

CLERK'S OFFICE

APPROVED

Date: 7-20-04

Submitted by:

Prepared by:

For reading

Chair of the Assembly at  
the Request of the Mayor

Planning Department

July 20, 2004

Anchorage, Alaska

AR 2004-180

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING AN ALCOHOLIC BEVERAGES CONDITIONAL USE IN THE B-3 SL DISTRICT FOR A NEW RESTAURANT OR EATING PLACE USE PER AMC 21.40.180 D.8; LOCATED ON TRACT B-3, GOFF SUBDIVISION; SITE ADDRESS BEING 9220 LAKE OTIS PARKWAY; GENERALLY LOCATED ON THE SOUTHWEST CORNER OF ABBOTT ROAD AND LAKE OTIS PARKWAY.

(I Luv Sushi Restaurant) (Case 2004-107)

THE ANCHORAGE ASSEMBLY RESOLVES:

**Section 1.** The conditional use permit for an Alcoholic Beverages Conditional Use in the B-3 SL District for a new Restaurant or Eating Place use per AMC 21.40.180 D.8; located on Tract B-3, Goff Subdivision; site address being 9220 Lake Otis Parkway, 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 SL 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 SL District for a Restaurant/Eating Place use per AMC 21.40.180 D.8 for a 1,900 square-foot lease space, located at 9220 Lake Otis Parkway, Tract B-3 of the Goff Subdivision. The restaurant has occupancy for thirty people. Alcohol sales are estimated to be 10 percent of total gross receipts compared to 90 percent 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,

1 but not limited to, laws and regulations pertaining to the sale, dispensing, service  
2 and consumption of alcoholic beverages and the storage, preparation, sale, service  
3 and consumption of food. The owner of the property, the licensee under the  
4 Alcoholic Beverage Control license and their officers, agents and employees shall  
5 not knowing permit or negligently fail to prevent the occurrence of illegal activity  
6 on the property.  
7

8 5. Upon demand, the applicant shall demonstrate compliance with a liquor "Server  
9 Awareness Training" program approved by the State of Alaska Alcohol Beverage  
10 Control Board, such as or similar to the program for Techniques in Alcohol Mana  
11 gement (T.A.M.).  
12

13 6. A copy of the conditions imposed by the Assembly in connection with this  
14 conditional use approval shall be maintained on the premises at a location visible  
15 to the public.  
16

17 **Section 3.** Failure to comply with the conditions of this conditional use permit shall  
18 constitute grounds for its modification or revocation.  
19

20 **Section 4.** This resolution shall become effective immediately upon passage and  
21 approval by the Anchorage Assembly.  
22

23 PASSED AND APPROVED by the Anchorage Assembly this 20th  
24 day of July 2004.  
25  
26

27  
28  
ATTEST:

  
Chair

  
Municipal Clerk

(2004-107)  
(016-251-02)



## MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 547-2004

**Meeting Date:** July 20, 2004

**From:** Mayor

**Subject:** AR 2004-180

Alcoholic Beverages Conditional Use for a  
Restaurant/Eating Place License in the B-3 SL  
District for I Luv Sushi Restaurant per AMC  
21.40.180 D.8.

1  
2 Min Kim, dba I Luv Sushi Restaurant, has made application for a new final conditional use  
3 permit for a new restaurant/eating place license in the B-3 SL District for a restaurant to be  
4 located in a mall located at 9220 Lake Otis Parkway. There is occupancy for thirty persons  
5 in the public dining area of the 1,900 square-foot leased floor area.  
6

7 The restaurant is located at the southwest corner of Abbott Road and Lake Otis Parkway.  
8 The restaurant will be open from 11:30 AM to 10:00 PM with liquor available from 5:00  
9 PM to 10:00 PM. The restaurant will normally operate seven days a week with hours of  
10 operation as permitted by law. The petitioner estimates that 10 percent of the total sales  
11 will be for alcohol and employees will be trained in handling inebriated patrons. No  
12 security provisions are proposed. The restaurant will not provide recorded music, live  
13 music, floor shows, patron dancing and sporting event television for entertainment.  
14

15 One hundred and ninety-six (196) public hearing notices (PHNs) were mailed. At the time  
16 this report was written 3 PHNs were returned against granting the conditional use, 5  
17 returned undeliverable, and the Abbott Loop Community Council responded objecting to  
18 the conditional use. Alaska Statute 04.11.100 restricts license transfer or renewal of  
19 restaurant licenses from being located in a building having a public entrance within 200-  
20 feet of the boundary line of a school or a church building. There are no day care facilities,  
21 schools or churches within 200 feet of the site's property lines. The Department of Health  
22 and Human Services commented that a new day care is proposed for the lot to the east of  
23 the petition site; however, they will not be within 200 feet of the building. The Anchorage  
24 Police Department had no incident calls during the past two years to this address. There  
25 are no delinquent Personal Property Taxes and or Real Property Taxes owing.  
26

27 There is one package store license within 1,000 feet of the proposed restaurant, and no  
28 other licenses. Approval of restaurant/eating place conditional use would add the first

1 restaurant/eating place license within 1,000 feet and does not appear to result in a  
2 concentration of licenses that would negatively impact the neighborhood.

3  
4 This conditional use for a restaurant/eating place serving alcoholic beverages in the B-3 SL  
5 District generally meets the applicable provisions of AMC 21.50.020 and AMC 21.50.160,  
6 and AMC 10.50.

7  
8  
9 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

10 Concur: Tom Nelson, Acting Director, Planning Department

11 Concur: Mary Jane Michael, Director, Office of Economic & Community  
12 Development

13 Concur: Denis C. LeBlanc, Municipal Manager

14 Respectfully submitted: Mark Begich, Mayor  
15  
16

**PLANNING DEPARTMENT  
STAFF ANALYSIS  
CONDITIONAL USE – ALCOHOLIC BEVERAGE SALES**

**DATE:** July 20, 2004

**CASE NO.:** 2004-107

**APPLICANT:** Min Kim, dba I Luv Sushi Restaurant

**REPRESENTATIVE:** Min Kim

**REQUEST:** Conditional Use for an Alcoholic Beverages Conditional Use in the B-3 SL District for a Restaurant/Eating License and Use per AMC 21.40.180 D.8

**LOCATION:** Goff Subdivision, Tract B-3; generally located at the southwest corner of Abbott Road and Lake Otis Parkway.

**STREET ADDRESS:** 9220 Lake Otis Parkway

**COMMUNITY COUNCIL:** Abbott Loop

**TAX PARCEL:** 016-251-02/ Grid SW 2433

**ATTACHMENTS**

1. Location Map
2. Departmental Comments
3. Application
4. Posting Affidavit
5. Historical Information

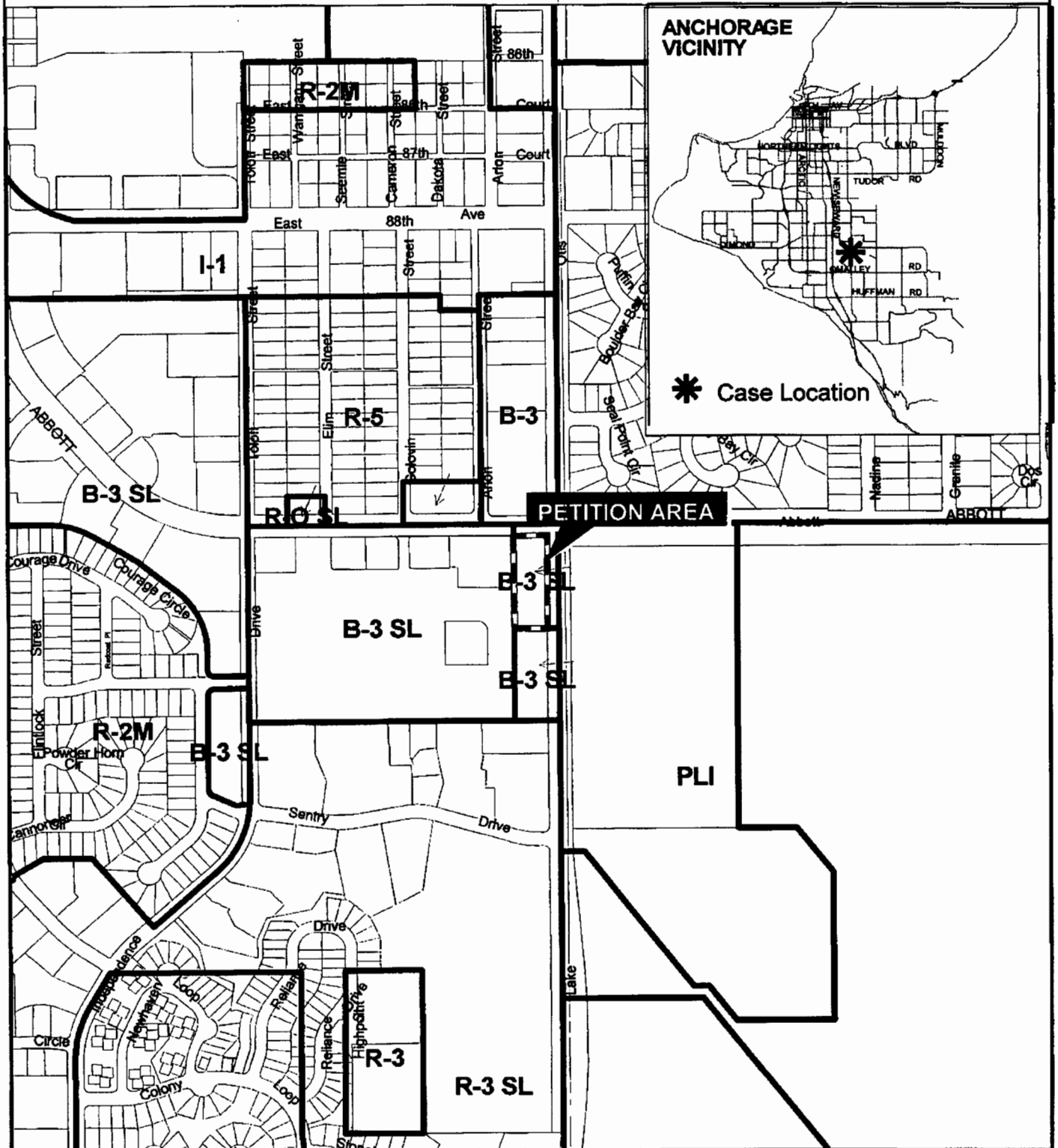
**RECOMMENDATION SUMMARY:**

Generally meets the required Title 21 standards including AMC 21.50.160, and Title 10.50.

**SITE:**

Acres: 1.29 acres (56,000 SF)  
Vegetation: Commercial landscaping  
Zoning: B-3 SL  
Topography: Level  
Existing Use: Retail Commercial Strip Mall  
Soils: Public Sewer & Water

# CONDITIONAL USE - LIQUOR 2004-107



Municipality of Anchorage  
Planning Department



Date: MAY 17, 2004

## Flood Limits

- 100 Year Floodplain
- 500 Year Floodplain
- Floodway



0 500 1000 Feet

**COMPREHENSIVE PLAN**

Classification: Located adjacent to the Abbott Loop Town Center (Anchorage 2020)  
Commercial (1982 Anchorage Bowl Comprehensive Plan)  
Density: N/A

**SURROUNDING AREA**

	NORTH	EAST	SOUTH	WEST
Zoning:	B-3	PLI	B-3 SL	B-3 SL
Land Use:	Gas Station; Convenience Store	Church	Commercial Strip Mall	Fred Meyer

**SITE DESCRIPTION AND PROPOSAL:**

The application site is located in a 19,750 square foot strip mall that was built in circa 1984. The mall is located on the southwest corner of Abbott Road and Lake Otis Parkway, and access to the site is via Lake Otis Parkway.

The proposal is to place a new restaurant/eating place liquor license in one of the tenant spaces. The lease space consists of 1,900 square feet. Within 1,000 feet of this application there is one package store license (Fred Meyer), and no other license.

The I Luv Sushi restaurant will occupy 1,900 square foot lease space, have 30 non-fixed seats, and according to the application, a facility occupant capacity of 30. The restaurant will be open from 11:30 AM to 10 PM with liquor available from 5:00 PM to 10:00 PM. The restaurant will normally operate on 7-days a week with hours of operation as permitted by law. The petitioner estimates that 10% of the total sales will be for alcohol; employees will be trained in handling inebriated patrons. No security provisions are proposed. The restaurant will not provide recorded music, live music, floor shows, patron dancing and sporting event television for entertainment.

There is a church with a day care approximately 300 feet of the restaurant, as measured from entrance to entrance (Alcohol Beverage Control Board codified measurement method). The nearest school is Spring Hill Elementary, with Hanshaw Middle School south of it. It is over 900 feet from the entrance of the restaurant to the school lot line Alcohol Beverage Control Board codified measurement method).

**PUBLIC COMMENTS:**

One hundred and ninety-six (196) public hearing notices (PHNs) were mailed. At the time this report was written 3 PHNs were returned against granting the conditional use, 5 returned undeliverable, and the Abbott Loop Community Council responded objecting to the conditional use.

**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.**

This site within a Town Center. However, the plan for the Town Center has not been developed nor adopted. The intent of a town center is for the area to be designed to function as a focal point for community activities for the identified area. Their core is to be a mix of community-serving retail, public services, and public/civic facilities, including and/or surrounded by medium- to high-density residential development.

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

The Anchorage 2020 Plan (ref. P.40) contains a generalized community vision that advocates "an active learning community with abundant cultural amenities." Several goals of the Anchorage 2020 Plan do address related issues such as recreational and economic opportunities. The sale of alcoholic beverages is part of the social, recreational and economic environment of the community.

The Anchorage 2020 Plan incorporates community issues associated with social well being as provided in the Housing and Community Development Consolidated Plan. These goals provide that Anchorage should create an atmosphere of "a welcoming, culturally diverse community with opportunities for all residents to be responsible and active participants in a caring community."

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

This standard is met.



Except for the alcoholic beverages conditional use standards established in AMC 21.50.160, the Assembly has not adopted specific zoning regulations for alcoholic beverage sales. The B-3 General Business district zoning regulations allows alcoholic beverage sales through the conditional use permit process: AMC 21.40.180 D.8. Restaurants, cafes, and other places serving food or beverages. Uses involving the retail sale, dispensing or service of alcoholic beverages may be permitted by conditional use only in accordance with AMC 21.50.160. This site is governed by special limitations. However, those special limitations only apply to the existing lot for landscaping, and not to uses. These limitations are attached.

**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 within a commercial area that is expected to remain in that land use category for the foreseeable future. In and around this location are found numerous restaurants, office buildings, retail malls, commercial businesses and other non-residential uses. Land to the north, south and west are zoned B-3. Property to the east is zoned PLI, and contains a church directly across the street, and an elementary school and middle school south of that. There appear to be no churches, day care or schools within 200 feet of the restaurant, as measured according to State regulations noted below.

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 regularly conducted, or public entrance of a church building. The petitioner has applied for a new restaurant license (not a transfer or a renewal of a restaurant license) by the Alaska ABC Board and this Assembly, and is therefore exempt from the 200-foot separation statute. However, the church lot line is less than 200 feet from the entrance to the restaurant, at about 150 feet away. It is over 900 feet from the restaurant entrance to the elementary school lot line, which is the closest school lot line. It is approximately 885 feet from the strip mall lot line to the closest school lot line. There is a day care proposed for the lot to the west of the petition site, and they have made application for permits. The entrance from that building to the petition site entrance appears also to be well over 200 feet, at approximately 250 feet or more.

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 is only one license, which is the package store license for Fred Meyer. Approving this restaurant/eating place license would add the first restaurant/eating place license.

Name	Address	License Number	Type of License
Fred Meyer	2278 Abbott Road	4160	Package Store

**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, in front of the building, on which required parking spaces are provided. Although there are no wheel stops, there appears to be sufficient pedestrian access in front of parked cars. There are public transit stops along Abbott Road. There are no public sidewalks.

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

This standard is met.

The addition of a restaurant within an existing shopping mall will not impact public services. The site is served with public water and sewer.

**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. The parking lot is paved, which helps control air pollution.

**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.

**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.**

See table and narrative on page 5 for other alcohol licenses within 1,000 feet of this application.

The issuance of another conditional use for a restaurant will not adversely impact the immediate area or surrounding uses.

- 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, two employees will be trained in accordance with the T.A.M. training and hold the appropriate certificates.

- 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-3 District for a restaurant use.

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 his application that he 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 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.

The petitioner did not provide this information. However, the Anchorage Police Department had no incident calls during the past 2-years to this address.

- 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.

Treasury reviewed the subject property for real property taxes or business personal taxes, and report no outstanding or delinquent taxes.

- 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 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 not applicable; this is for a new license not a transfer or renewal of a license.

- 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 final conditional use for alcoholic beverages in the B-3 District for a restaurant use generally meets the required standards of Title 21 and Title 10, and AMC 21.50.160.

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 Records Office within 120 days of the Alcoholic Beverage Control Board's approval of the license.
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 SL District for a restaurant/eating place use per AMC 21.40.180 D.8 for a 1,900 SF lease space located at 9220 Lake Otis Parkway, Goff Subdivision, Tract B-3. The restaurant has an occupancy of 30. Alcohol sales are estimated to be 10% of total gross receipts compared to 80 % food sales. The restaurant may operate 365 days a year with hours of operation as permitted by law.
4. 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.).
5. 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

6. A copy of the conditions imposed by the Assembly in connection with this conditional use approval shall be maintained on the premise at a location visible to the public.

**Content Information****Content ID :** 001971**Type:** AR\_AllOther - All Other Resolutions

Alcoholic Beverages Conditional Use for a Restaurant/Eating

**Title:** Place License in the B-3 SL District for I Luv Sushi Restaurant  
per AMC 21.40.180 D.8.**Author:** weaverjt**Initiating Dept:** Planning

Alcoholic Beverages Conditional Use for a Restaurant/Eating

**Description:** Place License in the B-3 SL District for I Luv Sushi Restaurant  
per AMC 21.40.180 D.8.**Date Prepared:** 7/6/04 3:19 PM**Director Name:** Tom Nelson**Requested Assembly****Meeting Date** 7/20/04**MM/DD/YY:****Requested Public****Hearing Date** 7/20/04**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	7/6/04 3:22 PM	Checkin	weaverjt	Public	001971
Planning_SubWorkflow	7/7/04 12:06 PM	Approve	nelsontp	Public	001971
ECD_SubWorkflow	7/8/04 12:42 PM	Approve	barkleyva	Public	001971
MuniManager_SubWorkflow	7/9/04 9:28 AM	Approve	leblancdc	Public	001971
MuniMgrCoord_SubWorkflow	7/9/04 9:30 AM	Approve	katkusja	Public	001971

NEW PUBLIC HEARINGS

2004 JUL 12 AM 10:01  
 CLEARANCE  
 HMA