

CLERK'S OFFICE
APPROVED
Date: 9-31-03

Submitted by:

Chair of the Assembly at the
Request of the Mayor

Prepared by:

Planning Department

For reading

September 9, 2003

Anchorage, Alaska

AR 2003-261

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING A
CONDITIONAL USE FOR AN ALCOHOLIC BEVERAGES CONDITIONAL USE IN
THE B-3 DISTRICT FOR A NEW RESTAURANT OR EATING PLACE USE PER AMC
21.40.180 D.8; LOCATED ON LOT 1A, BLOCK 5, VANS SUBDIVISION; SITE
ADDRESS BEING 1201 E. DIMOND BOULEVARD; GENERALLY LOCATED AT THE
NORTHEAST CORNER OF BRIARWOOD STREET AND DIMOND BOULEVARD.

(Sicily's Pizza Restaurant) (Case 2003-031)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The conditional use permit for an Alcoholic Beverages Conditional Use in the B-3 District for a new Restaurant or Eating Place use per AMC 21.40.180 D.8; located on Lot 1A, Block 5, Vans Subdivision; site address being 1201 E. Dimond Boulevard, meets the applicable provisions of AMC 21.50.020 and AMC 21.50.160.

Section 2. The subject conditional use permit for an Alcoholic Beverages Conditional Use in the B-3 District for a new Restaurant or Eating Place License per AMC 21.40.180 D.8 is approved subject to the following conditions:

1. A Notice of Zoning Action shall be filed with the State District Recorder's Office within 120 days of the Assembly's approval of a final conditional use approval for a restaurant/eating place serving alcoholic beverages in the B-3 District.
2. All uses shall conform to the plans and narrative submitted.
3. This conditional use approval is for an Alcoholic Beverages Conditional Use in the B-3 District for a restaurant/eating place use per AMC 21.40.180 D.8 for a 5,214 SF building, for Sicily's Pizza Restaurant, located on Lot 1A, Block 5, Vans Subdivision. The restaurant has 33 fixed tables. Alcohol sales are estimated to be 20% of the total gross receipts compared to 80% of food sales. The restaurant may operate 365 days a year with hours of operation as permitted by law.
4. 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.

5. Upon demand, 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.).

6. The approved conditional use is reflected on the following plan submitted with the conditional use application:

a. Sicily's Pizza 1201 E. Dimond, Floor Dimension Plan; scale 1/16" = 1'; no date; prepared by George P.

7. 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.

8. Prior to this conditional use becoming effective, all real property taxes and business taxes for the structure and Lot 1A, Block 5, Vans Subdivision shall be current.

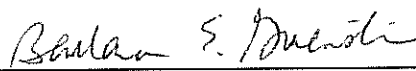
Section 3. Failure to comply with the conditions of this conditional use permit shall constitute grounds for its modification or revocation.

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

PASSED AND APPROVED by the Anchorage Assembly this 30th day of September 2003.

ATTEST:

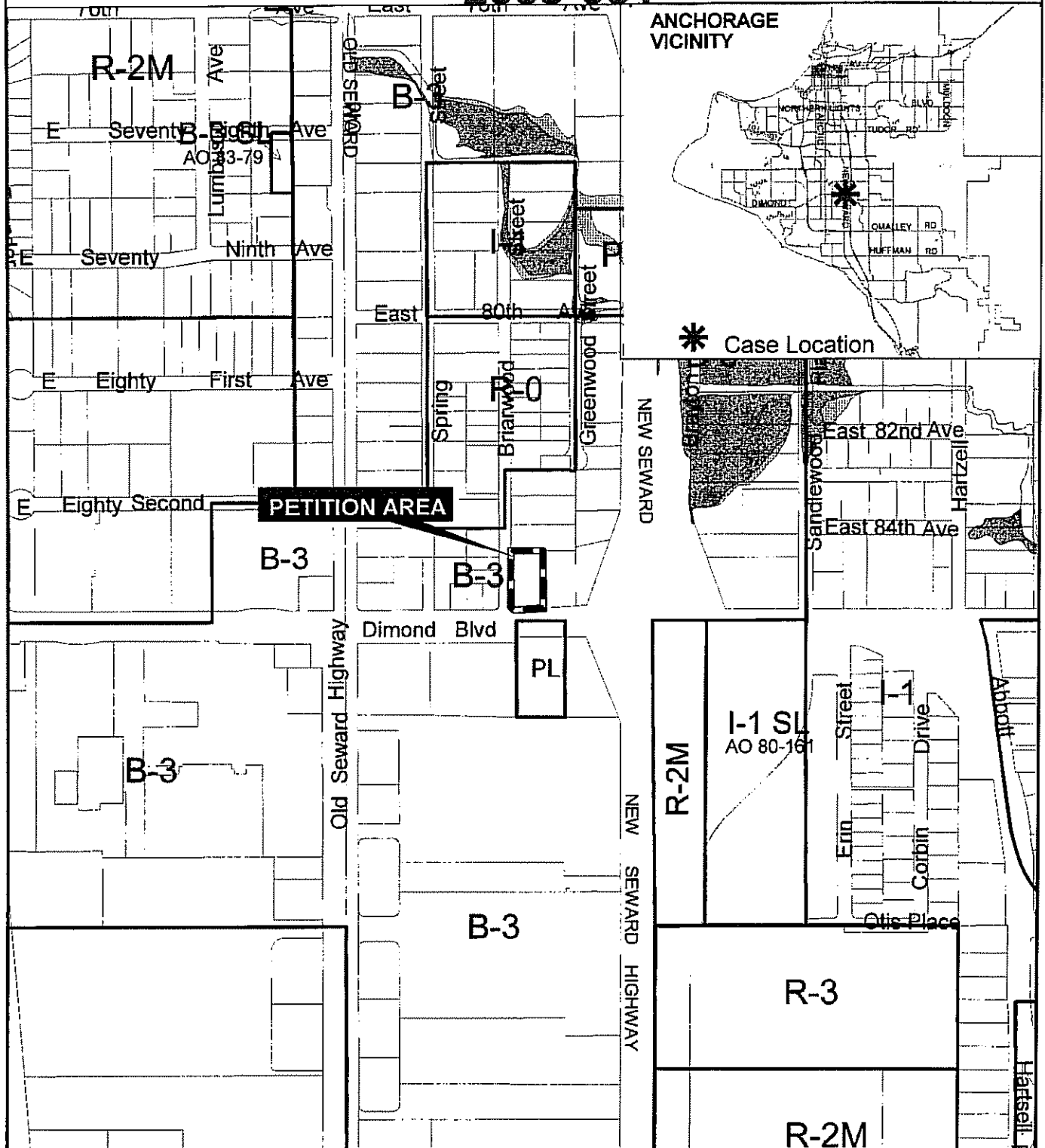

Chair


Municipal Clerk

(2003-031)
(014-202-82)

CONDITIONAL USE - LIQUOR

2003-031





MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 702-2003

Meeting Date: September 9, 2003

From: Mayor

Subject: AR 2003-261 Alcoholic Beverages Conditional Use in the B-3
District for a Restaurant/Eating Place Use per AMC
21.40.180 D.8 for Sicily's Pizza.

Atli Dobrova has made application for a new restaurant/eating place serving alcoholic beverages conditional use in the B-3 District for Sicily's Pizza Restaurant located at 1201 E. Dimond Boulevard.

The existing restaurant will occupy a 5,214-square foot building of a 35,283-square foot lot that is located at the northeast corner of East Dimond Boulevard and Briarwood Street. There are thirty-three (33) fixed tables (similar to prototypical fast food floor designs such as McDonalds Restaurant) that occupy approximately half of the floor area in which beer and wine will be available to the public.

The building formerly housed Kenny Rogers Roasters Restaurant which had a restaurant alcohol license and conditional use. However, the alcohol sales ceased for more than 60-days without an application on file with the alcoholic beverage control board to transfer or install a new license on the premises, and the conditional use automatically was abandoned in accordance with AMC 21.15.030 J.2. The Planning Department advised Mr. Dobrova in writing that a new conditional use was required for the subject Sicily's Pizza Restaurant on October 21, 2002.

According to the Municipal Clerk's Office, the Assembly approved a restaurant license at its October 22, 2002 meeting. A conditional use application was submitted in December 17, 2002, and the applicant was advised that it was incomplete and could not be processed, and the application would not be processed without a letter of authorization from the property owner and with a complete copy of his ABC license application. The ABC license application was received by the Planning Department on June 26, 2003.

Fifty-nine (59) public hearing notices (PHNs) were mailed. At the time this report was written, one notice was returned as undeliverable, and no written comments were received from the Taku Campbell Community Council. A letter objecting to the conditional use was received from Attorney John Havelock on behalf of the Anchorage Open-Door Presbyterian Church building located at 8220 Briarwood Street.

Alaska Statute 04.11.100, Restaurant or eating place license, restricts transfer or renewal of restaurant licenses from being located in a building having a public entrance within 200-feet of the boundary line of a school or a church building in which religious services are

1 regularly conducted, or public entrance of a church building. The petitioner has applied for
2 and been approved of a new restaurant license (not a transfer or a renewal of a restaurant
3 license) by the Alaska ABC Board. Planning Department staff measured the distances and
4 determined the separation is greater than 250-feet, not 30-meters/99-feet as suggested in
5 Mr. Havelock's letter: from restaurant public entrance to church public entrance is 528-
6 feet; from the northeast corner of the petition lot to the southwest corner of the church lot
7 is 141-feet. Therefore, it appears this restaurant is exempt from the 200-foot separation
8 statute.

9
10 The Department of Health and Human Services (DHHS) believes that adding more alcohol
11 establishments in this neighborhood seems excessive and out of character with the current
12 businesses and Morning Star Christian School located in the same building as the
13 Anchorage Korean Open-Door Presbyterian Church. The Police Department reported one
14 incident call of harassment at this address for the last year. Treasury reported that 2003
15 real property taxes are owed in the amount of \$10,549.57 (property owned by Pacific
16 Alaska Holding Corporation). After August 22, 2003, an additional penalty of \$499.88
17 will be added. 2002 business personal property taxes are delinquent at this time in the
18 amount of \$5,703.10.

19
20 Within 1,000 feet of this location are three other alcohol licenses: one beverage
21 dispensary, one package store and one restaurant/eating place. Approval of this use does
22 not appear to result in a concentration of licenses that would negatively impact the
23 neighborhood.

24
25 This conditional use for alcoholic beverages in a restaurant/eating place in the B-3
26 generally meets the required standards of Title 21 except for outstanding taxes owing.
27
28
29

30 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning
31 Department
32 Concur: Susan R. Fison, Acting Director, Planning Department
33 Concur: Mary Jane Michael, Director, Office of Economics and
34 Community Development
35 Concur: Denis C. LeBlanc, Municipal Manager
36 Respectfully submitted: Mark Begich, Mayor
37

Content Information

Content ID : 001090

Title: Alcoholic Beverages Conditional Use in the B-3 District for a Restaurant/Eating Place Use per AMC 21.40.180 D.8 for *Sicily's Pizza*.

Initiating Dept: Planning

Description: Sicily's Pizza Restaurant Alcoholic Beverages Conditional Use in the B-3 District for a Restaurant/Eating Place Use per AMC 21.40.180 D.8 for Sicily's Pizza.

Date Prepared: 9/3/03 2:49 PM

Director Name: Susan R. Fison

Requested Assembly

Meeting Date 9/9/03 12:00 AM

MM/DD/YY:

Requested Public

Hearing Date 9/9/03 12:00 AM

MM/DD/YY:

Document Number: AR 2003-261

Assembly Meeting Date 9/9/03 12:00 AM
MM/DD/YY:

Public Hearing Date 9/9/03 12:00 AM
MM/DD/YY:

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOtherARWorkflow	9/3/03 2:53 PM	Checkin	weaverjt	Public	001090
Planning_SubWorkflow	9/3/03 3:26 PM	Approve	fisonsr	Public	001090
MuniManager_SubWorkflow	9/3/03 5:36 PM	Approve	leblancdc	Public	001090
MuniMgrCoord_SubWorkflow	9/8/03 8:51 AM	Approve	katkusja	Public	001090

NEW PUBLIC HEARINGS - ITEM 14.1.

2003 SEP -8 AM 9:11

M.O.A