CLERK'S OFFICE
APPROVED
Date: 3-16-04

Submitted by:

Prepared by: For reading

Chair of the Assembly at the Request of the Mayor Planning Department

March 16, 2004

Anchorage, Alaska AR 2004-56

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 1A, BLOCK 1, TUDOR SQUARE SUBDIVISION; SITE ADDRESS BEING 4300 OLD SEWARD HIGHWAY, SUITE #GD01; GENERALLY LOCATED IN THE CITY CENTER MALL ON THE NORTHWEST CORNER OF TUDOR ROAD AND OLD SEWARD HIGHWAY.

(El Tango Restaurant) (Case 2004-059)

THE ANCHORAGE ASSEMBLY RESOLVES:

<u>Section 1</u>. 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 1, Tudor Square Subdivision; site address being 4300 Old Seward Highway, Suite #GD01, meets the applicable provisions of AMC 21.50.020 and AMC 21.50.160.

<u>Section 2</u>. 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 3,500 square-foot leased space within the City Center Mall for El Tango Restaurant, located on Lot 1A, Block 1, Tudor Square Subdivision. The restaurant has 15 tables. Alcohol sales are estimated to be 25 percent of the total gross receipts compared to 75 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.

<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,	AND APPROVED by the Anchorage Assembly this	1613
day of	March	2004.	

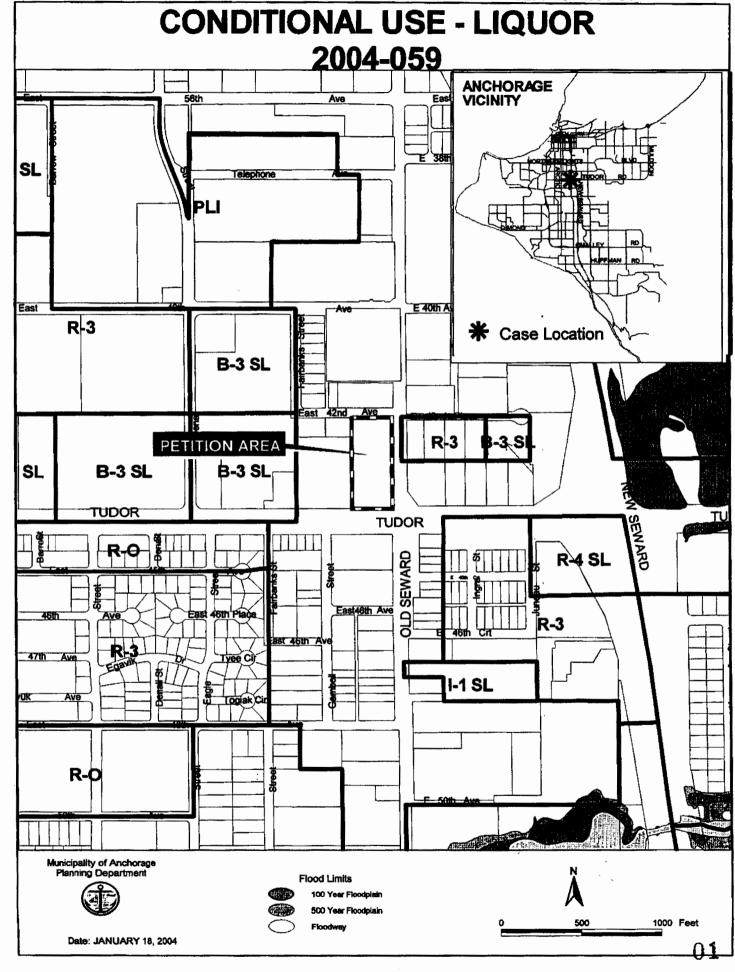
ATTEST:

Chair

Jahlen 5 Bruns 5

Municipal Clerk

(2004-059) (050-172-03-000)





MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 223-2004

Meeting Date: March 16, 2004

From: Mayor

Subject: AR 2004-56 Alcoholic Beverages Conditional Use for a

Restaurant/Eating Place License in the B-3 District

for El Tango Restaurant per AMC 21.40.180.D.8.

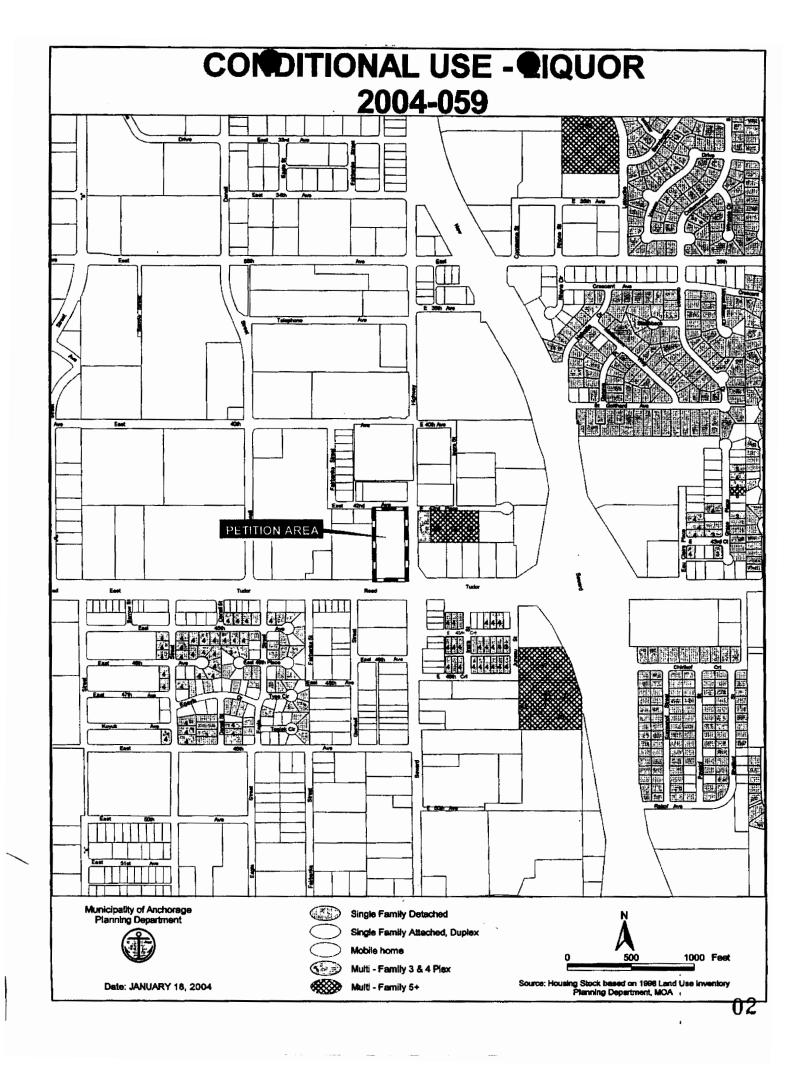
Argentino H. Forest, dba El Tango Restaurant, has made application for a new final conditional use permit for a new restaurant/eating place license in the B-3 District for a restaurant to be located in the City Center Mall at 4300 Old Seward Highway, Suite #GD01. There are 15 tables in the public dining area that occupies approximately half of the 3,500 square-foot leased floor area.

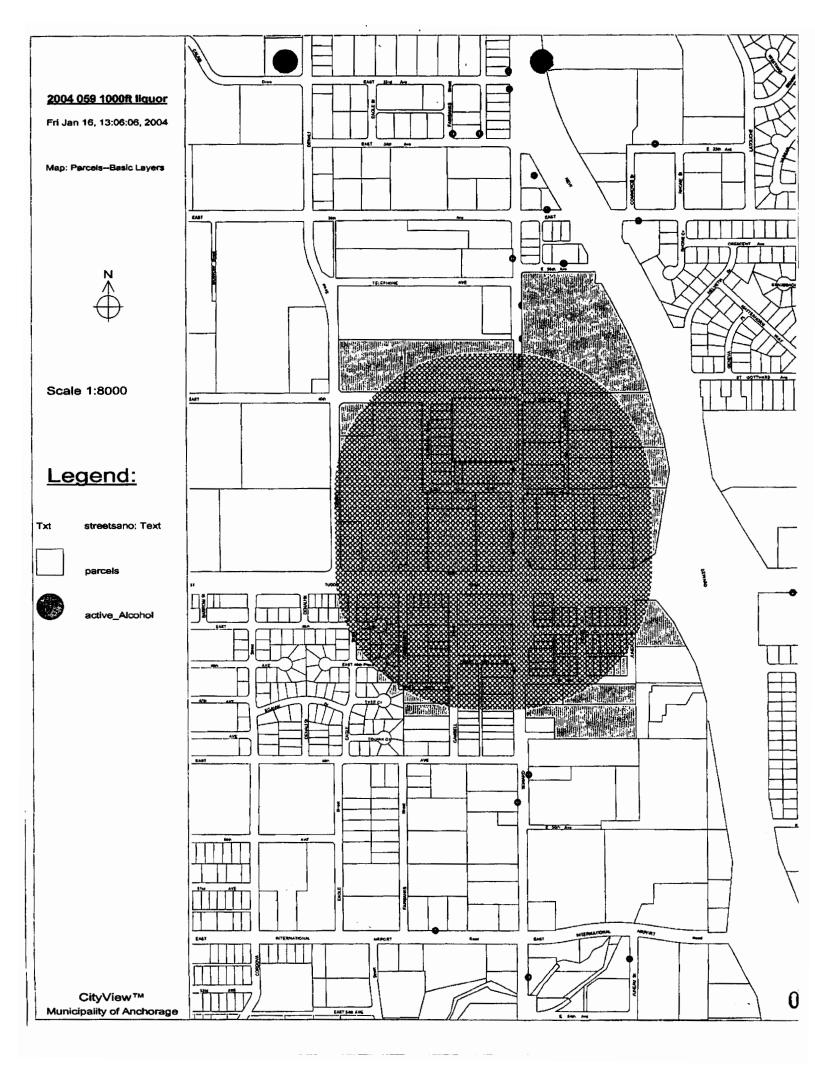
The restaurant is located at the northwest corner of the Old Seward Highway and Tudor Road. Beer and wine sales are anticipated to be 25 percent of sales compared to 75 percent food sales. It will operate on a seven day-week with hours of operation as permitted by law. Employees will be trained in accordance with the Alcoholic Beverage Control Board's "Liquor Server Awareness Training Program." Non-alcoholic beverages will be available, notices of penalties for driving intoxicated will be posted, and patrons will have access and assistance to public transportation. 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.

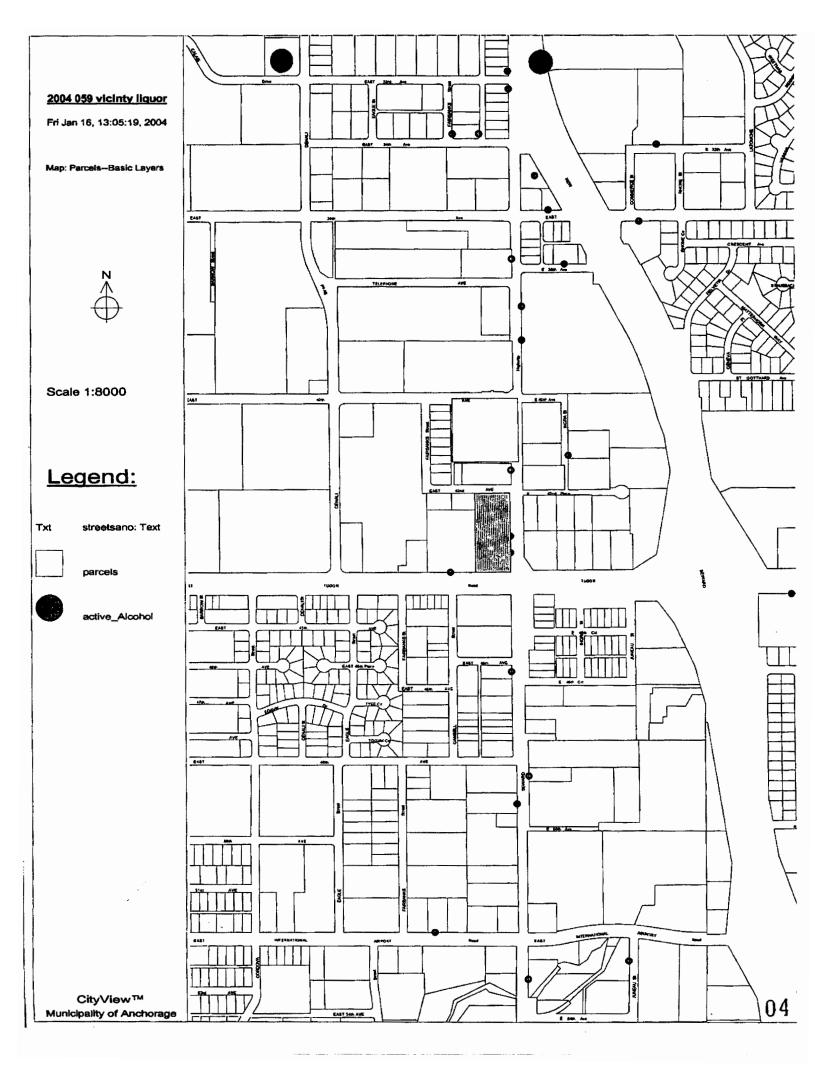
No comments were received from any of three affected community councils: Spenard, Campbell Park or Tudor Area. Forty-one public hearing notices were mailed and none were returned with any comments. Alaska Statute 04.11.100 restricts license transfer or renewal of restaurant licenses from being located in a building having a public entrance within 200 feet of the boundary line of a school or a church building. There are no day care facilities, schools or churches within 200 feet of the site's property lines. No comments were received from the Department of Health and Human Services. The Anchorage Police Department had no incident calls during the past two years to this address. There are no delinquent Personal Property Taxes and or Real Property Taxes owing.

There are two restaurant, one package, and one beverage dispensary licenses within 1,000 feet of the proposed restaurant. Approval of restaurant/eating place conditional use would add a third restaurant/eating place license, and does not appear to result in a concentration of licenses that would negatively impact the neighborhood.

	AM 223-2004	
	Page 2	
1		
2	This conditional use i	for a restaurant/eating place serving alcoholic beverages in the B-3
3	District generally mee	ts the applicable provisions of AMC 21.50.020 and AMC 21.50.160,
4	and AMC 10.50.	
5		
6		
7	Prepared by:	Jerry T. Weaver Jr., Zoning Administrator, Planning Department
8	Concur:	Donald S. Alspach, Acting Director, Planning Department
9	Concur:	Mary Jane Michael, Director, Office of Economic & Community
10		Development
11	Concur:	Denis C. LeBlanc, Municipal Manager
12	Respectfully submitted	l: Mark Begich, Mayor
13		<u> </u>







Alcohol Extract from List Report Case Number: 2004-059 Description: 1000 foot alcohol list

ParcelBusiness Name 00913116000 Brown Jug/Warehouse 00913205000 Hooters Restaurant 00913208000 Aladdin's Fine Mediterranean &	Parcel Owner Name Applicant Name ONEILL PROPERTIES INC Brown Jug, Inc. ALASKA ELECTRICAL PENSION FUND Alaska Wings, LLC BORCHARDT WILLIAM A Rabah & Jean Chettfour	Parcel Owner Address Business Address PO BOX 190027 4140 Old Seward Hwy 2550 DENALI STREET #513 701 E. Tudor Rd #110 2580 NATHANIEL COURT 4240 Old Seward Hwy #20	City Lic. Number ANCHORAGE 1461 ANCHORAGE 3591 ANCHORAGE 2520 ANCHORAGE	State Lic. Zone AK AK AK B3 AK B3 AK AK	Zip Lic. Type 99519 Package Store 99503 Restaurant/Eating Place 99517 Restaurant/Eating Place
	Sundance, Inc.	4600 Old Seward Hwy	1140	B3	Beverage Dispensary

CONDITIONAL USE - PIQUOR <u> 2004-059</u>



Date: JANUARY 18, 2004



Date of Aerial Photography: 1996

PLANNING DEPARTMENT STAFF ANALYSIS CONDITIONAL USE – ALCOHOLIC BEVERAGE SALES

DATE:

March 16, 2004

CASE NO.:

2004-059

APPLICANT:

Argentino H. Forest dba El Tango Restaurant

REPRESENTATIVE:

Argentino H. Forest

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:

Tudor Square Subdivision, Block 1, Lot 1A; generally located at the northwest corner of Tudor Road and Old

Seward Highway in the City Center Mall.

STREET ADDRESS:

4300 Old Seward Highway, Suite #GD01

COMMUNITY

COUNCIL:

Spenard; Campbell Park; Tudor Area

TAX PARCEL:

009-132-08-000/ Grid SW 1731

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:

3.34 acres

Vegetation:

Commercial landscaping

Zoning: Topography: B-3 Level

Existing Use:

Retail Commercial Strip Mall

Soils:

Public Sewer & Water

Planning Staff Analysis Case No. 2004-059 Page 2 of 9

COMPREHENSIVE PLAN

Classification: Located within a Major Employment Center and

Redevelopment/Mixed-Use Area (Anchorage 2020)

Commercial (1982 Anchorage Bowl Comprehensive Plan)

Density: N/A

Zoning:

SURROUNDING AREA

NORTH EAST SOUTH WEST B-3 B-3/R-3 B-3

Land Use: City Center KFC Restau- Lithia Jeep City Center Mall; Brown rant; Chrysler Car Mall; KTUU

Jug Warehouse Williams Dealership TV Station;

Express; Hooters Multi-Family Restaurant

SITE DESCRIPTION AND PROPOSAL:

The application site is located in a 47,744 square foot strip mall consisting of three buildings in midtown that was built in circa 1984. Access to the site is via the Old Seward Highway and Tudor Road.

The proposal is to place a new restaurant/eating place liquor license in one of the three buildings, located at the southeast corner of the parcel, nearest the intersection of Old Seward Highway and Tudor Road in Suite GD01. The lease space consists of 3500 square feet. Within 1,000 feet of this application there are two restaurant licenses, one package store, and one beverage dispensary license. The proposed restaurant/eating place liquor license is on the same site as one of the counted restaurant licenses.

The El Tango restaurant will specialize in South American and Caribbean cuisine, targeting the large Anchorage Hispanic community, and will occupy 3500 square foot lease space, have 15-tables plus a bar, and according to the application, a facility occupant capacity of 200, and seating capacity of 150. The restaurant will be open from 11:00 AM to 2:00 AM with liquor available from 11:00 AM to 2:00 AM. The restaurant will normally operate on 7-days a week with hours of operation as permitted by law. The petitioner estimates that 25% of his total sales will be for alcohol; employees will be trained in handling inebriated patrons. No security provisions are proposed. The restaurant will provide recorded music, live music, floor shows, patron dancing and sporting event television for entertainment.

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

PUBLIC COMMENTS:

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Forty-one (41) public hearing notices (PHNs) were mailed. At the time this report was written 3 PHNs were returned as undeliverable, and no written comment was received from any 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.

This site within a Major Employment Center and Redevelopment/Mixed-Use Area, albeit on the outer periphery, located at the New Seward Highway and Tudor Road. Major features of a major employment center are a mixture of supportive retail uses, such as restaurants, branch banks, and shopping in conjunction with office developments. Policy #23 lists characteristics of Major Employment Centers as including "promotion of compact, mixed commercial/office development where businesses are close enough to walk between.

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.

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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 mid-town 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 B-3 and R-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
Brown Jug Warehouse	4140 Old Seward Hwy	1461	Package Store
Hooters Restaurant	701 E. Tudor Rd #110	3591	Restaurant/Eating Place

Aladdin's Fine	4240 Old Seward	2520	Restaurant/Eating
Mediterranean	Hwy #20		Place
Time Out	4600 Old Seward	1140	Beverage
Lounge	Hwy		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 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 the Tudor Road and the Old Seward Highway. 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. Planning Staff Analysis Case No. 2004-059 Page 6 of 9

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.

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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 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

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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:

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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:

- A notice of Zoning Action shall be filed with the District Recorders 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 3,500 SF lease space located at 4300 Old Seward Highway, Suite #GD01, Tudor Square Subdivision, Block 1, Lot 1A. The restaurant has 15-tables. Alcohol sales are estimated to be 25 % of total gross receipts compared to 75 % 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: 001570

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Type: AR AllOther - All Other Resolutions

Alcoholic Beverages Conditional Use for a Restaurant/Eating Title: Place License in the B-3 District for El Tango Restaurant per

AMC 21.40.180.D.8.

Author: weaverit **Initiating Dept: Planning**

Alcoholic Beverages Conditional Use for a Restaurant/Eating

Description: Place License in the B-3 District for El Tango Restaurant per AMC

21.40.180.D.8.

Date Prepared: 2/23/04 11:36 AM Director Name: Donald S. Alspach

Assembly Meeting _{03/16/04} Date MM/DD/YY:

Public Hearing Date 03/16/04 MM/DD/YY:

Workflow History

Workflow Name	Action Date	Action	<u>User</u>	Security Group	Content ID
AllOtherARWorkflow	2/23/04 11:39 AM	Checkin	weaverjt	Public	001570
Planning_SubWorkflow	2/24/04 8:42 AM	Approve	alspach	Public	001570
MuniManager_SubWorkflow	2/27/04 7:48 AM	Approve	leblancdc	Public	001570
MuniMgrCoord_SubWorkflow	3/8/04 11:32 AM	Approve	katkusja	Public	001570

NEW PUBLIC HEARINGS

