

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 3-16-04

Submitted by:

Chair of the Assembly at
the Request of the Mayor
Planning Department
March 16, 2004

Prepared by:
For reading

Anchorage, Alaska
AR 2004-55

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING
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 1, BLOCK 3, VANS SUBDIVISION; SITE ADDRESS BEING
1111 E. DIMOND BOULEVARD; GENERALLY LOCATED ON THE NORTH SIDE
OF E. DIMOND BOULEVARD, BETWEEN THE OLD SEWARD HIGHWAY AND
BRIARWOOD STREET.

(Joy Teriyaki Restaurant) (Case 2004-056)

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 within Vans Subdivision, Block 3, Lot 1; site address being 1111 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 2,280 square-foot leased structure, for Joy Teriyaki Restaurant, located within Vans Subdivision, Block 3, Lot 1. The restaurant has ~~11 fixed seats and 6 non-fixed seats~~ 17 tables. Alcohol sales are estimated to be 20 percent of the total gross receipts compared to 80 percent 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 Alcohol Beverage Control Board, such as or similar to, the program for Techniques in Alcohol Management (T.A.M.).

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

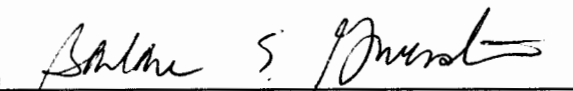
Section 3. Failure to comply with the conditions of this conditional use permit shall constitute grounds for its modification or revocation.

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

PASSED AND APPROVED by the Anchorage Assembly this 16th
day of March 2004.

ATTEST:


Chair


Municipal Clerk

(2004-056)
(014-202-28)



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 222-2004

Meeting Date: March 16, 2004

From: Mayor

Subject: AR 2004-55 Alcoholic Beverages Conditional Use for a
Restaurant/Eating Place License in the B-3
District for Joy Teriyaki Restaurant per AMC
21.40.180.D.8.

1 Kyong S. Kim, dba Joy Teriyaki Restaurant, has made application for a new final
2 conditional use permit for a new restaurant/eating place license in the B-3 District for
3 a restaurant to be located on an 8,120 square-foot (SF) lot, the restaurant is in a 2,280
4 SF restaurant building. The site address is 1111 East Dimond Boulevard.

5
6 The Joy Teriyaki Restaurant will specialize in Chinese and Japanese food, and will
7 occupy the 2,280 SF structure, it will have ~~11 fixed seats and 6 non-fixed seats~~
8 17 tables. The restaurant will be open from 11:00 AM to 10:00 PM Monday –
9 Thursday, and 11:00 AM to 11:00 PM Friday and Saturday, liquor will be available
10 during these times. The restaurant will normally operate 7 days a week. The
11 petitioner estimates that 20 percent of his total sales will be for alcohol. Security
12 proposed is to limit alcohol consumption to meals only, and to allow close
13 supervision by the owner or manager on the site. The restaurant will provide
14 recorded music for entertainment.

15
16 Forty-seven (47) public hearing notices (PHNs) were mailed. At the time this report
17 was written, one PHN was returned which was undeliverable. One letter from a
18 church was mailed questioning the request, and a response was received from the
19 Abbott Loop Community Council which did not oppose the request. At the time the
20 report was written, no comments were received from the Department of Health and
21 Human Services. The Anchorage Police Department had no incident calls during the
22 past two years to this address. There are no delinquent Personal Property Taxes
23 and/or Real Property Taxes owing.

24
25 There are two restaurant, one package, and one beverage dispensary licenses within
26 1,000 feet of the proposed restaurant. Approval of restaurant/eating place
27 conditional use would add a third restaurant/eating place license, and does not appear

1 to result in a concentration of licenses that would negatively impact the
2 neighborhood.

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

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10 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

11 Concur: Donald S. Alspach, Acting Director, Planning Department

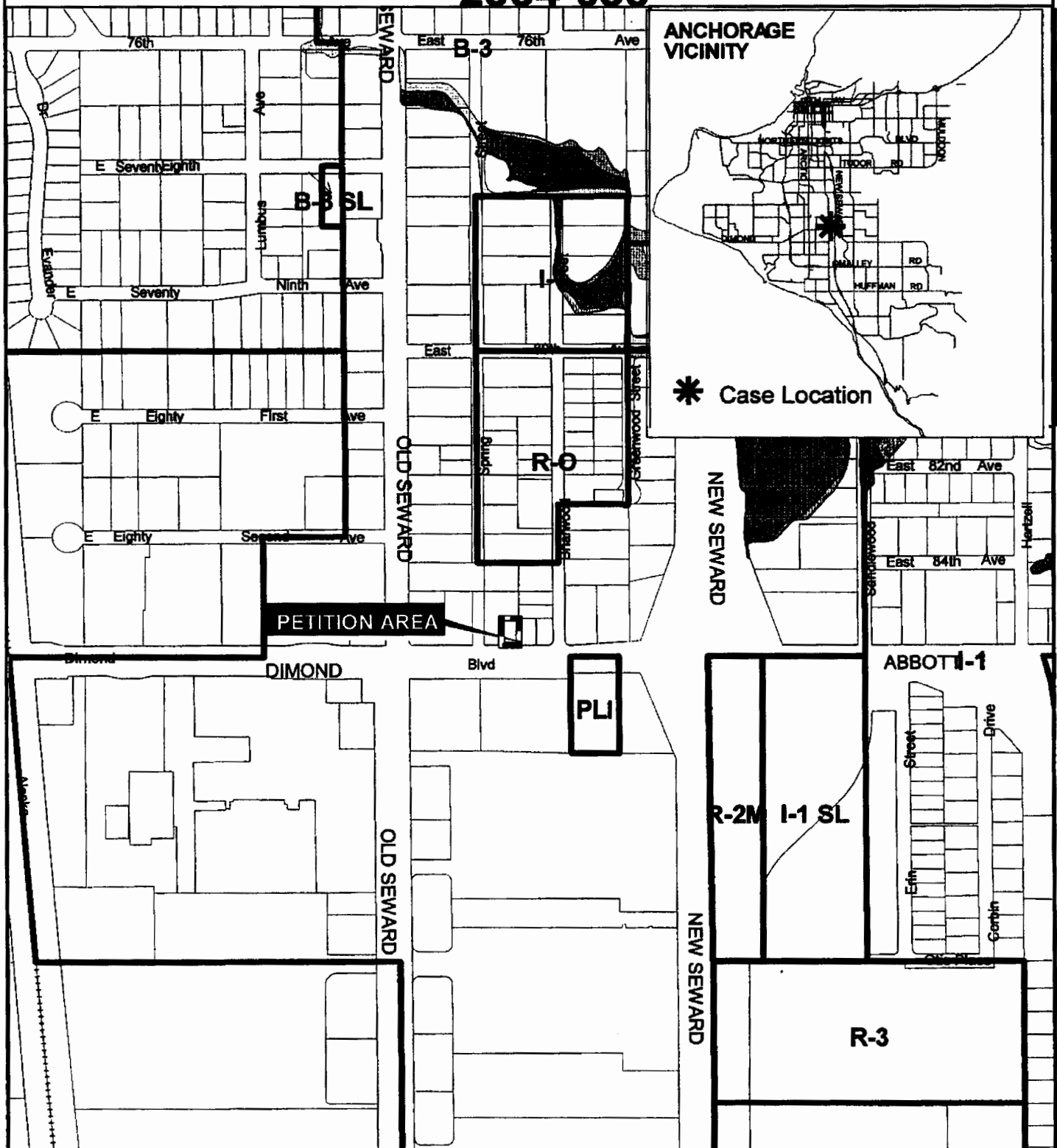
12 Concur: Mary Jane Michael, Director, Office of Economic & Community
13 Development

14 Concur: Denis C. LeBlanc, Municipal Manager

15 Respectfully submitted: Mark Begich, Mayor
16

CONDITIONAL USE - LIQUOR

2004-056



Municipality of Anchorage
Planning Department



Date: JANUARY 14, 2004

Flood Limits

- 100 Year Floodplain
- 500 Year Floodplain
- Floodway



0 500 1000 Feet

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

DATE: March 16, 2004

CASE NO.: 2004-056

APPLICANT: Kyong S. Kim, dba Joy Teriyaki

REPRESENTATIVE: Yong M. Kim

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

LOCATION: Vans Subdivision, Block 3, Lot 1 SE ¼; generally locate on the north side of Dimond Boulevard, between the Old Seward Highway and Briarwood Street.

STREET ADDRESS: 1111 E. Dimond Boulevard

COMMUNITY COUNCIL: Taku-Campbell

TAX PARCEL: 014-202-28/ Grid SW 2232

ATTACHMENTS

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

RECOMMENDATION SUMMARY:

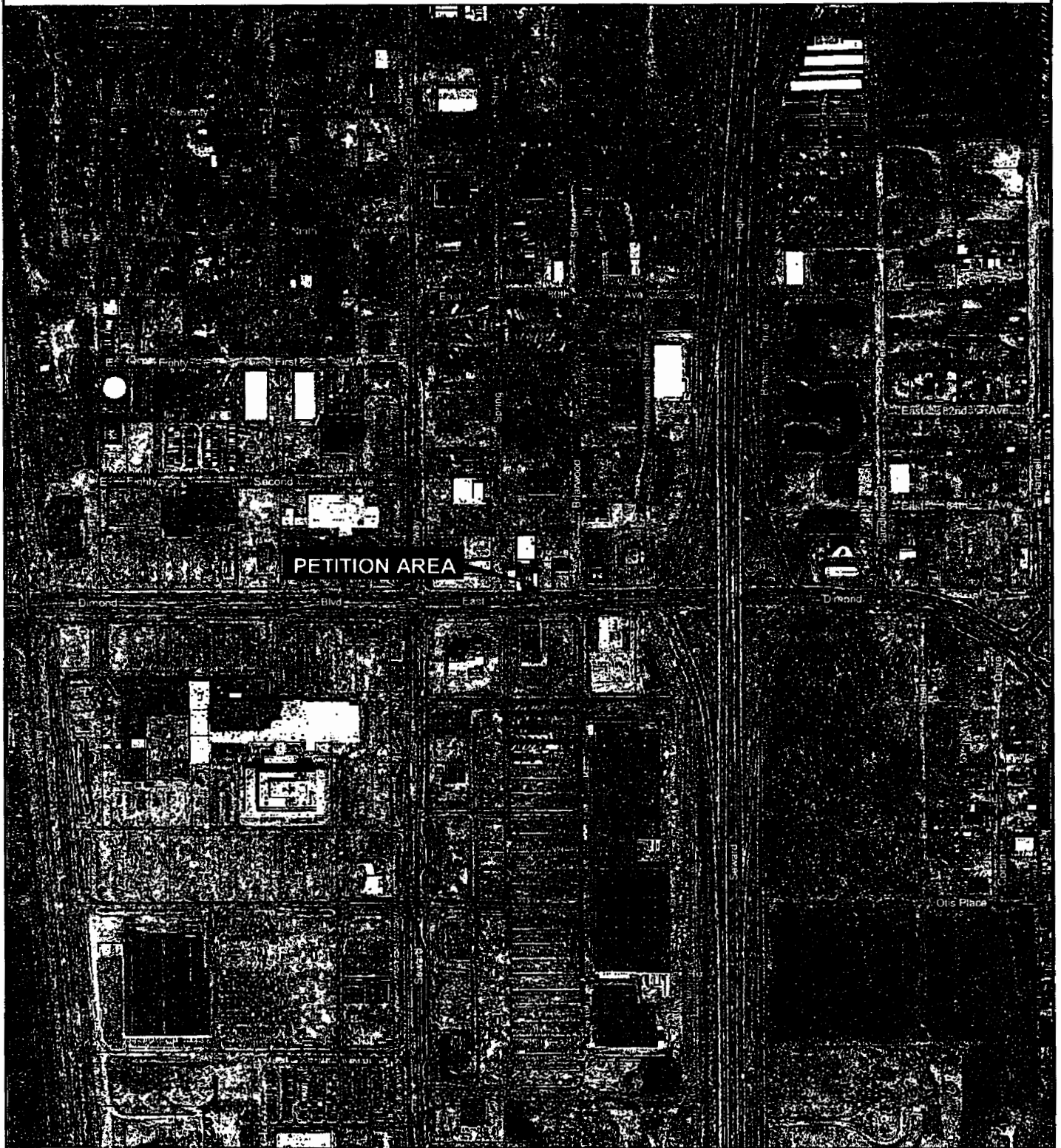
Generally meets the required Title 21 standards including AMC 21.50.160, and Title 10.50.

SITE:

Acres: 8,120 SF
Vegetation: Commercial landscaping
Zoning: B-3
Topography: Level
Existing Use: Restaurant
Soils: Public Sewer & Water

CONDITIONAL USE - LIQUOR

2004-056



Municipality of Anchorage
Planning Department



Date: JANUARY 14, 2004



0 500 1000 Feet

Date of Aerial Photography: 1996

COMPREHENSIVE PLAN

Classification: N/A (Anchorage 2020)
Commercial (1982 Anchorage Bowl Comprehensive Plan)
Density: N/A

SURROUNDING AREA

| | NORTH | EAST | SOUTH | WEST |
|-----------|------------|---------------------------|-----------------------|---------------------------|
| Zoning: | B-3 | B-3 | B-3 | B-3 |
| Land Use: | Commercial | Commercial/ Restaurant | Commercial/ Office | Commercial/ Strip Mall |

SITE DESCRIPTION AND PROPOSAL:

The application site is located on an 8, 120 square foot (SF) lot, 2,280 SF restaurant building. The structure was constructed in 1979, according to CityView records. Access to the site is via Dimond Boulevard.

The proposal is to place a new restaurant/eating place liquor license in this structure. The lease space consists of 2,280 square feet. Within 1,000 feet of this application there are two restaurant licenses, one package store, and one beverage dispensary license.

The Joy Teriyaki restaurant will specialize in sushi, Chinese and Japanese food, and will occupy the 2,280 SF structure, have 11 fixed seats and 6 non-fixed seats. The restaurant will be open from 11:00 AM to 10:00 PM Monday – Thursday, and 11:00 AM to 11:00 PM Friday and Saturday, with liquor available during these times. The restaurant will normally operate on 7-days a week with hours of operation as permitted by law. The petitioner estimates that 20% of his total sales will be for alcohol. Security proposed is to limit alcohol consumption to meals only and to allow close supervision by the owner or manager on the site. The restaurant will provide recorded music for entertainment.

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

PUBLIC COMMENTS:

Forty-seven (47) public hearing notices (PHNs) were mailed. At the time this report was written 1 PHNs were returned, which was undeliverable. One letter from a church was mailed against the request, and a response was received from the Abbott Loop Community Council, which did not oppose the request.

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 is not located within any Policy area on the Anchorage 2020 Policy Map.

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.

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 the Dimond/Old Seward 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, east and west are zoned B-3. There appear to be no churches, day care or schools within 200 feet of the site property line.

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.

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 2 restaurant/eating places, 1 package store, and 1 beverage dispensary licenses within 1,000-feet of the proposed restaurant. Approving this restaurant/eating place license would add a 3rd restaurant/eating place license.

| Name | Address | License Number | Type of License |
|-------------------------------|---------------------|----------------|-------------------------|
| Kmart Liquor #7569 | 8601 Old Seward Hwy | 3349 | Package Store |
| Godfather's Pizza #2503 | 8201 Old Seward Hwy | 1682 | Restaurant/Eating Place |
| Sicily's Pizza | 1201 Dimond Blvd | 4245 | Restaurant/Eating Place |
| Gallo's Mexican Restaurant #2 | 8615 Old Seward Hwy | 3572 | Beverage Dispensary |

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 appears to be sufficient area on the subject lot, in front of the building, on which required parking spaces are provided. This is a small facility, and there appears from photographs provided by the petitioner for sufficient on-site pedestrian access. There are public transit stops along Dimond Boulevard with public sidewalks.

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

This standard is met.

The addition of a restaurant at this location will not impact public services. This structure has previously served as a restaurant. 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, all managers and assistant managers and the owners of the restaurant 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 Anchorage Police Department returned a response stating there were 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 District for a restaurant/eating place use per AMC 21.40.180 D.8 for a 2,280 SF lease space located at 1111 East Dimond Boulevard, Vans Subdivision, Block 3, Lot 1, SE 1/4. The restaurant has 11 fixed seats and 6 non-fixed seats. Alcohol sales are estimated to be 20 % 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.

CONDITIONAL USE - LIQUOR
2004-056



**Municipality of Anchorage
Planning Department**



Date: JANUARY 14, 2004

-  Single Family Detached
 Single Family Attached, Duplex
 Mobile home
 Multi - Family 3 & 4 Plex
 Multi - Family 5+



Source: Housing Stock based on 1998 Land Use Inventory
Planning Department, MOA

2004 056

Mon Jan 12, 15:50:56, 2004

Map: Parcels-Basic Layers



Scale 1:8000

Legend:

Txt streetsano: Text



parcels



Content Information**Content ID :** 001588**Type:** AR_AllOther - All Other Resolutions

Alcoholic Beverages Conditional Use for a Restaurant/Eating

Title: Place License in the B-3 District for *Joy Teriyaki 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 District for Joy Teriyaki Restaurant per
AMC 21.40.180.D.8.**Date Prepared:** 3/1/04 11:45 AM**Director Name:** Donald S. Alspach**Assembly Meeting**
Date MM/DD/YY: 03/16/04**Public Hearing Date**
MM/DD/YY: 03/16/04**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 | 3/1/04 11:47 AM | Checkin | weaverjt | Public | 001588 |
| Planning_SubWorkflow | 3/1/04 1:17 PM | Approve | alspach | Public | 001588 |
| MuniManager_SubWorkflow | 3/8/04 11:36 AM | Approve | katkusja | Public | 001588 |
| MuniMgrCoord_SubWorkflow | 3/8/04 11:40 AM | Approve | katkusja | Public | 001588 |

NEW PUBLIC HEARINGS

2004 MAR -8 PM 3:30
CLERK OF COURT
5/11/04