



THE CITY OF
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CALIFORNIA

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ZONING ADMINISTRATOR STAFF REPORT

MEETING

DATE: March 30, 2017

STAFF: Michelle Johnson, Planner II
(415) 899-8941; mjohnson@novato.org

SUBJECT: **MANTRA WINE TASTING ROOM**
CEQA CATEGORICALLY EXEMPT: SECTION 15301
P2017-007; USE PERMIT
APN 153-062-01; 881 GRANT AVENUE

REQUEST

Consider a request for a use permit to allow the proposed use of a downtown commercial tenant space located at 881 Grant Avenue for a wine tasting room.

PROJECT DESCRIPTION

Background

Mike Kuimelis, owner of Mantra Wines, is proposing a small boutique wine tasting room offering hand crafted wines created from grapes harvested and processed in Sonoma County by Mantra Wines. Mantra Wines is currently licensed with Alcohol Beverage Control (ABC) under a type 02 Winegrowers license that allows them to have both on and off-site wine sales at the winery and also a satellite location.

Mantra Wines has applied for a Duplicate type 02 license which is an extension of their current type 02 Winegrowers privilege. The Duplicate 02 license allows a total of two tasting rooms; one onsite and one offsite. The Duplicate 02 license is not considered a “retail” license. Therefore, the Duplicate 02 is not subject to Business and Professions Code §23958.4, undue concentration. That is, a Duplicate 02 license may be granted even where an undue concentration of alcohol serving establishments exists.

A Duplicate 02 license permits the sale of wine for on- and off-site consumption. Only wines produced by Mantra Wines and its affiliated labels may be sold under the Duplicate 02 license. The duplicate 02 license does not require food services be provided and minors are allowed to enter the premises.

Operational Components

Mantra Wines proposes the following operational components:

- The tasting area is approximately 1,650 square-feet, within a 2,200 square foot tenant space.
- Regular business hours from 10:00 a.m. to 11:00 p.m. daily.
- Outdoor seating areas on Grant Avenue and Machin Avenue with metal railing as a barrier and including a total of (5) tables, (14) chairs, and (5) umbrellas.
- Approximately ten variations of wines to be poured from the three current brands owned by the applicant; Mantra, Mobius, and Big Ridge.
- “Mantra Wine” club. With a Mantra Wines Club membership, members receive 3 shipments of 4 bottles annually of critically acclaimed, limited production, estate wines, before the wines are released to the general public.
- All employees are trained in responsible beverage service practices.

NEED FOR ZONING ADMINISTRATOR ACTION

According to Sections 19.40.020, Table 4-1, and 19.42.050 of the Novato Municipal Code the Zoning Administrator has the authority to approve a use permit for the sale of alcohol for on- or off-site consumption and a nightclub/bar use.

Mantra Wines proposal represents the combination of a retail outlet selling wine for off-site consumption and serving wine for on-site consumption without food service. Based on these characteristics, Mantra Wines meets the Novato Municipal Code’s definitions of “alcoholic beverage sales” and “night clubs and bars” as described below.

"Alcoholic Beverage Sales" - "The retail sale of beer, wine, and/or other alcoholic beverages for on- or off-premise consumption."

“Night Clubs and Bars” - "Businesses where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May include entertainment (e.g., live music and/or dancing, comedy, etc.). May also include beer brewing as part of a microbrewery, and other beverage tasting facilities. Does not include adult entertainment businesses."

Based on the definitions above, Manta Wines requires a use permit, which can be considered and acted on by the Zoning Administrator.

BACKGROUND

Applicant: Mike Kuimelis

Property Owner: Gordon Uhlmann

Property Size: 8,400 square-foot building; 2,200 square-foot tenant space

General Plan Designation: Downtown Core (CD)

Existing Zoning: Downtown Core Retail (CDR)

Existing Use: Unoccupied commercial tenant space

Adjacent Zoning and Uses: North, South, East, and West- Downtown Core Retail (CD: R); a variety of retail, office, and personal services and restaurants.

ENVIRONMENTAL ASSESSMENT

Mantra Wines request for a use permit to allow the operation of a tasting room and the sale of wine for off-site consumption is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines pursuant to CEQA Guidelines Section 15301, *Existing Structures*.

CEQA Guidelines Section 15301 exempts projects involving the minor alteration of existing structures. Mantra Wines is proposing to make interior tenant improvements (seating area, wine bar, etc.) within the existing retail/service commercial tenant space; no additional floor area would be created. The interior tenant improvements and outdoor seating areas are considered to be minor in nature and would not have a negative impact on the environment.

STAFF ANALYSIS

Use Permit

To grant a use permit allowing the sale of alcohol for off-site sales, on-site consumption, and the operation of a tasting room (bar) the Zoning Administrator must make the use permit findings specified in Novato Municipal Code Section 19.42.050E. The following discussion addresses each required use permit finding:

Use Permit Finding 1: The proposed use is consistent with the General Plan and any applicable specific plan;

Discussion: Mantra Wines would occupy a tenant space within the building at 881 Grant Avenue. This building is located on a parcel assigned the Downtown Core (CD) land use designation of the 1996 Novato General Plan and the Downtown Novato Specific Plan. The CD land use designation was developed with the intent of creating a vibrant, pedestrian oriented district of small shops, restaurants, entertainment establishments, personal services, offices, and residential units. Accordingly, The CD land use designation permits a variety of retail, restaurant, and entertainment uses, including businesses, such as bars and restaurants, offering the sale of alcohol for off or on-site consumption as either a primary or accessory activity. The sale of alcohol for off or on-site consumption is considered to be an acceptable activity on parcels assigned the CD land use designation as either a standalone activity (e.g. liquor store, bar) or accessory component of an otherwise principally permitted use (e.g. restaurant) provided all associated requirements of the Novato Municipal Code have been met.

Mantra Wines intends to offer small production handcrafted wines for on- and off-site consumption, which is considered an acceptable activity on a conditional basis and where conforming to applicable requirements of the Municipal Code. As discussed below, Mantra Wines' proposed operation is considered to meet the requirements of the Novato Municipal Code addressing the sale of alcohol for on- and off-site consumption. Based on this observation, Mantra Wines is considered to be consistent with the CD land use designation as defined in the General Plan and Downtown Novato Specific Plan.

Use Permit Finding 2: The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;

Discussion: Zoning Ordinance (ZO) Section 19.12.030; Table 2-7 of the Novato Zoning Ordinance specifies that “alcoholic beverage sales, on or off-site” and “bars and nightclubs” may be allowed in the Downtown Core Retail (CD: R) Zoning District with the approval of a use permit, subject to demonstrating compliance with the standards and findings contained in ZO Section 19.34.050, *Alcoholic Beverage Establishments*.

Consistent with ZO Section 19.12.030; Table 2-7 and the requirements of ZO Section 19.34.050, Mantra Wines has submitted an application requesting a use permit to allow the sale of alcohol for off-site consumption and operation of a tasting room (on-site consumption). ZO Section 19.34.050 establishes specific findings for businesses intending to sell and/or serve alcoholic beverages. These findings are listed below and are accompanied by a discussion detailing whether Mantra Wines comply.

Use Permit Finding 3: The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

Use Permit Finding 4: The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;

Discussion (Finding 3 & 4): Mantra Wines will be located in an area of downtown Novato that hosts a wide variety of land uses, including retail shops, office space, personal services (e.g., hair salons), bars, and restaurants/cafes. There are a number of these existing businesses offering on and off-site alcohol sales and service, including Finnegan's Marin (restaurant), Mi Pueblo Taqueria (restaurant), De Borba's Cocktail Lounge (bar), Bicycle Brustop (retail/beer), and many other businesses.

The proposed sale of wine for on-site-consumption at Mantra Wines is not anticipated to be detrimental to health, safety, or general welfare of persons residing or working in downtown Novato or injurious to property and improvements therein based on the following observations:

- The sale of wine for on-site consumption includes small pours of 1.5 ounces for tasting, which is the primary purpose of the tasting room; followed by for off-site bottle sales.
- Employees will be required to be properly trained and certified in the responsible service of alcohol by an accredited training program.
- The applicant has experience operating a business selling and serving wine with no previous ABC violations showing evidence of responsible and lawful operations.
- Standard hours of operation (10 AM to 11 PM) will ensure that wine service does not extend late into the night and is consistent with the hours permitted for other businesses in Novato.
- Alcohol sales will be conducted under a license from the California Department of Alcoholic Beverage Control (ABC) in accordance with the California Alcoholic Beverage Control Act. The Alcoholic Beverage Control Act includes standards (e.g., server training, alcohol storage requirements) to minimize problems associated with alcohol consumption, including noise disturbances, disorderly conduct, drinking and driving, and vandalism that can result from excessive alcohol consumption.
- The applicant will comply with operation standards outlined in the Novato Zoning Ordinance Section 19.34.050, described in detail below with the supplemental findings required for alcohol service.
- The applicant will comply with Outdoor Dining standards outlined in the Novato Zoning Ordinance Section 19.34.130, described in detail below.

The proposed sale of alcohol for off and on-site consumption at Mantra Wines is not anticipated to be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood or injurious to property and improvements therein based on the observations above. Implementation of the recommended conditions of approval specified below

will help avoid any potential for alcohol related disturbances/crimes and prevent access to alcohol by minors.

Use Permit Finding 5: The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

Discussion: Mantra Wines would be located on Grant Avenue which features a mix of retail, restaurant, and service uses in the larger areas. Closer to the Mantra Wines location are offices, retail stores (e.g., sweet shop), personal services (e.g., hair salon), dive center, and restaurants/cafes with on-site alcohol service. In terms of future uses, the buildings along Grant Avenue are zoned for and host retail and service commercial uses, with potential for mixed use with the addition of multi-family dwelling units above existing shop spaces.

From a location perspective, Mantra Wines would be serving wine in an area where there are already many businesses serving alcohol for off and on-site consumption, including several restaurants and bars. Despite this circumstance, the sale and consumption of wine at Mantra Wines is considered to be compatible with the surrounding commercial businesses found along Grant Avenue in downtown Novato recognizing the small size of the establishment, its standard business hours, the owner's experience operating an alcohol establishment, and the procedures that will be implemented to sell and serve wine in a responsible and lawful manner. For the same reasons, the sale of wine at Mantra Wines is considered to be compatible with future retail, restaurant, and entertainment uses that may locate on Grant Avenue and in the larger downtown Novato area.

The proposed location of the outdoor seating area is consistent with surrounding outdoor seating areas in the downtown core. A condition of approval has been added to insure the design, accessories and use of the outdoor seating area are consistent with the standards found in Section 19.34.130D of the Novato Municipal Code.

In addition to the findings above, the Zoning Administrator must also make the following findings, consistent with Section 19.34.050D of the Novato Municipal Code, to allow alcohol sales for on- and off-site consumption:

A. The proposed use will not adversely affect the welfare of the area residents, or result in an undue concentration of establishments dispensing alcoholic beverages in the area, as determined by the Review Authority.

Discussion: Please refer to use permit findings No. 3 and 4 discussed above.

An undue concentration of alcohol serving establishments is determined by the California Department of Alcoholic Beverage Control based on the number and type of active licenses within a given census tract area or if the applicant premises are located in a crime reporting district that has a 20 percent or greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency. Where an undue concentration is found, applicants for certain types of alcohol beverage

licenses must obtain a letter of public convenience or necessity (PCN) from the local regulatory authority (e.g., city or county).

The ABC license Mantra Wines has applied for is a Duplicate 02. A Duplicate 02 is not considered a “retail” license. Therefore, a Duplicate 02 is not subject to the undue concentration requirements of California Business and Professions Code §23958.4.

B. The proposed use is located at an appropriate distance from:

- a. Residential uses;**
- b. Religious facilities, schools, public parks and playgrounds, and other similar uses;**
- c. Other establishments dispensing alcoholic beverages.**

Discussion: Please see discussion for Use Permit Finding No. 3, 4, and 5 above.

C. The size and proposed activity level (i.e., music, entertainment activities, food service, arcade games, or other amusement activities, etc.) will be compatible with the uses in and/or character of, the surrounding area.

Discussion: The applicant is not proposing food service, arcade games or other amusement activities as a function of this use. The applicant has indicated that the wine club is going to be an extension of the tasting room and will occasionally hold events. Given the location and surrounding businesses with similar hours; indoor wine club events would be compatible and in character with the surrounding uses that uses. Please refer to use permit findings No. 5 discussed above.

D. The signs and other advertising on the exterior of the premises will be compatible with the character of the area.

Discussion: Mantra Wines is not proposing any exterior signs or window displays to advertise alcohol sales for on-site consumption. Regardless, Novato's standard conditions of approval for alcohol use permits prohibit outdoor or interior window signs advertising alcohol sales. Any proposed business signs will be subject to meeting the uniform sign standards of the Novato Municipal Code. A separate sign permit process is used to confirm compliance with applicable sign standards.

E. The applicant has committed to voluntarily provide a beverage service training program, should one be made available locally on a no-charge basis for employees who sell or dispense alcoholic beverages, and would provide them with the knowledge and skills needed to comply with their responsibilities under State law, including the following topics:

- a. State laws relating to alcoholic beverages, particularly ABC regulations and penal provisions concerning sales to minors and intoxicated**

persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;

- b. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill, or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;**
- c. Alcohol as a drug and its effects on the body and behavior, including the operation of motor vehicles;**
- d. Methods of dealing with intoxicated customers and recognizing underage customers;**
- e. Methods to appropriately pace customer drinking to reduce the risk that the customer will leave the premises in an intoxicated manner; and**
- f. Knowledge of mixology, including marketable alternatives to alcoholic beverages.**

Discussion: As discussed earlier, the applicant has applied for a Duplicate Type 02 license from the California Department of Alcoholic Beverage Control. This license and the City's alcohol use permit itself require applicants to ensure their employees are trained in the proper service of alcohol and understand state laws addressing the sale and service of alcoholic beverages.

The applicant has indicated that all employees will be trained in the responsible sale and service of alcohol. Conditions of approval are recommended to ensure proper training is provided.

RECOMMENDATION

Staff recommends the Zoning Administrator make the required findings to approve a use permit allowing Mantra Wine to sell alcohol for on-and off-site consumption, subject to the conditions of approval specified below.

FINDINGS AND ACTION

1. Mantra Wines request for a use permit to allow the operation of a tasting room and the sale of wine for off-site consumption is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines pursuant to CEQA Guidelines Section 15301, *Existing Structures*.

CEQA Guidelines Section 15301 exempts projects involving the minor alteration of existing structures. Mantra Wines is proposing to make interior tenant improvements (seating area, wine bar, etc.) within the existing retail/service commercial tenant space; no additional floor

area would be created. The interior tenant improvements and outdoor seating areas are considered to be minor in nature and would not have a negative impact on the environment.

2. In accordance with Sections 19.34.050 and 19.42.050E of the Novato Municipal Code, the Zoning Administrator hereby grants a use permit to Mantra Wines, to operate as a tasting room (bar) with outdoor seating, to sell alcohol for off and on-site consumption, on the basis of the findings discussed in the staff analysis above and subject to the conditions of approval specified below.

CONDITIONS OF APPROVAL

The following conditions of approval shall be met to the satisfaction of the Zoning Administrator:

1. This Use Permit approval shall expire two (2) years from the date of approval unless the activity authorized therein has commenced operation.
2. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, recordation of final maps or other entitlements.
3. The business owner shall secure an alcohol license from the California Department of Alcoholic Beverage Control (ABC). The applicant shall deliver a copy of the use permit approved by the Zoning Administrator to the ABC when securing the alcohol license.
4. The business owner shall obtain an encroachment permit and/or license agreement from the City of Novato Public Works Department for the outdoor seating area issued pursuant to Section 15-4 of the Novato Municipal Code and the standards of Zoning Ordinance Section 19.34.130D.
5. The business owner shall provide a California Coordinating Council approved Responsible Beverage Server (RBS) training program at no charge to employees who sell alcoholic beverages with training to occur within 60 days of employee's start date.
6. The business owner is encouraged to have its employees attend periodic alcohol service trainings offered by the Novato Police Department.
7. Alcoholic beverages shall not be sold to patrons who are obviously intoxicated or under the influence.
8. No employee or volunteer shall consume alcohol on the premises during their work shift.
9. No exterior or interior window signage with visibility from the right-of-way, sidewalks, or parking areas shall be used to advertise in any manner the sale of alcohol products.

10. The applicant shall post signage which prohibits: the consumption of alcoholic beverages beyond the confines of the tasting room and outdoor seating area; precludes loitering, and prohibits smoking. The signs shall cite the appropriate codes for enforcement.
11. At any time, the business may be visited, unannounced by City staff, to review the business operation's compliance with the City's regulations (including use permit conditions) concerning alcoholic beverage establishments. Violations of any conditions of this Use Permit or any municipal, state, or federal law, rule or regulation, including without limitation the provisions of the Novato Municipal Code or Alcohol Beverage Control Act regulations, may be grounds for revocation or modification of the Use Permit.
12. Corporate or franchise regulations shall not override the conditions of the Use Permit as issued by the City of Novato.
13. Indemnity and Time Limitations
 - a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack set aside, void or annul the City's decision to approve the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
 - b. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, employees, and attorneys for all costs incurred in additional investigation (such as the environmental determination at issue herein or any subsequently required Environmental Document), if made necessary by said legal action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
 - c. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
 - d. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
 - e. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications,

reservations, and other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

FURTHER ACTION

No further action on the application will be taken unless an appeal is filed in writing within ten calendar days along with the required filing fee.

ATTACHMENTS

1. Letter from ABC regarding Dup 02 License and undue concentration
2. Project Plans

Matthew Gilster

From: Weston, Jennifer@ABC <Jennifer.Weston@abc.ca.gov>
Sent: Friday, February 17, 2017 3:04 PM
To: Michelle Johnson
Subject: Dup 02 and undue concentration
Attachments: ABC616NR.pdf

Good afternoon,

Per our earlier conversation:

I have attached ABC-616NR. It show basic license privileges.

The Duplicate 02 license is an extension of an 02 Winegrowers privilege. A total of two tasting rooms are allowed under an 02 license. One onsite and one offsite. Due to the fact that it (Dup 02) is under the 02 license, the Duplicate 02 is not considered a "retail" license. Therefore Duplicate 02 is not subject to Business and Professions code §23958.4, undue concentration.

Please feel free to contact our office should you have any further questions.

Thank you,

Jennifer

Jennifer L. Weston
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(707) 576-2166

**NON-RETAIL ABC LICENSE TYPES
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	BEER MANUFACTURER - (Large Brewery over 60,000 barrels per year) This license is required by makers of beer in this State. An exception under State and Federal law allows a person to produce up to 100 gallons of beer a year for his/her own consumption (maximum of 200 gallons per household). See also <u>Small Beer Manufacturer</u> (Type 23) for brewpubs and micro-breweries. "Beer manufacturer" means any person, except those manufacturing pursuant to Section 23356.2 (home brew), engaged in the manufacture of beer (Section 23012).
02	WINEGROWER - (Winery) The following pertains to new winegrowers' licenses issued after September 17, 1965. A winegrower must have facilities and equipment for the conversion of fruit into wine and engage in the production of wine (Section 23013). Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations permit a winegrower to use the facilities and equipment of another winegrower to produce wine. This is commonly referred to as an "alternating proprietorship." Separate winegrower licenses are issued to each legal entity manufacturing wine under its own bonded winery permit. Wine must be made from the fermentation of agricultural products to which may be added brandy that is distilled from the same agricultural product from which the wine is made. Thus, neutral grain or other distilled spirits cannot be used to fortify wine – only brandy of a specific type. No more than 15% added flavoring or blending material may be added. (Section 23007).
03	BRANDY MANUFACTURER - The following pertains to brandy manufacturers' licenses, and to duplicate brandy manufacturer's licenses issued after September 17, 1965. This license authorizes the holder to manufacture only brandy and not other distilled spirits (Section 23014). Brandy made by the distillation of wine or fermented fruit.
04	DISTILLED SPIRITS MANUFACTURER - The following pertains to new distilled spirits manufacturer's licenses issued after September 18, 1959. The Act defines a distilled spirits manufacturer as "...any person who produces distilled spirits from naturally fermented materials or in any other manner" (Section 23015). The functions of this type of license, in addition to that of production, include packaging, bottling, rectifying, flavoring and others as found within Section 23356. The functions apply only to distilled spirits; they do not include wine or beer.
05	DISTILLED SPIRITS MANUFACTURER'S AGENT - This license authorizes any of the following: (a) The possession of distilled spirits in public or private warehouses. (b) The exportation of distilled spirits. (c) The cutting, blending, mixing, flavoring, and coloring of distilled spirits for his own account or for the account of a distilled spirits manufacturer, manufacturer's agent, rectifier, or wholesaler. (d) Whether cut, blended, mixed, flavored, or colored by him, or any other person, the packaging and the sale or delivery of distilled spirits only to holders of distilled spirits manufacturer's, rectifier's or distilled spirits wholesaler's licenses. A person need not actually engage in the cutting, blending, or bottling of distilled spirits in order to qualify for a distilled spirits manufacturer's agent's license.
06	STILL - The following applies to still licenses used for the making of alcoholic beverages or capable of such use. A still is "...any apparatus capable of being used for separating alcohol, or alcoholic vapors or solutions from alcohol or alcoholic solutions or mixtures ..." Stills used for laboratory purposes or stills used solely for producing distilled water or other non-alcoholic beverages are exempt from licensing (Section 23034). (Generally, this license is not required to produce fuel alcohol.)
07	RECTIFIER - This type of license is frequently referred to as a "distilled spirits rectifier's license", which is incorrect since the license also permits the rectification of wine. This licensee is authorized to cut, blend, rectify, mix, flavor and color distilled spirits and wine upon which excise tax has been paid and, whether rectified by the licensee or another person, to package, label, export and sell the products to persons holding licenses authorizing the sale of distilled spirits (Sections 23016 and 23368). This licensee may sell distilled spirits and wine without the need for any other license, but he/she may <u>not</u> sell wine to a person who does not hold a license that also authorizes the sale of distilled spirits. A rectifier may also elect to function as a distilled spirits wholesaler, but when doing so, he/she must comply with all of the provisions applicable to a distilled spirits wholesaler (Section 23371).

LICENSE TYPE	DESCRIPTION
08	<p>WINE RECTIFIER - The wine rectifier's license is one in very limited use. Presently, there are no active Type 08 licenses. A rectifier's license (Type 07) includes wine rectification privileges in addition to allowing distilled spirits rectification privileges. A wine blender's license allows most of the same privileges as the wine rectifier's license. A wine rectifier may only deal in "tax-paid" wine, unlike a wine blender who may process "in-bond" (non-tax paid) wine. A wine rectifier's license authorizes the person to whom issued to cut, blend, mix, flavor, or color wine upon which excise tax has been paid, and whether so cut, blended, rectified, mixed, flavored, or colored by him, or any other person, to package, label, export, and sell the products to persons holding licenses authorizing the sale of wine (Section 23372).</p>
09	<p>BEER AND WINE IMPORTER - This license is only issued to a person who holds another type of license which permits the sale of beer and wine for resale. This license has no sale privileges. It only permits the holder to import and export alcoholic beverages and to transfer the beverages to him/herself under another license (Section 23374).</p>
10	<p>BEER AND WINE IMPORTER'S GENERAL - This type of license is one frequently issued to agents for out-of-state breweries or wineries who refer to themselves as "brokers." Such agents differ greatly from true brokers as is shown in the functions they perform. This license should also be held by companies representing manufacturers/suppliers where such companies have a physical marketing presence in California. This presence may consist of a regional sales office or one person/employee working out of his/her home while performing general missionary work. Another common situation requiring the holding of this license is where an out-of-state vendor imports beer or wine in its own name and uses the services of a licensed public warehouse for importation, storage and distribution of beer and wine to authorized licensees. Section 23374.6 authorizes the person to whom this license is issued to become an importer of beer or wine and to sell State tax-paid beer and wine to beer manufacturers, winegrowers, beer and wine wholesalers, wine rectifiers, and other beer and wine importer's general licensees.</p>
11	<p>BRANDY IMPORTER - This license is only issued to a person who holds another type of license which permits the sale of brandy for resale. It, however, may not be issued to a California Brandy Wholesaler. (Section 23378.1) Brandy is included in the definition of distilled spirits (Section 23005).</p>
12	<p>DISTILLED SPIRITS IMPORTER - This license is only issued to a licensee who has another type of non-retail distilled spirits license. This license has no sale privileges. It only permits the holder to import and export alcoholic beverages, and to transfer the beverages to him/her under another license (Section 23374).</p>
13	<p>DISTILLED SPIRITS IMPORTER'S GENERAL - This type of license is one most frequently issued to agents for out-of-state rectifiers, distilleries, or nation-wide import companies. Such agents differ greatly from true brokers as is shown in the functions they perform. This license should also be held by companies representing manufacturers/suppliers where such companies have a physical marketing presence in California. This presence may consist of a regional sales office or one person/employee working out of his/her home while performing general missionary work. Another situation requiring the holding of this license is where an out-of-state vendor imports distilled spirits in its own name and uses the services of a licensed public warehouse for importation, storage and distribution of distilled spirits to authorized licensees. A distilled spirits importer's general license authorizes the person to whom issued to become an importer of distilled spirits and to sell distilled spirits to distilled spirits manufacturers, distilled spirits manufacturer's agents, distilled spirits wholesalers, rectifiers and distilled spirits general importers (Section 23374.5).</p>
14	<p>PUBLIC WAREHOUSE - A public warehouse license is required for a warehouseman who provides warehouse service for alcoholic beverage licensees. This is distinguished from private warehouse permits, where a licensee has a leasehold or ownership interest and provides his/her own help at a premises other than that where licensed. The Act defines a public warehouse as "...any place licensed for the storage of, but not for sale of, alcohol, or alcoholic beverages, for the account of other licensees..." (Sections 23036 and 23375). A public warehouse is one of the types of premises to which imports may come to rest (Section 23661). It is also one of the types of premises from which a distilled spirits wholesaler may make deliveries if it is in the county where he/she is licensed (Section 23355.1).</p>

LICENSE TYPE	DESCRIPTION
15	<p>CUSTOMS BROKER - This type of licensee will generally be located near the dock area in seaports or at international airports. The Customs Broker is also frequently located in port cities in building where many foreign consulates or commercial attaches have their offices.</p> <p>Special Note: This Department has taken the position that where a customs broker makes either entry or withdrawal in his own name, is identified as the responsible person and has a possessory right, the possibility of unlawful diversion into the internal commerce of the State exists. Under these circumstances, we believe he/she should be subject to State control and, therefore, licensed. On the other hand, if the customs broker is solely engaged as an agent for licensed importers and if all entries and/or withdrawal documents disclose the licensed importer as the principal, he/she need not be licensed by this Department. However, we strongly suggest that such persons apply for and hold Type 15 licenses to permit the flexibility needed to handle unforeseen special circumstances requiring licensure.</p> <p>"Customs broker" means every person who is authorized to act as agent or broker for a person licensed as an importer of for a person whose place of business is without the State, in regard to the importing of alcoholic beverages into the State in United States Internal Revenue bond or in United States Customs bond. (Section 23019). The principal function of a customs broker is handling the paperwork and paying the duty on behalf of his principals on imported merchandise.</p>
16	<p>WINE BROKER - A wine broker is an independent contractor who acts as the agent in the sale of wine products. Typically, wine broker's services are contracted by smaller wineries and wholesalers who cannot maintain their own in-house marketing representatives. A wine broker means every person, other than a salesman who is regularly employed by a licensee, who engages as an agent in the sale or purchase of wine for or on behalf of another or others for a fee or commission (Section 23020).</p>
17	<p>BEER AND WINE WHOLESALER - The following pertains to beer and wine wholesalers generally. This permits incidental sales to other supplier-type licensees. However, to qualify as a bona fide wholesaler, a licensee <u>must</u> sell to retailers generally (Section 23779).</p>
18	<p>DISTILLED SPIRITS WHOLESALER - The following pertains to distilled spirits wholesalers generally. However, specific mention will be made of certain "grandfather" privileges with regard to tied-house situations and in regard to sales of merchandise other than alcoholic beverages. "Wholesale sale" means a sale of distilled spirits to any licensee for the purpose of resale (Section 23027). This permits incidental sales to other supplier-type licensees. However, to qualify as a bona fide wholesaler, a licensee <u>must</u> sell to retailers generally (Section 23779, Rule 28).</p>
19	<p>INDUSTRIAL ALCOHOL DEALER - An industrial alcohol dealer sells alcohol for use in the trades, professions, and industries, but not for beverage use. He/she may sell to non-licensees only if they have a use permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB). Section 23022 defines an industrial alcohol dealer as one who sells alcohol or distilled spirits in packages of more than one gallon for use in the trades, professions, or industries, but not for beverage use. Section 23380 authorizes a dealer to sell undenatured ethyl alcohol in packages of more than one gallon for use in the trades, professions, or industries and not for beverage consumption. It also authorizes the importation and exportation of undenatured ethyl alcohol. Undenatured ethyl alcohol is alcohol that is fit for beverage purposes as differentiated from denature alcohol which is not fit for beverage purposes.</p>
22	<p>WINE BLENDER - The following pertains to new wine blender's licenses issued on and after February 3, 1968. A wine blender is a person authorized to operate a bonded wine cellar pursuant to a Federal Basic Permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB) who does not have facilities or equipment for the conversion of fruit into wine and does not engage in the production of wine (Section 23013.5). Wine must be made from the fermentation of agricultural products to which may be added brandy which is distilled from the same agricultural product from which the wine is made. No other type of distilled spirits may be used to fortify wine. No more than 15% added flavoring or blending material may be added (Section 23007). A wine blender is not required to engage in blending, processing, or bottling wine. He/she may elect to operate only a warehouse facility for the storage of non-tax paid ("in-bond") wine. This activity requires a Bonded Wine Cellar permit from TTB in addition to the wine blender license (Section 23770). Normally, the application fee for a wine blender license varies according to the total wine gallonage blended; however, an applicant who intends to operate only a bonded warehouse should pay the minimum fee.</p>

LICENSE TYPE	DESCRIPTION
23	<p>SMALL BEER MANUFACTURER - (Less than 60,000 barrels per year) The privileges and limitations for this type of license are the same as for other beer manufacturers . The only difference is the license fees. (See also Type 1 - Beer Manufacturer.) This license formerly related only to Steam beer. "Steam" beer is made by fermentation at cellar temperature rather than near freezing as is the case with other beers. It is made using only one type of malt--malted barley. It contains no corn, rice or other cereal grains as regular beers normally do. The method of carbonation is entirely natural and involves a process known as <u>Krausening</u>. This process requires taking beer which has been completely fermented and adding to it beer which is still fermenting. This causes a second fermentation to occur. The Krausening process in beer corresponds closely to the "bulk process" in making some types of sparkling wines. The most common users of this license are operators of micro-breweries and brewpubs. These designations are not to be construed as legal definitions. Their use below is only for descriptive purposes.</p> <p>"<u>Micro-brewery</u>": A small-scale brewery operation that generally produces approximately 15,000 barrels a year. Its beer products are primarily intended for local and/or regional consumption. Typically, these operations are solely dedicated to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.</p> <p>"<u>Brewpub</u>": Typically, a very small brewery with a restaurant where the beer it produces is sold in draft form exclusively at its own premises. This operation often sells other supplier's bottled beer, including other hand-crafted or micro-brewed beers as well as wine to patrons for consumption on its premises. See "Special Note" below.</p> <p><u>Special Note:</u> A brewpub-restaurant (Type 75) license, authorized under Section 23396.3, has a limited brewing privilege and may sometimes be referred to as "brewpub." However, the Type 75 is an <u>on-sale retail</u> license with significant differences/limitations in license privileges from those of a true "beer manufacturer" (either Type 01 or Type 23).</p>
24	<p>DISTILLED SPIRITS RECTIFIER'S GENERAL - A distilled spirits rectifier's general license is similar to a rectifier's license except that a distilled spirits rectifier's general licensee may <u>not</u> rectify wine or sell distilled spirits to retailers. A distilled spirits rectifier's general license authorizes the person to whom issued to cut, blend, rectify, mix, flavor, and color distilled spirits, and whether so cut, blended, mixed, flavored, or colored by him or any other person, to package, label, export, and sell the distilled spirits to distilled spirits manufacturers, distilled spirits manufacturer's agents, distilled spirits wholesalers, distilled spirits general importers, rectifiers, and distilled spirits general rectifiers (Section 23368.1).</p>
27	<p>CALIFORNIA WINEGROWER'S AGENT - A California winegrower's agent acts as the sole representative for a California winegrower or brandy manufacturer (Section 23373.2). This license authorizes the holder to possess wine and brandy produced in this State in public and private warehouses; to sell only to wholesalers for his/her own account or to solicit and make sales of wine or brandy made in California only to wholesalers for his/her principal, and to invoice and collect payments for orders solicited by him/her (Section 23373). This license does not authorize the holder to represent an out-of-state winegrower or brandy manufacturer.</p>
29	<p>WINE GRAPE GROWER'S STORAGE - This license was authorized by legislation in 1982 to enable wine grape growers to more effectively deal with unpredictable market conditions that periodically caused an oversupply of grapes. Subsequent legislation in 1985 expanded the number of licensees to whom a wine grape grower could sell wine. A wine grape grower's storage license authorizes the holder to store bulk wine, made from grapes produced by the holder, on the premises of a licensed winegrower and to sell that wine, within this State to winegrowers, distilled spirits manufacturers, brandy manufacturers, wine blenders, and vinegar producers. (Section 23358.3).</p>

DEFINITIONS

Beer - "Beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer but does not include sake, known as Japanese rice wine. (Section 23006 Business and Professions Code)

Brandy - "Brandy" means a liquor which is obtained from the distillation of wine or a fermented mash of fruit. (London, R., & London, A. [1953]. In Cocktails and snacks [pp. 11-20], Cleveland, OH: World Pub. Co.)

Wine - "Wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified wine products and by whatever name and which does not contain more than 15 percent added flavoring, coloring, and blending material and which contains not more than 24 percent of alcohol by volume, and includes vermouth and sake, known as Japanese rice wine. . . . (Section 23007 Business and Professions Code)

Distilled Spirits - (Section 23005) "Distilled spirits" means an alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof. (Section 23005 Business and Professions Code)

Importer - "Importer" means:

- (a) Any consignee of alcoholic beverages brought into the State from without this State, when the alcoholic beverages are for delivery or use within this State.
- (b) Any person, except a public warehouse licensed under this division, to whom delivery is first made in this State of alcoholic beverages brought into this State from without this State for delivery or use within this State.
- (c) Any person, licensed as an importer, selling alcoholic beverages to nonlicensees within an area over which the United States Government exercises jurisdiction, when delivery of the alcoholic beverages is made to the nonlicensees by a common carrier transporting the alcoholic beverages from a point outside this State.
- (d) Any person bringing alcoholic beverages into this State from without this State which are not consigned to any person and which are for delivery or use within this State.

A person licensed as a customs broker who is acting as an agent for a licensed importer or for another person whose place of business is without the State shall not be deemed to be the importer of alcoholic beverages consigned in United States internal revenue bond or in United States customs bond to the licensed customs broker. (Section 23017 Business and Professions Code)

Wholesale Sale - "Wholesale sale" or "sale at wholesale" means a sale to any licensee for purposes of resale. (Section 23027 Business and Professions Code)

Answer to Question 9 of Use Permit Application

Purpose of Application:

We have lived in Novato for the past 8 years and wish to operate an extension of our family wine making business (Mantra Wines) that we have owned/operated in Healdsburg since 2000. We are licensed by California Alcoholic Beverage Control (ABC) as a Winegrower with a type 02 license (the same as other wineries) that allows us both on and off-site wine sales at our winery and also at a satellite location - in this case we have chosen Novato since this is our community and our home.

Our vision for 881 Grant Ave. is to establish a comfortable place for people to enjoy artisan wines that are hand crafted and served by a Novato family owned business. We also intend to use this venue to showcase and support other local talent such as artists that will hang their art on our walls, musicians, authors etc.

The Winegrower 02 license allows us to serve only the wines that we make so there will be no beer, no liquor and no kitchen. We make wines from various appellations such as Alexander Valley, Dry Creek Valley, Sonoma County, Napa and soon to offer Marin County wines as well. With this sort of diversity locals can choose to stay in Novato and spend their money in our community instead of traveling north.

We have held an ABC license for many years without a single incident and we are in good standing with all state and government agencies. Over 16 years we have become very familiar with serving and selling wine to the public and any employees will be trained extensively on the proper handling and service.

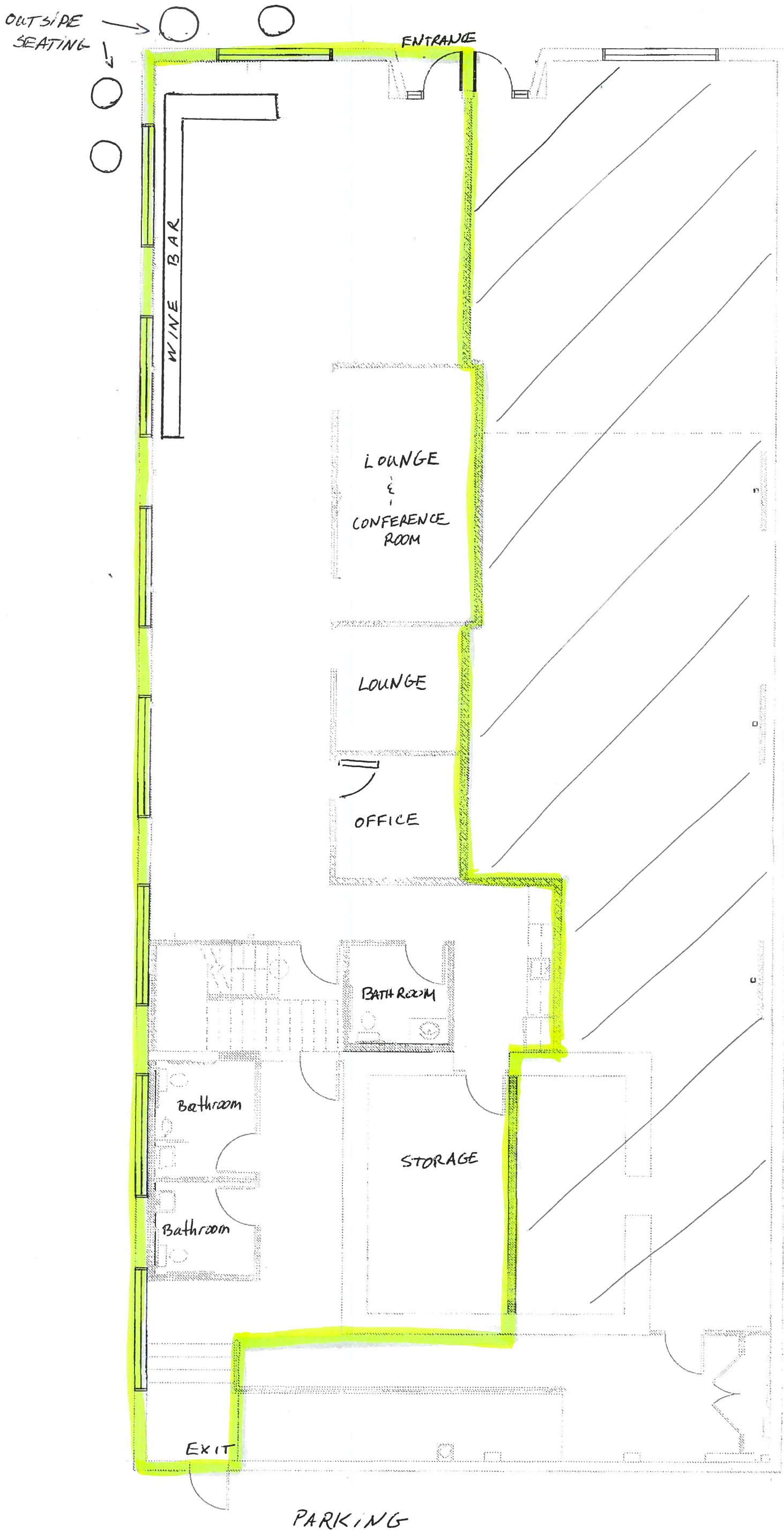
Lastly, we are active and responsible members of the community - I served as a Den Leader for Cub Scouts for 5 years and Committee Chair for 2 years. We have participated in numerous activities that support our local community and we intend to increase those efforts through this venue.

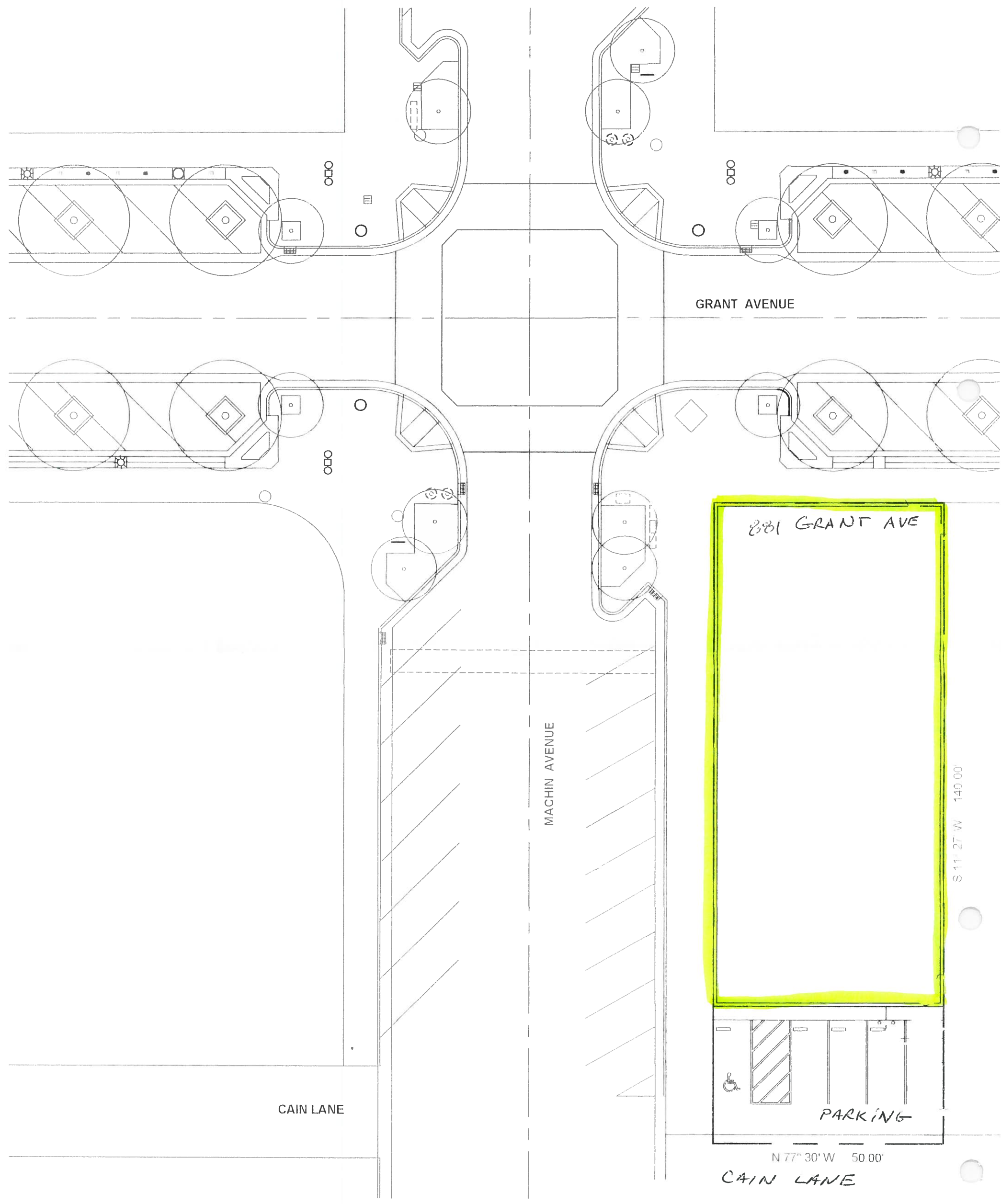
Statement of Use for Mantra Wine Tasting Room

1. Complete application: See attached
2. Site Plan: See attached
3. Floor plan: See attached
4. This Use Permit is for a Wine Tasting Room.
 - a. There will be 1 to 2 employees and the amount of customers are to be determined by the fire department.
 - b. Traffic will primarily be automobile, on foot, by bicycle and train.
 - c. Hours of operation will be: Monday and Tuesday by appointment only. Wednesday and Thursday 11am to 8pm, Friday and Saturday from 11am to 10pm, Sunday 12pm to 8pm.
 - d. Only wine produced by us will be available on-sale and off-sale due to the special wine permit that we carry with the ABC. We hold a "Winegrower 02" license from the ABC.
 - e. If allowable by the city, outdoor activities may include seating at benches or chairs/tables along the perimeter of the building.
 - f. No odors, dust or glare. We may occasionally have live music and special events such as fundraisers, book readings and art exhibits that may be catered. No food will be prepared.
 - g. There will be no hazardous materials
5. The lease requires the tenant to abide by all local, state, and federal laws and regulations.
6. The last use at this location was for retail sales of furniture for kids and teens that ceased operations in November of 2016.
7. N/A
8. TBD

FLOOR PLAN FOR
881 GRANT AVE
MANTRA WINE
TASTING ROOM
1/8" = 1'-0"

N ↑





1 SITE PLAN 881 GRANT AVE. MANTRA WINE TASTING ROOM

A1.1 1" = 20'-0"

N ↑