a tremendous success, and thanks to Ms. Hope's generosity it looks like they have a chance of being continued. These phenomenal events have been another way that the Town of Los Gatos has proven to be unique and friendly to residents of all ages. I sincerely hope that we will be able to continue those open-mic nights at the Coffee Roasting Company and give high schoolers another safe and creative way to have fun together in the town.

With that said, I would like you to consider the time that we have put on the events and the restrictions of the permit. The application asks for these events to last until 10:00pm, and I would like you to consider extending this time. With our previous open-mic nights we've had trouble getting a significant attendance until 8:00pm. Kids just do not want to come out until it's dark. But once it hits 8:00 o'clock, we have a complete full house and we practically have to shove kids out the door at 10:00

o'clock. We've had to limit the amount of time that people can play their songs, and kids are always just sad that they can't play their music enough because we have to end so early.

Teri and I have discussed the fact that closing too early may defeat the purpose of these events, which is keeping kids occupied in a fun environment until their parents prescribed curfew, usually 11:30 or 12:00. I am absolutely positive that if these events do continue until 11:00 or even 11:30, kids would stay until the very end and then even they would agree that it is time to go directly home.

I know the first concern that comes to mind is the neighbors and the noise. During our six previous events we have not had one single noise complaint. As Teri said earlier, there are no apartments directly above the Coffee Roasting Company, the windows are all double paned, and the brick walls of the building do not let any sound out. On top of that we do not use large amplifiers, and I guess you've talked about the decibel reading, so we can comply to that.

All the conditions of this location seem perfect for music. If you are concerned with a problem with noise, or if we do get complaints, we can assure that music could be completely unplugged after a certain time. Then kids could at least hang around inside, drink coffee and chat

with their friends until a later time when it's time to go directly home.

So all I ask is that you keep in mind the number of kids we've had, between 270 and 220, and the success of our events. Thank you.

CHAIR MICCICHE: Hang on, there may be questions. Any questions of our speaker? Mr. Kane.

COMMISSIONER KANE: In your letter you said you were a songwriter.

JACQUI KEMP: Oh no, that's not me. That was written by a songwriter, yes.

CHAIR MICCICHE: Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: I thought you had a very complete letter. It was well thought out and substantiated.

JACQUI KEMP: Thank you.

COMMISSIONER TALESFORE: But I did have a question for you. One of the sentences says, "Over many months we worked with a multitude of community members and downtown business owners to find a way to allow teens to have fun as responsible members of the community," and then in parentheses you have, "Example: Not pushing them into a dark corner of town to have their fun." What does that mean?

JACQUI KEMP: Right now you are probably familiar with The Outhouse, which is currently called The Venue; they changed their name.

COMMISSIONER TALESFORE: Yes, I am.

JACQUI KEMP: That's behind the high school, and this year it's been a complete success. They have concerts every Friday night until 12:00 o'clock. They're open until 12:00 on weekdays, and they serve over 300 kids a day.

Earlier the vision of the Under 21 Club was kind of formed as a result of that, when they were only serving five kids a day. And other musicians and kids who like to attend these events have expressed the concern that they feel like it's going back onto school. They don't want to go back onto a school campus on their weekends. They feel like it's this little area where they are not seen and heard by the rest of the community. So we were comparing the events that adults have in downtown like Jazz on the Plazz, or Music in the Park, and kids feel like they should be able to have those kinds of events where they're visible also, and not kind of hidden behind the school.

COMMISSIONER TALESFORE: I'm sorry to hear that they that they feel like they're not being heard and sort of being pushed in the back. I look at it as being part of the school. Do you think that attitude could ever change? I mean I think it's wonderful that you're allowed at the Coffee Roasting Company, that's great. But I would really like to see some effort to change (inaudible).

JACQUI KEMP: The effort is being made. As I said, it went from serving five kids a day last year to over 300 kids a day this year.

COMMISSIONER TALESFORE: Great. Okay, thank you, Jacqui.

CHAIR MICCICHE: Miss Kemp, are you there just the weekends, Friday and Saturday night?

JACQUI KEMP: Yes.

CHAIR MICCICHE: And you're going until 10:00 o'clock now, and throwing the kids out as much as you can at 10:00, you said? But you'd like to extend that on Friday and Saturday night?

JACQUI KEMP: Yes.

CHAIR MICCICHE: Now this isn't all nights? It isn't Sunday night?

JACQUI KEMP: No.

CHAIR MICCICHE: It's just Friday and Saturday nights?

JACQUI KEMP: Terri and I talked about only having it once a month.

CHAIR MICCICHE: Oh, once a month. And what night would that be typically?

JACQUI KEMP: Probably Friday.

CHAIR MICCICHE: It would be a Friday night?

JACQUI KEMP: Yes.

CHAIR MICCICHE: I'll ask the other, but you've had no neighbor complaints about the sound? You've been quitting now at 10:00 o'clock?

JACQUI KEMP: Yes.

COMMISSIONER TALESFORE: Do you notify the neighbors?

JACQUI KEMP: The first event we had, we did. But we haven't notified them since.

COMMISSIONER TALESFORE: Sometimes when we have parties at home I notify neighbors that we're having that.

CHAIR MICCICHE: I can understand why you would.

COMMISSIONER TALESFORE: It just might be courteous to do that is my point.

JACQUI KEMP: Okay, yeah.

COMMISSIONER TALESFORE: New people move in and out of the Montebello apartments I'm sure.

JACQUI KEMP: Can I ask a quick question?

CHAIR MICCICHE: You may do anything you like at this point. Go ahead.

JACQUI KEMP: With a permit, if we said Fridays right now, is it stuck to Fridays? Because like I said, The Outhouse or The Venue has events many days a week, and what if they were to have an event on Friday, and so we arranged with Teri to have an event on Wednesday instead, is that allowed, if it's still only once a month?

CHAIR MICCICHE: Right now it's written as once a month and it's not specific.

JACQUI KEMP: It's not specific, okay.

CHAIR MICCICHE: I would say right now it's the most general it can be.

JACQUI KEMP: Okay. Thank you.

CHAIR MICCICHE: Another speaker card I have is from Mr. O'Brien.

JEROLD O'BRIEN: Good evening. I'm Jerold O'Brien and I live up in the hills above here, called the Los Gatos service area and (inaudible) road area.

I support certainly this application, this concept of a deli, cheese, wine tasting and such for a number of reason, one of which my heart supports and I heard some comments earlier this evening about missing a cheese shop.

In the mid and late 70s I did operate a cheese shop here in Los Gatos. My former wife and I had a shop called Theodora's Fine Foods and Cheese, which I'm sure most of you, if not all of you, are not old enough to remember. But it was a success as long as we stayed together, but when we split up the shop failed also.

But we also were very much interested in selling wine at the time. However, I'm not so sure you folks know about this, but because our landlord was Larry and Jean Roganni (phonetic) and they operated a wine shop, they promised not to sell cheese if we promised not to sell wine,

so that was the condition of our rental agreement if you will. However we were very much involved and interested in wine.

Now I'm in the wine business. I operate a winery that started in 1979, Silver Mountain Vineyards, and I'm one of those local wineries that looks forward to a place here in Los Gatos where wines can be shown, tasted, sold, and we're very much in support of that. And as she says, I'm fully aware that there are some wonderful wineries, if not some of the best wineries in the state, in the Santa Cruz Mountains here.

One other point I wanted to say is that as far as tasting, since I've been trying to sell wines for quite a few years now, the wines that I've produced, I realize from a lot of experience that if the customer is not familiar with the wine or has never tasted the wine, it's difficult for them to buy the wine. The customer needs to taste the wine in order to make sure he or she wants to buy the wine. That's why a tasting bar is extremely important to sell, to educate the customer so that they're therefore allowed to make their own decision and buy the wines that they appreciate.

And again, I very much support this operation. Thank you.

CHAIR MICCICHE: Thank you. Any questions? Thank you. I have no more cards. I'll give you one more

opportunity. Anybody who would like to speak can fill out a card and still have an opportunity to do so. Seeing none, I'll bring the applicant back up and let me have you do the rebuttal, but I didn't hear anything.

TERI HOPE: I don't know what I have to rebut here. However, I'll just make a couple of quick points.

I wanted to say that in order comply with the Town's alcohol policy, we are in agreement that there would be no alcohol served of course during the Alive and Loving Life Under 21 Club, as well as during the live music and poetry events, and that we would also be agreeable to put a securable barrier, something lovely like a wrought iron door or something, that will be installed between Store A and B that's locked during any scheduled special events, so that there would be no access into the area where we would normally be selling the wine.

In terms of live music, I am in agreement and conferred with a neighbor who asked that amplified live music end at 9:30. I just have a suggestion perhaps for the Under 21 Club that if they wanted to hold their event past the 9:30 time that perhaps they do what is commonly called "unplugged" music, and that might be restricted to just with no microphone whatsoever, some guitar or poetry reading, or that sort of thing so that they could continue on and have that safe place until their curfew hours begin.

In terms of parking, I understand that our property does have some credit from the parking district, and so the parking issue isn't considered a problem. However, the traffic will have what's described in the report as a minor impact. It's minor to the Town, but I understand that I will pay a traffic mitigation fee of a little bit more than $13,000. So that's not a minor impact to me, but I did want to point out that I understand that and would agree to do that.

Also, in case anybody has any concerns about trash and garbage, I do have a commercial trash compactor located immediately behind the building and we do have an active recycling program in place.

CHAIR MICCICHE: I meant to ask Miss Kemp, but I'll ask you. Do you know the curfew time in Los Gatos?

TERI HOPE: I understand it to be 11:00pm for the under 18 year olds.

CHAIR MICCICHE: That means they have to be off the streets by 11:00, or with an adult?

TERI HOPE: Correct, or heading home.

ORRY KORB: Let me just clarify. It is 10:00pm according to the PD.

CHAIR MICCICHE: It's 10:00?

ORRY KORB: 10:00pm.

TERI HOPE: My apologies. I stand corrected. 10:00pm.

CHAIR MICCICHE: So how could we possibly go to 11:00 then?

ORRY KORB: What it states is that people under 18 cannot loiter past 10:00pm. They can be in transit to and from places; they just can't loiter.

CHAIR MICCICHE: Oh, okay. But being inside the premises would not be considered loitering, right? All right, I'll open it up to questions. I'll start with Ms. Quintana. Any questions at this point? Commissioner Kane? Commissioner Bourgeois.

COMMISSIONER BOURGEOIS: I thought we might hear tonight from the people from The French Cellar who had expressed a little concern, and I see you had followed up with them. Could you maybe summarize? Did you have a conversation or was it just this letter?

TERI HOPE: I did contact them prior to my neighborhood meeting with the intent of inviting them so that we could do a presentation. I was met with some resistance, so instead we met and talked privately, and I was forwarded a letter after that conversation of the content that was sent to you, and then I responded with a letter to try to help clarify, because I felt that there wasn't a clear understanding of what my application was.

COMMISSIONER BOURGEOIS: Did you receive any feedback from your letter?

TERI HOPE: Yes, I did. I think in general they just reiterated their concerns.

COMMISSIONER TALESFORE: Okay. Thank you.

CHAIR MICCICHE: Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: Teri, this is rather a general question, but I'd like to hear your thinking on it, and that is how do you think what you're planning on adding to your present business might or might not change the face of your brand? Let's put it that way. You've been here a long time. We'd hate to see you change.

TERI HOPE: It's not my intent to change, but to compliment what I already do with products that are of similar quality and would be perhaps shopped for at the same time. So you might be visiting the bakery next door for a baguette, stop by my store for some gourmet cheese, meats, and a bottle of wine, and your pound of coffee hopefully. So I want to make it more convenient, to have more products handy.

I would also keep the turn of the century charm of the store. It's funky, it's has its wood floors and brick walls and old woodwork, and all those things would be in tact. I think the store is in need of a big facelift, but a coat of paint and some polish on it would help, and that's part of the plan.

COMMISSIONER TALESFORE: Thank you.

CHAIR MICCICHE: Is there adult supervision at the Under 21 Club events?

TERI HOPE: Yes, there are.

CHAIR MICCICHE: Would you have any issue if it went until 11:00 o'clock?

TERI HOPE: I would not.

CHAIR MICCICHE: Thank you. Any other questions, Commissioners? Seeing none, I thank you, and I'll close the public hearing and open it to either a motion, questions of Staff, or comments. Commissioner Kane.

COMMISSIONER KANE: I want to let the Chair know that I visited the location and had a good look at the layout, including the kitchen and including where the steel...

CHAIR MICCICHE: Doors would be.

COMMISSIONER KANE: Did you say you were going to charge it?

CHAIR MICCICHE: Electrical wire.

COMMISSIONER KANE: And I also had a sense that there was a lot of flexibility, that if some of these things became difficult, that a lot of them could be changed. If the amplification was too loud, if the hours needed to be changed. I found a great deal of flexibility I think tonight and in the evidence before us.

I don't think there's anything here that's ironclad or represents a precedent or a departure from the

two cases that the commissioners suggested we get emails of. Clearly I can see where this application fits in between the two, and I'm excited under the heading of enhancement, that we could begin more of a partnership with the wineries, whether that's destination Los Gatos or a revisiting—this is for the Council—a revisiting of our alcohol policy to deal with this new day that may be dawning.

So subject to what I hear from my colleagues, I'm ready to make a motion.

CHAIR MICCICHE: I think I'll hold on the motion and just go around one time if you don't mind, Mr. Kane. Or we can do it and make the comments after if you'd like to make it now though. Do you have a problem with that, with waiting?

COMMISSIONER KANE: No.

CHAIR MICCICHE: Okay. Commissioner Quintana.

COMMISSIONER QUINTANA: I have a question of Staff. I'll preface it by saying one thing in this application that I have a little bit of concern about, especially since I didn't understand that wine by the glass could only be purchased with the purchase of a deli sandwich.

My concern is with regard to how that works given the fact that they then go into the restaurant to eat, but people in the coffee shop can't purchase the wine unless they buy a sandwich. It seems very awkward to me.

So my question is this, and I didn't think of this in time to ask Teri: One, is there enough room in the deli/grocery portion to have a few tables for patrons who buy the wine in the deli, and two, could those tables be taken from the amount of tables that are allowed in the restaurant B C portion?

RANDY TSUDA: I don't have the floor plan in front of me. My recollection is that space is pretty tight as proposed and I don't think there would be room, other than maybe one table, in seating.

COMMISSIONER QUINTANA: My second question is both with regards to the location of the wine bar. I'm thinking about where it's located. If there are more than three or four people standing around there it could block the entrance into the shop or down the ramp into the other portions of the shop. Is there another location where that could be moved where it wouldn't have the possibility of blocking movement through?

RANDY TSUDA: I suppose the wine bar could be relocated and the floor plan could be laid out again. We had a similar concern originally and discussed this with our fire department and with our building official. We were concerned about the people that might block that ramp, and both parties indicated that that ramp, that access point, is not actually a legally required access point, but it's merely for convenience, so from their standpoint it wasn't

any sort of legal problem if people did stand in that aisle way.

COMMISSIONER QUINTANA: If they stood in the aisle way of the entrance, would that be a problem?

RANDY TSUDA: Then that would be a problem because that is one of the designated ingress and egress points.

COMMISSIONER QUINTANA: That's one of my concerns. I forget what my other concern was.

CHAIR MICCICHE: We'll come back to you later.

COMMISSIONER QUINTANA: Okay. Thank you.

CHAIR MICCICHE: Commissioner Bourgeois? Commissioner O'Donnell, any comments?

COMMISSIONER O'DONNELL: I just want to make a comment about the sound issue we've been worried about. Generally my feeling is the sound ordinance would be adequate, but I did think the suggestion in the sense of unplugging at a given hour might be a good one to follow up because enforcement of the sound ordinance is not so easy, even though they have the equipment to do it. So I think I would just like to throw out for other people's consideration whether at some point they unplug. I don't have a particular time in mind, although it might be 9:30 or it might be 10:00 o'clock. So that's my only comment.

CHAIR MICCICHE: All right. Commissioner Rice.

COMMISSIONER RICE: Two quick questions, one for Staff. If there's been nonconforming uses going for a while, how did that happen?

RANDY TSUDA: It came to our attention actually probably over a year ago and we've had correspondence back and forth with Ms. Hope, and she's filed the application.

COMMISSIONER RICE: Is it the filed application that brought about the change in the CUP? This isn't a negative comment; I'm just curious about the process. If we knew a year ago that there was a nonconforming use, how did it go on for a year?

RANDY TSUDA: What we indicated to her is if she entered into a conversation with us exploring what kinds of uses she would request, we would not go in there and require that she be shut down. So she's had those conversations with us, she's acted in good faith, and so therefore we did not shut her down.

COMMISSIONER RICE: Okay. Second question. Maybe this is a trivial question, but I'm halfway through my sandwich and I want a second glass of wine. Is that just prohibited in the way this is written? Not that I drink two glasses of wine with a sandwich, mind you.

RANDY TSUDA: With lunch.

COMMISSIONER RICE: With lunch.

RANDY TSUDA: The alcohol policy doesn't speak to how many glasses you can have with your meal, it simply says you must have a meal if you're going to order alcohol.

COMMISSIONER RICE: So if two or three of us want to order a bottle of wine with our deli sandwiches as opposed to glasses, what happens?

ORRY KORB: Well, that's a very interesting question.

COMMISSIONER RICE: I mean this seems silly.

ORRY KORB: I would assume, because we haven't really talked through all of these scenarios, that the establishment would open the bottle and pour the wine and serve it to each of the individuals who has ordered the food, something along those lines.

COMMISSIONER RICE: So that they could not serve a bottle is what you're saying?

ORRY KORB: I'm assuming that the idea is to ensure that individuals are acquiring wine along with a meal, so you don't have ten people sitting at a table drinking a bottle of wine and only one person is eating a sandwich.

COMMISSIONER RICE: I understand that, but four people eating sandwiches order a bottle of wine.

CHAIR MICCICHE: Sure, it's a possibility.

ORRY KORB: I think it is, but I don't know. We haven't worked through that.

CHAIR MICCICHE: We're going to have a bottle policeman there.

ORRY KORB: That's right. And as far as your first question goes, again, it's a scenario we haven't worked through. I assume your point being that somebody buys a sandwich, sits down, and then a little while later wants to go up and buy that second glass of wine and essentially they're buying a glass of wine separate and apart from any food. Again, it's an interesting scenario we haven't worked through.

COMMISSIONER RICE: I'm fine. Thank you.

CHAIR MICCICHE: Commissioner Talesfore.

COMMISSIONER TALESFORE: Thank you. This is a question of Staff as well, and it really is probably for my clarification, maybe everybody else knows this. If the ownership were to transfer, and since the CUP runs with the land, does the liquor license also run with the land? Can you speak to that?

ORRY KORB: Again, I'm not certain. I thought, and again I don't know, that an ABC permit applies to the address, but I could be wrong, it could be personal to the individual and then that would mean that someone would have to reapply.

CHAIR MICCICHE: Yeah.

ORRY KORB: Of course they couldn't operate under a CUP if they didn't have an ABC license.