



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: April 13, 2011

APPLICATION: **CONDITIONAL USE PERMIT NO. UP11-0004**

**APPLICATION
SUMMARY:**

A request to locate an internet-focused, alcoholic beverage outlet with onsite retail within an existing 4,974 square foot tenant space.

LOCATION:

1639 S. Main Street (APN: 086-21-073)

APPLICANT:

Rekhi Bros., Inc., 30 Stein Am Rhein Ct. Unit J&K, Redwood City, CA 94036

OWNER:

Brandy Krechel with S. B. Tech Center, LLC, 1601 S Main St # 1759 Milpitas, CA 95035

RECOMMENDATION:

Staff recommends that the Planning Commission: Adopt Resolution No. 11-017 subject to the attached conditions of approval.

PROJECT DATA:

General Plan/

Zoning Designation:

Manufacturing and Warehousing/ Industrial Park with Site and Architectural Review Overlay District (MP-S)

Specific Plans:

Midtown Specific Plan

CEQA Determination:

Categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities of the California Environmental Quality Act (CEQA).

PLANNER:

Tiffany Brown, Junior Planner

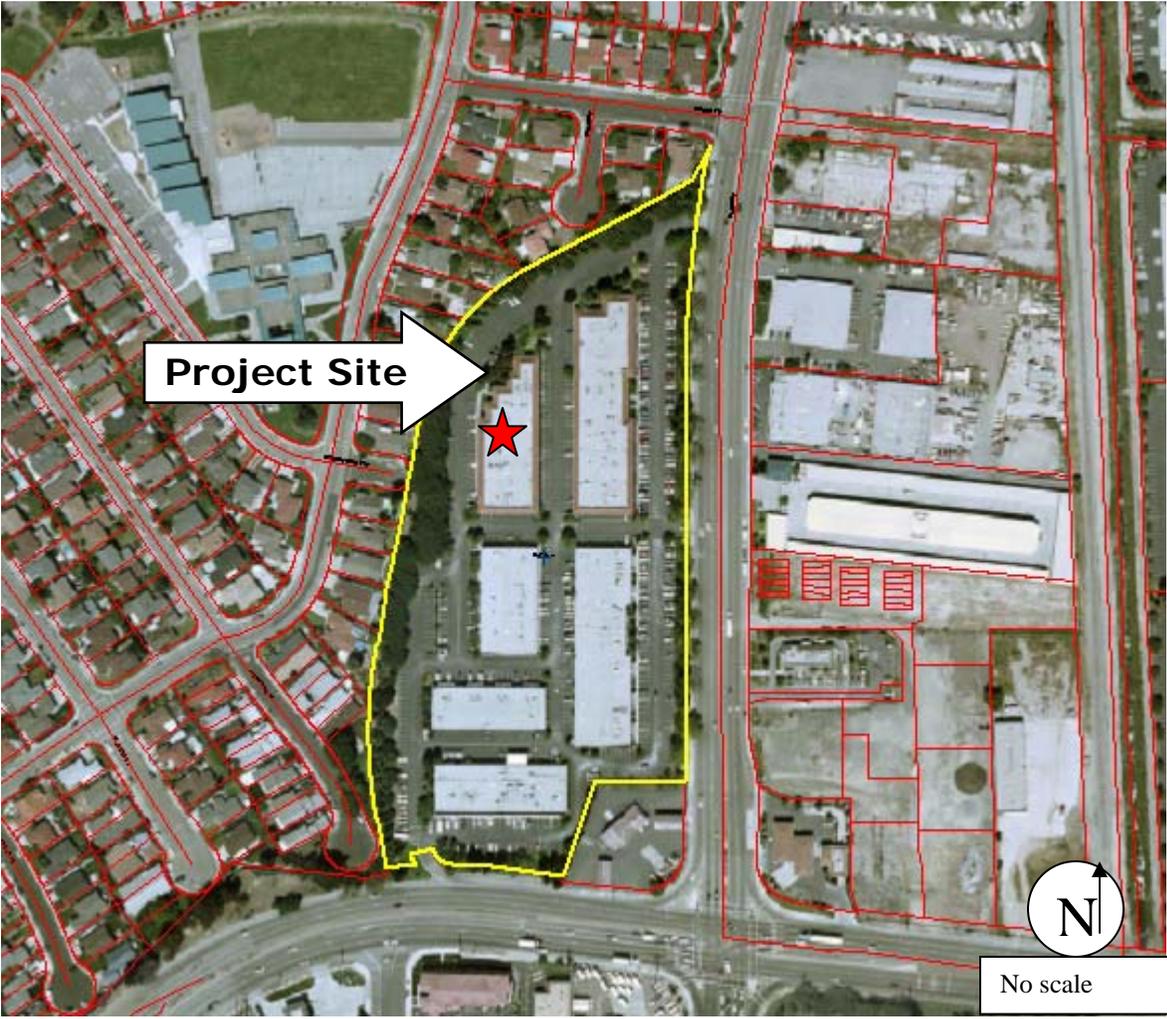
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ATTACHMENTS:

- A. Resolution No. 11-017
- B. Site Plans
- C. Letter from Applicant

LOCATION MAP



BACKGROUND

On February 28, 2011, Tony Rekhi with Rekhi Bros., Inc. submitted an application to allow for an internet sales-focused alcoholic beverage outlet with an ancillary onsite wine and spirits retail located at 1639 S. Main Street. This application originally included an onsite wine tasting room, and was advertised in accordance with the Public Hearing Development Review Process Section XI-10-64. However, as of April 5, 2011, the applicant has withdrawn the request for the onsite tasting room and wishes to proceed with his application for the internet sales-focused alcoholic beverage outlet with ancillary onsite wine and spirits retail. This application is submitted pursuant to Section 10-7.02 (C) (“Other Uses”) and requests that the Planning Commission determine that the use is similar to certain conditionally permitted uses listed in the Industrial Use Regulations section of the Milpitas Zoning Code and should therefore be reviewed in accordance with the procedure prescribed in Title XI, Chapter 10, Section 57.04 for Conditional Use Permits.

PROJECT DESCRIPTION

The property is zoned Industrial Park (MP) and is within the Midtown Specific Plan. The abutting properties include Single Family Residential (R1-6) to the north and west, Multi-Family High Density (R3) to the east, and Milpitas border with the City of San Jose to the south.

The project site is an 11.17 acre parcel known as the South Bay Tech Center, with four 1-story multi-tenant buildings and two 2-story multi-tenant buildings which were approved and built in 1988. The proposed project is locating on the first floor of the northwest 2-story building. A vicinity map of the subject site location is included on the previous page. The tenant space is 4,974 square feet which entails a warehouse for inventory storage purposes and an ancillary display area for the sale of all types of alcoholic beverages such as wines and spirits, three office areas, and a reception area. If the project is approved, the applicant will be required to acquire an alcoholic beverage Type 21 license issues by the Alcoholic Beverage Control (ABC) Department which allows for off-site sale of all types of alcohol. Staff consulted with ABC and determined that if approved, the census tract will remain within the thresholds for the number of off-sale licenses. Therefore, findings for public convenience and necessary are not necessary.

The business, also known as WineGlobe, proposes to stock and sell rare wines and spirits from around the world and to also sell gift baskets. The majority of the retail sales will be through the internet and require shipping of products to offsite customers. WineGlobe also requests zoning approval of onsite retail sales (for full consumption offsite). The proposed hours of operation will be from 8:00a.m. until 5:00p.m. (For more information on the business see the applicant’s letter, Attachment C of this report.)

Parking

The South Bay Tech Center has a total of six buildings and a parking ratio of 1 parking space per every 300 square feet requiring the site to have 413 parking spaces. The Center provides 612 parking spaces, leaving a surplus of 199 spaces. Per the parking ratio, the proposed tenant space is designated 17 parking spaces and the proposed use for retail with warehouse requires a total of 13 parking spaces per Table 53.09-1 for Number of Parking Spaces Required within the Zoning Ordinance.

Table 1
Parking Calculations

	Square Feet	Use	Parking Ratio Ordinance Section 53.23	Total Spaces
Existing Tenant Space	4,974	R&D	1 parking space per 300 square feet $4,974 / 300 = 17$	17 designated
WineGlobe	≈ 2,000	Retail	1 parking space per 200 square feet $2,000 / 200 = 10$	10 + 2 + 1 = 13 spaces required
	≈ 800	Office	1 parking space per 350 square feet $800 / 350 = 2$	
	≈ 2,174	Warehousing	1 parking space per 1,500 square feet $2,174 / 1,500 = 1$	

In summary, the proposed use within the proposed tenant space meets the parking requirements.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>2.a-I-4: Publicize the position of Milpitas as a place to carry on compatible industrial and commercial activities with special emphasis directed toward the advantages of the City’s location to both industrial and commercial uses.</i>	Consistent.
<i>2.a-I-7: Provide opportunities to expand employment, participate in partnerships with local businesses to facilitate communication, and promote business retention.</i>	Consistent.

The proposed use for an alcoholic beverage outlet is consistent with the General Plan Policies 2.a-I-4 and 2.a-I-7 in that WineGlobe provides the opportunity to learn about wine and spirits from around the world and can hold corporate events for businesses and gift services which publicizes Milpitas as a place to carry on compatible industrial and commercial activities and participate in partnerships with local businesses to facilitate communication and promote business retention.

Zoning Ordinance

An internet sales-focused retail use with onsite retail requires special Planning Commission approvals under Section 10-7.02 C (Other Uses) of the Milpitas Zoning Code in order to be performed in the Industrial Zone.

Specifically, the application may be approved only if the Planning Commission finds that: (a) the proposed use is similar enough in nature to named, permitted uses in the Industrial Zone Use tables of the Milpitas Zoning Code that it should be allowed at the proposed site and (b) the proposed use is not objectionable to the general welfare and complies with the analogous use permitting requirements.

In this case, WineGlobe’s application is similar to one use in the Milpitas Zoning Code that is conditionally allowed in the Manufacturing and Warehousing/ Industrial Park with Site and Architectural Review Overlay District (MP-S)—retail stores. However, such activities may only be allowed, if at all, by Conditional Use Permit to ensure that the proposed use is appropriate at the requested location. In this case, the proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor the public health, safety, and general welfare:

- a. The proposed use is consistent with the Milpitas General Plan (As noted on the previous page under General Plan).
- b. The proposed use is compatible with and consistent with permitted industrial zoning uses. The onsite storage and internet-focused advertising and offsite shipping of wine products is consistent with the warehousing and shipping distribution activities that are permitted as a matter of right in the Industrial Zoning District. Such shipping and distribution activities would make full use of the transportation and receiving facilities that already exist in the district.
- c. The proposed onsite retail sale is consistent with conditionally permitted uses when found necessary to serve and appropriate to the industrial area. WineGlobe provides a gift service for corporate purposes and will be a compatible use with the existing Milpitas corporate businesses. Furthermore, the project meets the parking requirements and the project proposal does not include exterior modifications that may take away from the industrial character of the business park.

Also, this use is compatible with the Industrial Park zoning district in that the use provides a new amenity to neighboring business such as gifting services and/or hosted events. This business will operate the same business hours as other businesses within the Industrial Park zoning district and will not be considered detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

Midtown Specific Plan

The table below outlines the project’s consistency with applicable Midtown Specific Plan Goals and Guidelines:

Table 3
Midtown Specific Plan Consistency

Goal	Consistency Finding
#1: <i>Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown Area</i>	Consistent.

The proposal conforms to the Midtown Goal by encouraging a compatible mixture of uses such as retail and warehousing to the existing business park.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities. The project is to locate a new use within the existing building.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The proposed use is consistent with the General Plan and meets the intent of the Zoning Ordinance and Midtown Specific Plan. WineGlobe is a unique business to Milpitas and is a compatible use to the business park.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. approving Conditional Use Permit No. UP11-0004, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 11-017
- B. Site Plans
- C. Letter from Applicant

RESOLUTION NO. 11-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0004, WINEGLOBE, TO ALLOW AN INTERNET FOCUSED RETAIL ALCOHOLIC BEVERAGE OUTLET WITH ONSITE RETAIL SELLING A FULL RANGE OF ALCOHOL LOCATED AT 1639 S MAIN STREET.

WHEREAS, on February 28, 2011, an application was submitted by Tony Rekhi with Rekhi Bros., Inc., 30 Stein Am Rhein Ct. Unit J&K, Redwood City, CA 94036, to locate an alcoholic beverage outlet with wine tasting room within an existing 4,974 square foot tenant space. The property is located within the Industrial Park Zoning district (APN: 086-21-073); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt.

WHEREAS, on April 13, 2011, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is categorically exempt from further environmental review pursuant to Section 15301 of the CEQA Guidelines for Existing Facilities. The project is to locate a new use within the existing building and will require little or no changes to the structure.

Section 3: The proposed use for an alcoholic beverage outlet is consistent with the General Plan Policies 2.a-I-4 and 2.a-I-7 in that WineGlobe provides the opportunity to learn about wine and spirits from around the world and gift services which publicize Milpitas as a place to carry on compatible industrial and commercial activities and participate in partnerships with local businesses to facilitate communication and promote business retention.

Section 4: The proposed use at the proposed location is consistent with the intent of the Milpitas Zoning Ordinance in that the use is found to be compatible with the Industrial Park zoning district in that the use provides a new amenity to neighboring business such as gifting services and/or hosted events. This business will operate the same business hours as other businesses within the Industrial Park zoning district and will not be considered detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

Section 5: The proposed project at the proposed location is consistent with the Midtown Specific Plan Goal#1 in that the proposal encourages the compatible mixture of uses such as retail and warehousing to the existing business park.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0004, WineGlobe, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 13, 2011

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 13, 2011, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

EXHIBIT 1**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP11-0004**

A request to locate an internet focused alcoholic beverage outlet with onsite retail within an existing 4,974 square foot tenant space.
1639 S. Main Street (APN: 086-21-073)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on **April 13, 2011**, in accordance with these Conditions of Approval.

Any deviation from the approved site plan and floor plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

UP11-0004 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **UP11-0004** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
 4. This Conditional Use Permit No UP11-0004 permits only a primarily internet, mail, and/or telephone order-based alcoholic beverage and associated retail item outlet with only incidental on-site, walkup retail sales.

The permitted hours of operation for walk-up, on-site customers of the business shall be from 8:00a.m. until 5:00 p.m. (P)

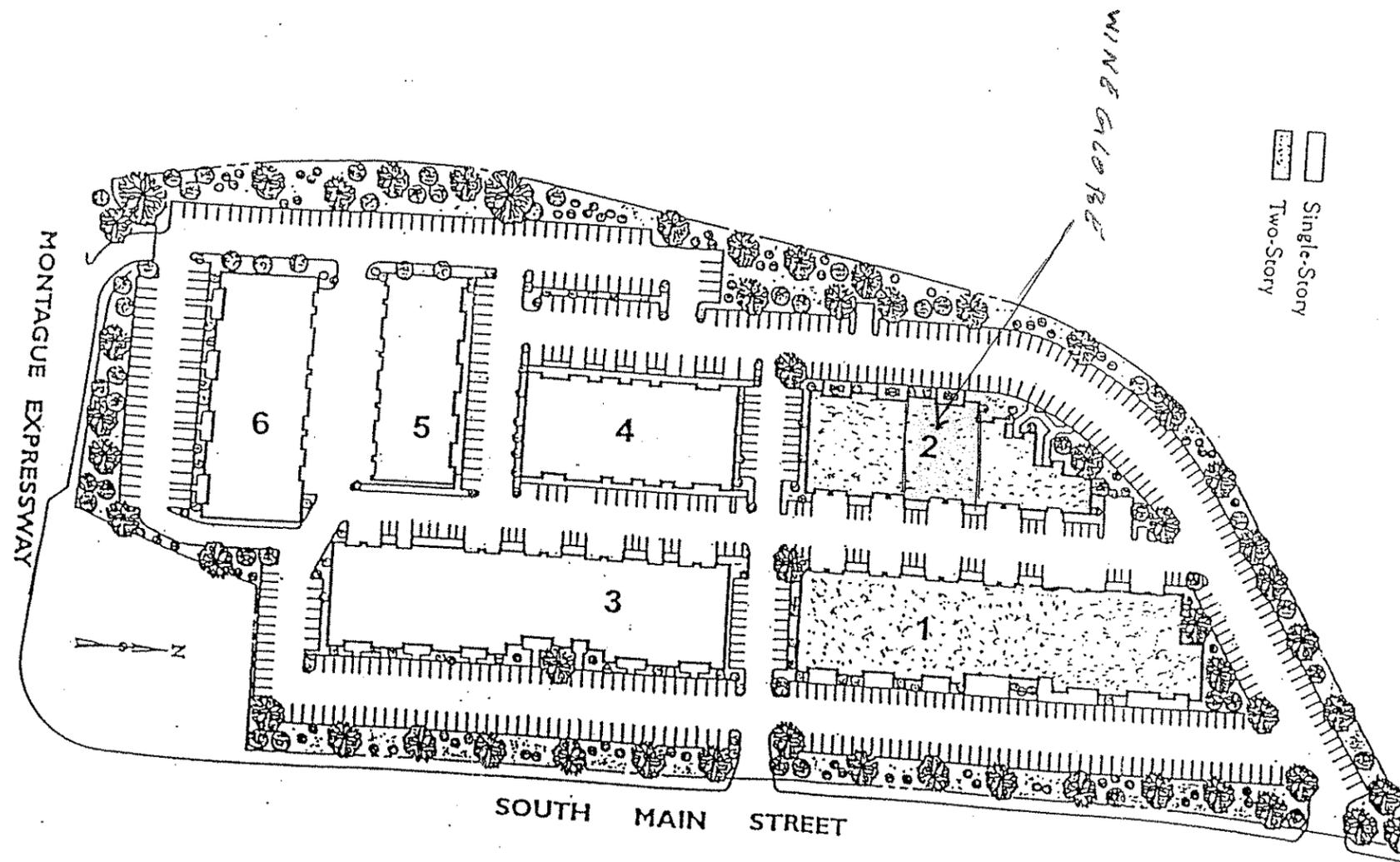
5. This conditional use permit shall expire if the approved use ceases operation for continuous period of one (1) year. **(P)**

(P) = Planning

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CITY OF MILPIT.
PLANNING DIVISION

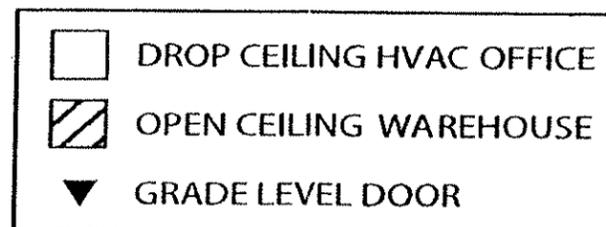
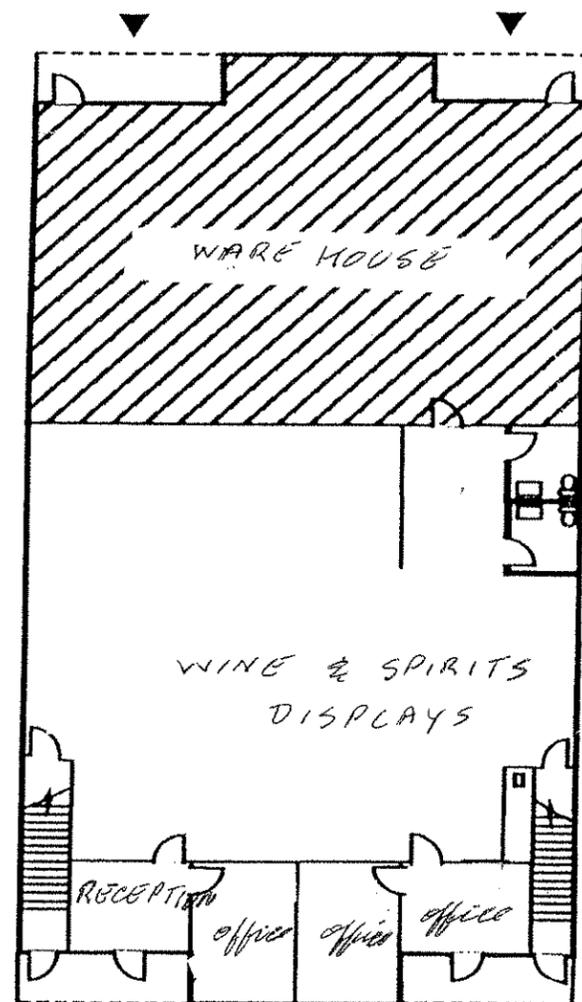


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CITY OF
PLANNING

1639-1641 ±4,974 SF



ATTACHMENT C.



City of Milpitas
Planning department

April 06, 2011

WINEGLOBE.COM

Dear sir

We have applied for General off sale license #21 with dept of Alcoholic Beverage Control

Please refer to our application for CUP at 1639 S Main Street, Milpitas CA 95035.

Wineglobe proposes to stock and sell rare hard to find wines from all over world from its store and also through internet to all over USA where wines can be legally shipped. Wineglobe is a leader in custom wine gift baskets and corporate gifts

Wineglobe has been selling Super premium wines and spirits from various locations in San Francisco bay area since 1989. At one time or other we have had stores at San Mateo, Milbrae, Cupertino and Redwood City.

Wineglobe specializes in rare, old aged hard to find high end premium wines and spirits, from all over the world. Wineglobe was perhaps the first wine site, set up its website for internet sales of wines in 1995, and has been judged amongst the top 10 wine sites by Wall Street journal and GQ magazines

Regards and best wishes

A handwritten signature in black ink, appearing to read "Tony Rekhi", is written over a horizontal line.

Tony Rekhi
President