Submitted by:

Chair of the Assembly at

Prepared by:

the Request of the Mayor Planning Department

For reading

May 13, 2003

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APPROVED Date: 5-13-63

CLERK'S OFFICE

Anchorage, Alaska AR 2003-111

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING A CONDITIONAL USE FOR AN ALCOHOLIC BEVERAGES CONDITIONAL USE FOR A RESTAURANT/EATING PLACE ALCOHOL LICENSE IN THE B-3 AND B-1A DISTRICTS FOR THE BARBECUE PIT RESTAURANT, PER AMC 21.40.140D.9; 21.40.180D.8; 21.50.020 AND 21.50.160, LOCATED ON BARNETT SUBDIVISION, LOTS 4 AND 5; GENERALLY LOCATED AT 1160 WEST DIMOND BOULEVARD, ANCHORAGE.

(The Barbecue Pit)(Case 2003-059)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The conditional use permit for an Alcoholic Beverages Conditional Use for a Restaurant/Eating Place license in the B-3 and B-1A Districts for The Barbecue Pit, per AMC 21.40.140D.9; 21.40.180D.8; 21.50.020 and 21.50.160, located on Barnett Subdivision, Lots 4 and 5; generally located at 1160 West Dimond Boulevard, Anchorage; meets the applicable provisions of AMC 21.40.140D.9; 21.40.180D.8; 21.50,020 and 21.50.160

Section 2. The conditional use permit for an Alcoholic Beverages Conditional Use is approved subject to the following conditions:

- 1 A Notice of Zoning Action shall be filed with the District Recorders Office within 120 days of the Assembly's approval of the final conditional use approval for a restaurant/eating place license in the B-3 and B-1A Districts.
- 2. All uses shall conform to the plans and narrative submitted.
- 3. The use of the property by any person for the permitted purposes shall comply with all current and future Federal, State and local laws and regulations including, but not limited to, laws and regulations pertaining to the sale, dispensing, service and consumption of alcoholic beverages and the storage, preparation, sale, service and consumption of food. The owner of the property, the licensee under the Alcoholic Beverage Control license and their officers, agents and employees shall not knowingly permit or negligently fail to prevent the occurrence of illegal activity on the property.

- 4. The applicant shall demonstrate compliance with a Liquor Server Awareness Training Program approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to the program for Techniques in Alcohol Management (T.A.M.).
- 5. A copy of the conditions imposed by the Assembly in connection with this conditional use approval shall be maintained on the premises involved at a location visible to the public.
- 6. Alcohol sales shall constitute no more than 10% of total gross receipts.
- 7. There shall be no alcohol advertisement viewable externally.
- 8. The size of the Alcohol Beverage Conditional Use shall be limited to an approximate 3,400 square feet gross area with alcohol sales in the public seating area limited to 3,400 square feet with 55 non-fixed seats.
- 9. The approved conditional use is reflected on the site plans and materials submitted with this application.

<u>Section 3</u>. Failure to comply with the conditions of this conditional use permit shall constitute grounds for its modification or revocation.

<u>Section 4.</u> This resolution shall become effective immediately upon passage and approval by the Anchorage Assembly.

	PASSED AN	D APPROVED by the Anchorage Assembly this	s 13th	e de la companya de l
day of	May	2003.		

ATTEST:

Chair

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Smdr S. Vim Municipal Clerk

> (2003-059) (012-301-02, 012-301-03)



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 395-2003

Meeting Date: May 13, 2003

From: Mayor

Subject: AR 2003- 111 Alcoholic Beverages Conditional Use for a

Restaurant/Eating Place License in the B-3 and B-1A Districts for The Barbecue Pit per AMC 21.40.140D.9; 21.40.180D.8; 21.50.020 and

21.50.160.

The Barbecue Pit has made application for a conditional use permit for an alcoholic beverages conditional use in the R-4 District for a beverage dispensary-tourism license per AMC 21.40.060 B.4.

The existing restaurant is approximately 3,400 square feet (SF) in size, and has 55 non-fixed seats, located at 1160 West Dimond Boulevard. The alcohol use will occupy this existing area. Included with this application is a copy of a Liquor License application, which has been filed with the ABC Board, for a Restaurant/Eating Place license.

It is estimated that the sale of alcoholic beverages will represents 10% of the business compared to 90% food sales. The restaurant will normally operate seven days a week with hours of operation from 11:00 AM to 9:00 PM. All employees will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program (2). The restaurant has been in business for 18 years, according to the petitioner, and the application states that the use will conform to all standards. There will be no entertainment defined as "indecent material", or "adult entertainment," no happy hours, games or contests that include consumption of alcoholic beverages, and no solicitation or encouragement of alcoholic beverage consumption. The addition of the license to this use is not anticipated to cause any changes necessary to the premises, and the traffic, pedestrian circulation and safety will remain the same. No liquor will be served to inebriated persons, and alcoholic beverages are intended to be served to customers ordering food. The owner/manager will patrol the parking lot and the surrounding property every two hours for safety and security.

On April 8, 2003, 113 public hearing notices were mailed. At the time this report was written, the Taku-Campbell Community Council had not commented on the conditional use, nor had the adjacent Bayshore-Klatt Community Council. One comment has been received from the public, against granting the conditional use.

There are no known churches or schools within 200 feet of the restaurant.

AMC 21.50.160.B asks that a list of all alcohol licenses located within a minimum of 1,000 feet of the proposed conditional use be provided. There are no alcohol licenses located within 1,000 and 2,000 feet of the proposed conditional use. Within 3,000 feet, there are nine licenses, and two of those are Restaurant/Eating Place licenses. This Restaurant/Eating Place license would add the first Restaurant/ Eating Place license.

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There are no delinquent Personal Property Taxes and or Real Property Taxes owing. No comments were received from the Department of Health and Human Services or the Police Department at the time the report was prepared.

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This conditional use for alcoholic beverages in the B-3 and B-1A District for a Restaurant/Eating Place license generally meets the required standards of Title 21 and Title 10.

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The Administration has no objection to the request.

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Reviewed by:

Harry J. Kieling, Jr. Municipal Manager Reviewed by:

Michael J. Stott, Executive Director Office of Planning, Development

and Public Works

Respectfully submitted,

Prepared by:

George P. Wuerch

Mayor

Susan R. Fison, Director

Planning Department

PLANNING DEPARTMENT STAFF ANALYSIS CONDITIONAL USE - ALCOHOLIC BEVERAGE SALES

DATE: May 13, 2003

CASE NO.: 2003-059

APPLICANT: Ok Joo Hong, petitioner; Thomas Yoon, representative

REQUEST: An Alcoholic Beverages Conditional Use for a

Restaurant License in the B-3 and B-1A Zone Districts

for The Barbeque Pit per AMC 21.40.140D.9; 21.40.180D.8; 21.50.020 and 21.50.160.

LOCATION: Barnett Subdivision, Lots 4 and 5, generally located on

the south side of Dimond Boulevard, east of Minnesota

Drive.

STREET 1160 West Dimond Boulevard

ADDRESS:

COMMUNITY Taku/Campbell

COUNCIL:

TAX PARCEL: 012-301-02, 012-301-03/ Grid 2329

ATTACHMENTS 1. Location Map

2. Departmental Comments

3. Application

4. Posting Affidavit

5. Historical Information

RECOMMENDATION SUMMARY:

Approval with conditions

SITE:

Acres: 45,454 sq. ft (approximately 1.04 acres)

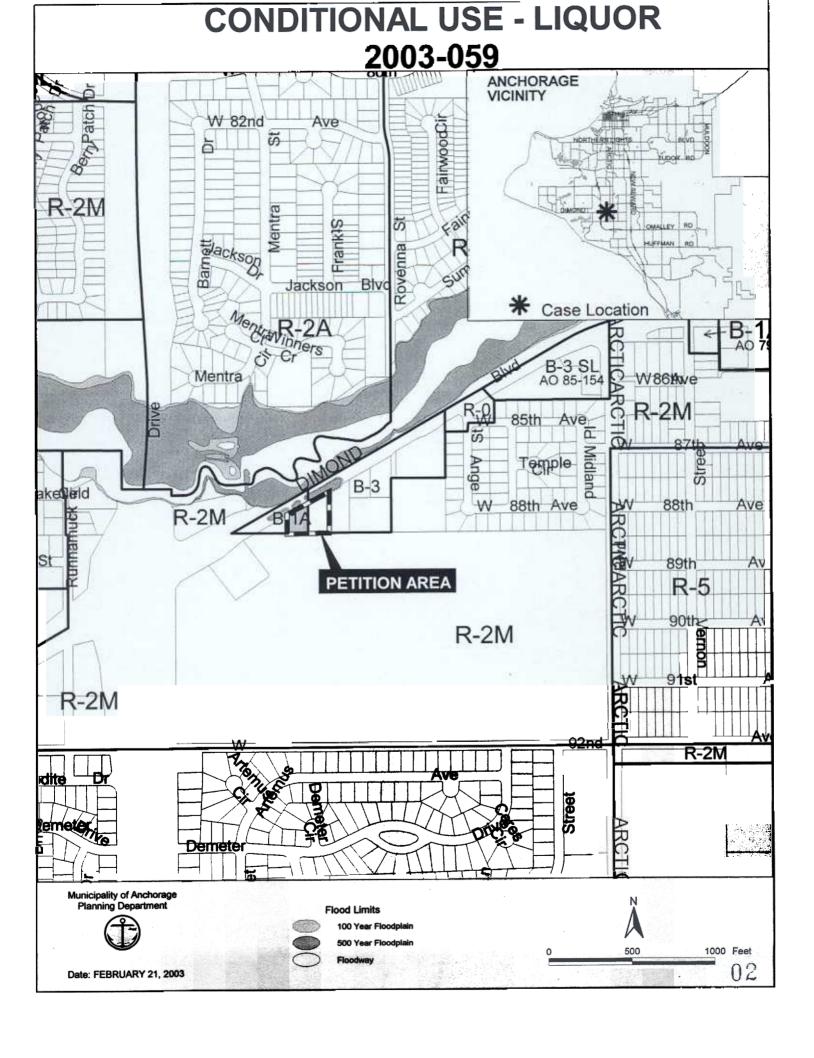
Vegetation: Commercial Landscaping

Zoning: B-3 and B-1A

Topography: Level

Existing Use: Restaurant

Soils: Public Water and Sewer Onsite



COMDITIONAL USE - LIQUOR 2003-059 Jackson Wakellolid PETITION AREA Dr Ave **Aphrodite** Demeter Municipality of Anchorage Planning Department 03 Date: FEBRUARY 21, 2003 Date of Aerial Photography: 2001

Planning Staff Analysis Case No. 2003-059 Page 2 of 10

COMPREHENSIVE PLAN

Classification:

N/A

Density:

Minimum 12 du/ac if developed as residential for the B-3

portion, minimum of 1 residential unit if developed

residential for the B-1A portion.

SURROUNDING AREA

NORTH

EAST B-3

Commercial

SOUTH WEST

Zoning:

R-2M/R-2A Campbell Creek R-2M Mobile Home B-1A Vacant/

Land Use:

Greenbelt/ Single Family Residential Park

Intersection of Dimond

Boulevard and Minnesota Drive/ Single

Family

SITE DESCRIPTION AND PROPOSAL:

The petition site is comprised of two lots at a combined size of approximately 1.04 acres, with the western lot zoned B-1A and the eastern lot zoned B-3. The site fronts onto Dimond Boulevard on the south side of the road, and is just to the east of the intersection with Minnesota Drive. The topography is level, and the site is presently developed with a restaurant called The Barbeque Pit.

The area surrounding the petition site is mostly residential, park area and major road intersections. To the north is Dimond Boulevard, with the Campbell Creek Greenbelt north of that, and single family development further north. On the south is a large mobile home park. To the west is a very small vacant B-1A zoned lot, with the large Minnesota Drive/Dimond Boulevard intersection further to the east. To the west is vacant commercial B-3 zoned lots, a retail/warehouse store (The Firehouse) and a car wash. The site has direct access from Dimond Boulevard, which is classified as a Class IIIA Major Arterial on the Official Streets and Highways Plan. To the north is Dimond Boulevard, with the Campbell Creek Greenbelt north of that, and single family development further north. On the south is a large mobile home park. To the west is a very small vacant B-1A zoned lot, with the large Minnesota Drive/Dimond Boulevard intersection further to the east. To the west is vacant commercial B-3 zoned lots, a retail/warehouse store (The Firehouse) and a car wash.

The petitioner is applying for a final conditional use for a Restaurant/Eating Place Conditional Use to allow "on premises" alcohol sales for its existing restaurant per AMC 21.40.140B.k; 21.40.180D.8; 21.50.020 and 21.50.160.

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The restaurant is approximately 3,400 square feet (SF) in size, and has 55 non-fixed seats.

Included with this application is a copy of a Liquor License application, which has been filed with the ABC Board, for a Restaurant/Eating Place license.

It is estimated that the sale of alcoholic beverages will represents 10% of the business compared to 90% food sales. The restaurant will normally operate 7days a week with hours of operation from 11 AM to 9 PM. All employees will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program (2). The restaurant has been in business for 18 years, according to the petitioner, and the application states that the use will conform to all standards. There will be no entertainment defined as "indecent material" or "adult entertainment," no happy hours, games or contests that include consumption of alcoholic beverages, and no solicitation or encouragement of alcoholic beverage consumption. The addition of the license to this use is not anticipated to cause any changes necessary to the premises, and the traffic, pedestrian circulation and safety will remain the same. No liquor will be served to inebriated persons, and alcoholic beverages are intended to be served to customers ordering food. The owner/manager will patrol the parking lot and the surrounding property every 2 hours for safety and security.

PUBLIC COMMENTS:

One hundred and thirteen (113) public hearing notices (PHNs) were mailed. At the time this report was written, one was returned, and was against granting the conditional use. At the time this report was prepared, no written comments were received from the Taku-Campbell Community Council, nor from the adjacent Bayshore-Klatt Community Council.

FINDINGS

A. Furthers the goals and policies of the Comprehensive Development Plan and conforms to the Comprehensive Development Plan in the manner required by Chapter 21.05.

The Anchorage 2020 Comprehensive Plan does not specifically address the sale of alcoholic beverages in the community. A strategy of the adopted Anchorage 2020, however, does call for the development of locational standards and criteria for retail sales/service of alcoholic beverages. To date, this strategy has not been developed.

Anchorage 2020 contains a generalized community vision which was complied using community survey results along with feedback from Community Councils. Out of this vision came the community interest in developing "a

Planning Staff Analysis Case No. 2003-059 Page 4 of 10

thriving, sustainable, broad-based economy supported by an efficient urban infrastructure (p. 37). Additionally, one of the Plans's stated economic development goals are "Business Support and Development: a quality of life and a financial climate that encourages businesses to start up, expand or relocate in Anchorage (p. 41).

TGI Fridays fits this economic vision as a new midtown restaurant which will offer a new dining experience in the area while creating new jobs. This is an existing business, and no other changes to the use are anticipated.

There is no designation on the Land Use Policy Map for the petition site in *Anchorage 2020*.

B. Conforms to the standards for that use in this title and regulations promulgated under this title.

This standard is met.

The B-1A (Local and Neighborhood Business) district zoning regulations allows alcoholic beverage sales through the conditional use permit process: AMC 21.40.140.D.9: Restaurants, tearooms, cafes, and other places involving the retail sale, dispensing or service of alcoholic beverages in accordance with section 21.50.160.

The B-3 (General Business) district zoning regulations allows alcoholic beverage sales through the conditional use permit process: AMC 21.40.180D.8: Liquor stores, restaurants, tearooms, cafes, private clubs or lodges, and other places serving food or beverages involving the retail sale, dispensing or service of alcoholic beverages in accordance with section 21.50.160.

C. Will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

This standard is met.

The petition property is the site of the existing restaurant. The only change planned is the addition of the Restaurant/Eating Place license. To the east is vacant commercial land and commercial uses. To the south is a mobile home park. To the north and west is the heavily traveled Dimond Boulevard and the Campbell Creek greenbelt.

Because of its location near the intersection of Dimond Boulevard and Minnesota Drive, it is readily available to the traveling public, both local Planning Staff Analysis Case No. 2003-059 Page 5 of 10

residents as well as out of state visitors. It is within walking distance of the residential developments to the south.

There are no known churches or schools within 200 feet of the restaurant. At the time this report was written, comments had not been received by the Department of Health and Human Services (DHHS).

AMC 21.50.160.B asks that a list of all alcohol licenses located within a minimum of 1,000 feet of the proposed conditional use be provided. There are no alcohol licenses located within 1,000 and 2,000 feet of the proposed conditional use. Approving this beverage dispensary license would add the first Restaurant/ Eating Place license.

- D. Will not have a permanent negative impact on the items listed below substantially greater than that anticipated from permitted development:
 - 1. Pedestrian and vehicular traffic circulation and safety.

This standard is met.

There is sufficient area on the subject lot on which the required parking spaces can be provided. No additional curb cuts off Dimond Boulevard are required. This is an existing restaurant that has been in this location for many years, and no changes are proposed to the existing pedestrian or vehicular circulation and safety. There were no safety issues on the petition site commented on by responding agencies.

2. The demand for and availability of public services and facilities.

This standard is met.

The addition of this license will not impact public services. Water and sewer are available on site. This is an existing, established restaurant, and the addition of the license is not expected to add any additional impacts to public services and facilities.

3. Noise, air, water, or other forms of environmental pollution.
This standard is met.

A Restaurant/Eating Place license will not cause any environmental pollution.

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4. The maintenance of compatible and efficient development patterns and land use intensities.

This standard is met.

The zoning, land use and the general area land use will not change as a result of this conditional use permit for a Restaurant/Eating Place license.

Standards Chapter 10.50 Alcoholic Beverages

In the exercise of its powers and under AS 04.11.480 and 15 AAC 104.145 to protest issue, renewal and transfer or alcoholic beverage licenses within the Municipality of Anchorage, the Assembly shall consider whether the proposed license meets each and every factor and standard set forth below

A. Concentration and land use. Whether transfer of location or issue of the requested license will negatively impact the community through an increase in the concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of AMC 21.50.020.

There are no other alcohol licenses within 1,000 and 2,000 feet of this application.

Within 3,000 feet there are 9 licenses: 2 beverage dispensary licenses, 2 restaurant/ eating place, and 5 package store licenses. There are 43 total licenses in the Taku/Campbell Community Council area.

The number of restaurant licenses is within population limits set by state statute. There are currently 12 restaurant licenses in the Taku/Campbell Community Council area. The estimated 1996 area population was 21,378, but this combined both the Taku/Campbell area with the Bayshore/Klatt area.

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B. Training. If application is made for issue, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a Liquor "Server Awareness Training Program approved by the State of Alaska alcoholic Beverage Control Board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this ordinance.

This standard is met.

The applicant states that all employees involved in the dispensing of alcoholic beverages will be trained in accordance with the T.A.M. training and hold the appropriate certificates. The application states that the number of employees to be trained is 2.

C. Operations procedures. If application is made for issue, renewal or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in Section 10.50.035 of this code.

This standard is met.

This conditional use application is for an alcoholic beverages conditional use in the B-1A and B-3 Districts for a Restaurant/Eating Place use for a 3,400 square foot existing restaurant building on Lots 4 and 5, Barnett Subdivision.

AMC 10.50.035 sets forth that persons seeking the issue or transfer of a license shall comply with restrictions regarding happy hours, games or contests involving the consumption of alcohol, public transportation, notice of penalties, availability of nonalcoholic drinks, compliance determination with techniques in alcohol management (T.A.M.), solicitation of purchase of alcoholic beverages for consumption by employees, and warning signs. The petitioner has stipulated in the application that they will abide by requirements of AMC 10.50.035.

D. Public safety. When application is made for the renewal or transfer of location or transfer of ownership of a beverage dispensary license restaurant or eating place license, or package store license, the Assembly shall consider whether the operator can demonstrate the ability to maintain order and prevent unlawful conduct in licensed premises. In determining the operator's demonstrated ability to

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maintain order and prevent unlawful conduct, the Assembly may consider police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection. For purposes of this section and Section 10.50.035 "licensed premises" shall include any adjacent area under the control or management of the licensee.

This standard appears to be met.

This is an existing restaurant use, with a constructed site including parking. At the time this report was written, comments had not been received from the Anchorage Police Department.

E. Payment of taxes and debts. When application is made for renewal of a license the assembly shall consider, pursuant to AS 4.11.330, whether the applicant is delinquent in payment of taxes owed to the Municipality. When application is made for transfer of ownership of a license the Assembly shall consider, pursuant to AS 4.11.360, whether the municipality has received either payment or adequate security, for the payment of any debts or taxes, including any estimated taxes for the current year, arising from the conduct of the licensed business. Adequate security for the payment of debts and taxes may be in the form of: 1) escrowed funds sufficient to pay the debts and taxes claimed and any escrow fees; 2) actual payment of debts and taxes claimed; or, 3) a guarantee agreement in accordance AMC 10.50.030. Any guarantee agreement shall be in writing, signed by the transferor, transferee and Municipality

This standard is met

There are no delinquent Personal Property Taxes & or Real Property Taxes owing at this time according to the Treasury Division.

F. Public health. If application is made for the renewal or transfer of location or transfer of ownership of a license, the Assembly shall consider whether the operator has engaged in a pattern of practices injurious to public health or safety such as providing alcohol to minors or intoxicated persons, committing serious violations of State law relevant to public health or safety, or other actions within the knowledge and control of the operator which place the public health or safety at risk. In determining if a pattern of practices injurious to public health or safety exists, the Assembly may consider criminal convictions, credible proof of illegal activity even

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if not prosecuted, police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection.

This is a new license at an existing restaurant.

At the time this report was written, comments had not been received from DHHS or the Anchorage Police Department showing any negative issues regarding public health or safety.

G. Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form. In order to determine whether applicants seeking issue, renewal or transfer of alcoholic beverage licenses have complied with the provisions of this chapter, applicants shall, at the request of the Assembly, submit to the municipal clerk such information as is required on a municipal form prepared by the municipal clerk known as the Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form. Upon request, operators shall also provide the municipal clerk with certificates from all current employees demonstrating that those employees have successfully completed a "Liquor Service Awareness Training Program" such as the program for techniques in alcohol management (T.A.M.) as approved by the State of Alaska Alcoholic Beverage Control Board.

This form was not requested of this applicant.

RECOMMENDATION:

This application for a conditional use for alcoholic beverages in the B-3 and B-1A Districts for a beverage dispensary license in a restaurant generally meets the required standards of Title 21.

If after a public hearing on the matter, the Anchorage Assembly finds that the required standards have been met, staff recommends the following conditions of approval:

- 1. A notice of Zoning Action shall be filed with the District Recorders Office within 120 days of the Assembly's approval of a final conditional use approval for a restaurant/eating place serving alcohol in the B-3 and B-1A Districts.
- 2. All uses shall conform to the undated plans and narrative submitted.

- 3. The use of the property by any person for the permitted purposes shall comply with all current and future federal, state and local laws and regulations including, but not limited to, laws and regulations pertaining to the sale, dispensing, service and consumption of alcoholic beverages and the storage, preparation, sale, service and consumption of food. The owner of the property, the licensee under the Alcoholic Beverage Control license and their officers, agents and employees shall not knowingly permit or negligently fail to prevent the occurrence of illegal activity on the property.
- 4. Prior to this conditional use becoming effective, the applicant shall demonstrate compliance with a Liquor Server Awareness Training Program approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to the program Techniques of Alcohol Management (T.A.M.).
- 5. A copy of the conditions imposed by the Assembly in connection with this conditional use approval shall be maintained on the premises involved at a location visible to the public.
- 6. Alcohol sales shall constitute no more than 10% of total gross receipts.
- 7. There shall be no alcohol advertisement viewable externally.
- The size of the Alcohol Beverage Conditional Use shall be limited to an approximate 3,400 square feet gross area with alcohol sales in the public seating area limited to 3,400 square feet with 55 non-fixed seats.
- 9. The approved conditional use is reflected on the site plans and materials submitted with this application.

Municipality of Anchorage MUNICIPAL CLERKS OFFICE Agenda Document Control Sheet

Ax 2003 - 11

1	SUBJECT OF AGENDA DOCUMENT		04/21/03					
	The Barbecue Pit Conditional Use for a	-	INDICATE DOCUMENTS ATTACHED					
	Alcoholic Beverage Conditional Use in	3	□AO ⊠AR ⊠ AM □AIM					
	and B-1A Districts for a Restaurant/Eating							
	Place license per AMC 21.40.140D.9;				2			
	21.40.180D.8; 21.50.020 and 21.50.160;	ed			2003			
	at Barnett Subdivision, Lots 4 and 5,					F 250		
	generally located at 1160 West Dimond					PR 23 5		
	Boulevard.					N P		
						R 23 D A		
		(Taku-Campbell Community Council) (Case 2003-						
	059) DEPARTMENT NAME			DIRECTOR'S NAME		î war		
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FULL TEXT OF DOCUMENT CAN BE OBTAINED AT MUNI CLERK S OFFICE