

Submitted by:

Chair of the Assembly at
the Request of the Mayor
Planning Department
June 8, 2004

CLERK'S OFFICE
APPROVED

Prepared by:
For reading

Date: 6-8-04
Anchorage, Alaska
AR 2004-142

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING
A CONDITIONAL USE FOR AN ALCOHOLIC BEVERAGES CONDITIONAL USE
IN THE TRANSITION (T) DISTRICT FOR HOST INTERNATIONAL, INC. (DBA
LEGENDS), A BEVERAGE DISPENSARY-TOURISM USE WITHIN THE TED
STEVENS ANCHORAGE INTERNATIONAL AIRPORT, SOUTH TERMINAL, PER
AMC 21.40.240D.5, LOCATED ON THE WEST ONE-HALF OF SECTION 34,
TOWNSHIP 13 NORTH, RANGE 4 WEST, S.M., AK; GENERALLY LOCATED AT
THE WEST END OF WEST INTERNATIONAL AIRPORT ROAD.

(Legends) (Case 2004-088)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The conditional use permit for an Alcoholic Beverages Conditional Use for a beverage dispensary tourism license in the T District for Host International, Inc.(dba Legends), per AMC 21.40.240 D.5, located within the Ted Stevens Anchorage International Airport, South Terminal, located on the West one-half of Section 34, Township 13 North, Range 4 West, S.M., AK, meets the required standards 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 T District for a new Beverage Dispensary - Tourism Use License per AMC 21.40.240D.5 is approved subject to the following conditions:

1. A Notice of Zoning Action shall be filed with the District Recorder's Office within 120 days of the Assembly's approval of the minor amendment for a transfer of location to the final conditional use approval for a beverage dispensary use in the T District.
2. All uses shall conform to the plans and narrative submitted with this conditional use application, including the building plans for The Legends Pub, Project No. #811503, issue date: February 5, 2004.
3. This conditional use approval is for an Alcoholic Beverages Conditional Use in the T District for a Beverage Dispensary - Tourism Use per AMC 21.40.240 D.5 for approximately 1,207 SF lounge area within the Ted Stevens International Airport, Domestic Terminal, located on the West One-Half of Section 34, T13N,

- 1 R4W, S.M., AK. The lounge area proposes a bar, beer cooler, and storage room.
2 Plans indicate fixed seating of 38 and a facility occupant capacity of 42.
- 3 4. On-premise sale of alcohol beverages are seven (7)-days a week, Monday
4 through Sunday, 10:00 AM to 2:00 AM. Liquor sales represent 80% compared
5 to 20% food sales.
- 6 5. Upon demand, the applicant shall demonstrate compliance with a Liquor Server
7 Awareness Training Program approved by the State of Alaska Alcoholic
8 Beverage Control Board, such as or similar to the Program for Techniques in
9 Alcohol Management (T.A.M.).
- 10 6. The use of the property by any person for the permitted purposes shall comply
11 with all current and future Federal, State and local laws and regulations,
12 including but not limited to, laws and regulations pertaining to the sale,
13 dispensing, service and consumption of alcoholic beverages and the storage,
14 preparation, sale, service and consumption of food. The owner of the property,
15 the licensee under the Alcoholic Beverage Control license and their officers,
16 agents and employees, shall not knowingly permit or negligently fail to prevent
17 the occurrence of illegal activity on the property.
- 18 7. A copy of the conditions imposed by the Assembly in connection with this
19 conditional use approval shall be maintained on the premise at a location visible
20 to the public.

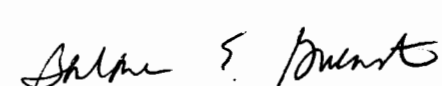
21
22 **Section 3.** Failure to comply with the conditions of this conditional use permit shall
23 constitute grounds for its modification or revocation.

24
25 **Section 4.** This resolution shall become effective immediately upon passage and
26 approval by the Anchorage Assembly.

27
28 PASSED AND APPROVED by the Anchorage Assembly this 8th day of
29 June, 2004.

30
31
ATTEST:


Chair


Municipal Clerk

(2004-088)
(010-381-12)



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 439-2004

Meeting Date: June 8, 2004

From: Mayor

Subject: AR 2004-142

Alcoholic Beverages Conditional Use in the T District for a new Beverage Dispensary Tourism Use per AMC 21.40.240 D.5 for the Host International, Inc., dba "Legends."

1 Host International, Inc. has made application for a transfer of an existing conditional use
2 permit for an alcoholic beverages conditional use in the T District to a new location in the
3 same facility (Ted Stevens Anchorage International Airport) per AMC 21.40.240 D.5
4 for a new restaurant, "Legends."

5
6 The Airport occupies an area of 2,233 acres, and includes runways and air terminals and
7 other assorted accessory uses and structures. The petitioner has a concession agreement
8 from the Ted Stevens Anchorage International Airport (TSAIA) and leases floor space in
9 the South Terminal for a bar/lounge. Due to additions to the South Terminal and
10 remodeling of the space, the Airport required several relocations of the food and beverage
11 services facilities. With these changes, the petitioner will be closing the location of the
12 existing Cheer's Restaurant, and is proposing with a separate application (Case 2004-087)
13 to transfer that license to their new restaurant, dba Chili's Too. This application, in
14 conjunction with the major additions to the terminal by TSAIA, is to add a new lounge
15 space near the far end of the new terminal wing. The existing lounge, Cheer's, will be
16 closing in order to open the Chili's Too Restaurant.

17
18 Tenant improvements will occupy approximately 1,207 square feet and include a full bar,
19 beer cooler, and storage room. Plans indicate an occupant capacity of 42 with 38 fixed
20 seats.

21
22 Proposed daily operating hours are from 10:00 AM to 2:00 AM, 365 days a year. The sale
23 of alcoholic beverages represent 80% compared to 20% food sales. Recorded music is the
24 only form of entertainment provided. Approximately four to six employees may have
25 direct contact with alcohol and will be trained in accordance with the Alcoholic Beverage
26 Control Board's Liquor Server Awareness Training Program. Non-alcoholic beverages are
27 available, notices of penalties for driving intoxicated are posted, and patrons have access
28 and assistance to public transportation. There is no entertainment defined as "indecent
29 material" or "adult entertainment," no happy hours, games or contests that include
30 consumption of alcoholic beverages, and no solicitation or encouragement of alcoholic
31 beverage consumption. Sales to persons who are inebriated or underage are prohibited. It
32 is also important to note that the location of this facility is past the Airport Security
33 screening, and the building has the constant presence of a dedicated police force.
34

1 There are no schools or churches within 1,000 feet of the petition site. There are a total of
2 three (3) other beverage dispensary licenses at the south airport terminal, and one (1) at the
3 north (international) terminal. Approval of this request will add a new beverage dispensary
4 license for the south terminal, which will alter this number of licenses, bringing the total to
5 four (4) in the south terminal, and five (5) overall at the airport. There is a request to
6 transfer the Cheers license to another spot in the terminal under Case 2004-087 by this
7 petitioner, which will transfer the license to a different location in the south terminal, and
8 will not alter the number of licenses.

9
10 Anchorage Police Department did not submit a report. There is no delinquent Personal
11 Property or Real Property Tax owing at this time. DHHS had no comment.

12
13 This conditional use for the relocation of the beverages dispensary license in the T District
14 generally meets the applicable provisions of AMC Titles 10 and 21, and Alaska Statute
15 04.11.090.

16
17
18 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

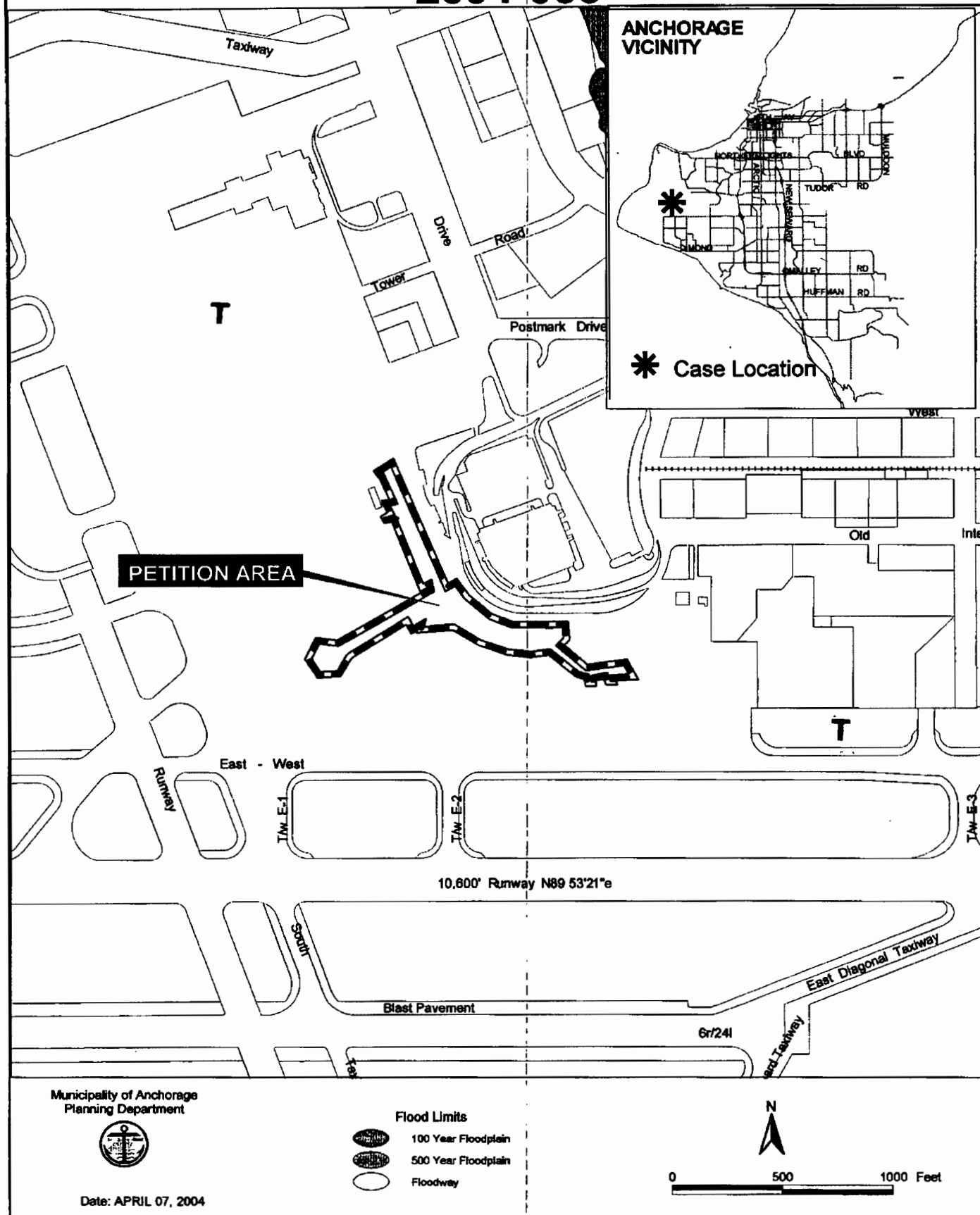
19 Concur: Tom Nelson, Acting Director, Planning Department

20 Concur: Mary Jane Michael, Director, Office of Economic & Community
21 Development

22 Concur: Denis C. LeBlanc, Municipal Manager

23 Respectfully submitted: Mark Begich, Mayor

2004-088



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

DATE: June 8, 2004

CASE NO.: 2004-088

APPLICANT: Host International, Inc. dba Legends

REPRESENTATIVE: Sherri Fessenden, General Manager

REQUEST: A Conditional Use for an Alcoholic Beverages Conditional Use in the T (Transition) District for a Beverage Dispensary - Tourism Use/License per AMC 21.40.240 D.5 for a new license within the Ted Stevens Anchorage International Airport South Terminal, Concourse 'B'.

LOCATION: West ½, Section 34, T13N, R4W, S.M., AK; generally located

STREET ADDRESS: 5000 W. International Airport Road - South Terminal

COMMUNITY COUNCIL: Sand Lake; Turnagain; Spenard

TAX PARCEL: 010-381-12/ Grid 1924

ATTACHMENTS

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

RECOMMENDATION SUMMARY:

This conditional use generally meets the required standards of AMC Title 10 and Title 21, and State Statute 04.11.480 and 15 AAC 104.145.

SITE:

Acres: 2,233 acres (Airport)
Vegetation: Natural vegetation
Zoning: Transition ("T")
Topography: Flat

Existing Use: Ted Stevens International Airport
Soils: Public Sewer & Water

COMPREHENSIVE PLAN

Classification: Transportation Related
Density: N/A

SURROUNDING AREA

	NORTH	EAST	SOUTH	WEST
Zoning:	Unzoned	R-2A	R-1	Unzoned
Land Use:	Knik Arm	Residential	Residential	Knik Arm

SITE DESCRIPTION AND PROPOSAL:

The Airport occupies an area of 2,233 acres, and includes runways and air terminals and other assorted accessory uses and structures. The petitioner has a concession agreement from the Ted Stevens Anchorage International Airport (TSAIA) and leases floor space in the South Terminal for a bar/lounge. Due to additions to the South Terminal and remodeling of the space, the Airport required several relocations of the food and beverage services facilities. With these changes, the petitioner will be closing the location of the existing Cheer's restaurant, and is proposing with a separate application (case 2004-087) to transfer that license to their new restaurant, dba Chili's Too. This application, in conjunction with the major additions to the terminal by TSAIA, is to add a new lounge space near the far end of the new terminal wing. The existing lounge, Cheer's, will be closing in order to open the Chili's Too restaurant.

Tenant improvements will occupy approximately 1,207 square feet and include a full bar, beer cooler, and storage room. Plans indicate an occupant capacity of 42, with 38 fixed seats.

Daily operating hours are from 10:00 AM to 2:00 AM, 365 days a year. The sale of alcoholic beverages represent 80 % compared to 20% food sales. Recorded music is the only form of entertainment provided. Approximately 4-6 employees may have direct contact with alcohol and will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program. Non-alcoholic beverages are available, notices of penalties for driving intoxicated are posted, and patrons have access and assistance to public transportation. There is 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. Sales to persons who are inebriated or underage are prohibited. It is also important to note that the

location of this facility is past the Airport Security screening, and the building has the constant presence of a dedicated police force.

PUBLIC COMMENTS:

One hundred and fifty-eight (158) public hearing notices (PHNs) were mailed. At the time this report was written no PHNs were returned: no written comment has been received from any of the Community Councils (Sand Lake, Spenard and Turnagain).

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 identified on the Anchorage 2020 Plan Land Use Policy Map (p. 50) as part of the West Anchorage Planning Area, which sets the direction for the preferred form of long-term growth and development in the Anchorage Bowl. This concept will be implemented through the development of the Plan as noted in Land Use Policy #28. This plan has not begun to be developed

Several goals of the Anchorage 2020 Plan do address related issues such as recreational and economic opportunities. Ted Stevens Anchorage International Airport has long been recognized as the primary air transportation gateway to the Municipality and Alaska, and one of the most important economic generators for Southcentral Alaska. The airport is state-owned and -operated as it is a major employer and land use with potential for expansion.

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

This standard is met.

The Transition District zoning regulations allow alcoholic beverage sales through the conditional use permit process: AMC 21.40.240 D.5. Uses involving alcoholic beverage sales and dispensing.

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 Transition District is intended for areas undergoing change. It is intended that interim development shall proceed in accordance with the applicable comprehensive development plan for the property being developed. As development patterns start to emerge within these areas and the sophistication of their protection becomes more critical to the general public interest, it is anticipated that such lands within the T districts will be proposed for more restrictive zoning classifications. All airports within the Anchorage Bowl are zoned T District. The subject airport has always provided food and alcoholic beverages for its travelers. Chili's Too is compatible with the T zone and existing uses in the Airport.

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 a total of three beverage dispensary licenses in the domestic airport area owned and operated by Host International, Inc.: Upper One (Beverage Dispensary) License #1187, Cheers (Beverage Dispensary - Duplicate) License #1953 and Cloud Hoppers (approved under the name of Frontier Lounge) (Beverage Dispensary Tourism) License #2598. There is a Beverage Dispensary Tourism license (#1798) in the International Airport Lounge at 5600 Postmark Drive.

This request will still make a total of 5 Beverage Dispensary licenses. Please note that there is a request to transfer the Cheers license to another spot in the terminal, which will operate as a totally different restaurant, and no longer be primarily a bar.

Within 2,000 feet of the petition site is one other alcoholic beverage license: Kulis ANG NCO has a club license #603.

Alaska Statute 04.11.410, Restriction of location near churches and schools, restricts beverage dispensary and package store licenses from being located in a building the public entrance of which is within 200-feet of the public entrance of a church building, or from being located within 200-feet of school grounds. There are no church buildings or school grounds within 200 feet of the Airport.

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.

The Airport provides all required parking on site on airport grounds, and takes into consideration the three lounges. The

amount of required parking was reviewed and determined as part of the on-going building permit additions currently underway at the airport. The Traffic Department had no objection and no comment on this relocation.

The approved building permit addressed vehicular and pedestrian traffic circulation and safety. There are adequate entrances and exits for vehicles to and from adjacent streets and roadways. The parking area is well lit. The site plan incorporates pedestrian sidewalks along the roadways adjacent to the parking lot entrances, pedestrian walkways buffers between airport entrances and exists and the parking lot aisles.

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

This standard is met.

The incorporation of this business serving alcohol at this location in the new wing to the TSAIA terminal will not impact public services. Electrical, water and sewer, natural gas are available on site. Road infrastructure and public transit is already in place. The petition site is within ARDSA, Police and Fire service areas.

3. Noise, air, water, or other forms of environmental pollution.

This standard is met.

As a land use, a Beverage Dispensary conditional use and license will not cause or contribute to any environmental pollution. The public parking lots are paved, which 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 minor modification for relocation within the same building of this conditional use permit for a beverage dispensary-tourism 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.**

This standard does not apply to tourism licenses.

Alaska Statutes for Title 4. Alcoholic Beverage Control includes an exemption clause from the regular license-to-population ratio limitations for tourism licenses.

There are no schools or churches within 1,000-feet of the petition site. There remain a total of three (3) other beverage dispensary licenses at the airport, and a fourth in the airport vicinity. Approving the relocation of this beverage dispensary-tourism license does not alter the number of licenses within a 2,000-foot radius of the petition site.

Beverage Dispensary Tourism	International Airport Lounge	5600 Postmark Drive, #1798
Beverage Dispensary Duplicate	Cheers	Anchorage Int'l Airport #1953
Beverage Dispensary Tourism	Frontier Lounge	Anchorage Int'l Airport #2598
Beverage Dispensary Tourism	Upper One	Anchorage Int'l Airport #1187

- 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 will be involved in the dispensing of alcoholic beverages and 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 not applicable.

- 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 a licensed premise. 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.

According to the application, the petitioner holds hundreds of liquor licenses throughout the United States, and takes seriously the responsibilities of alcohol management. In addition to attending locally required Alcohol Management classes, all associates are required to take and pass a computer based Alcohol Management (Bar Code) training session before the first day on the job. The location of the facility is past the Airport Security screening, and the building has the constant presence of a dedicated police force. The Anchorage Police Department has no incidents within the past two years to report.

- 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, Real Property Taxes or Downtown Improvement Special Tax Assessments 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 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.**

At the time this report was prepared there were no comments received from the Department of Health and Human Services.

- 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 minor amendment to an existing conditional use for alcoholic beverages in the T District for a beverage dispensary-tourism use and license per AMC 21.40.240 D.5 for a transfer of location within the domestic terminal at the Ted Stevens Anchorage International Airport South Terminal, Concourse 'B' meets the required standards of AMC Title 10 and Title 21, and State Statute 04.11.480 and 15 AAC 104.145.

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 Assembly's approval of the minor amendment for a transfer of location to the final conditional use approval for a beverage dispensary use in the T District.
2. All uses shall conform to the plans and narrative submitted with this conditional use application, including the building plans for The Legends Pub, Project No. #811503, issue date: February 5, 2004.
3. This conditional use approval is for an Alcoholic Beverages Conditional Use in the T District for a Beverage Dispensary - Tourism Use per AMC 21.40.240 D.5 for approximately 1,207 SF lounge area within the Ted Stevens International Airport, Domestic Terminal, located on Section 34, T13N, R4W, West One-Half, S.M., AK. The lounge area proposes a bar, beer cooler, and storage Room. Plans indicate fixed seating of 38 and a facility occupant capacity of 42.
4. On-premise sale of alcohol beverages seven (7)-days a week, Monday thru Sunday, 10:00 AM to 2:00 AM. Liquor sales represent 80% compared to 20% food sales.
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 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.

7. 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 :** 001847**Type:** AR_AllOther - All Other Resolutions

Alcoholic Beverages Conditional Use in the T District for a new

Title: Beverage Dispensary Tourism Use per AMC 21.40.240 D.5 for the Host International, Inc., dba "Legends."**Author:** weaverjt**Initiating Dept:** Planning

Alcoholic Beverages Conditional Use in the T District for a new

Description: Beverage Dispensary Tourism Use per AMC 21.40.240 D.5 for the Host International, Inc., dba "Legends."**Date Prepared:** 5/21/04 12:58 PM**Director Name:** Tom Nelson**Assembly Meeting** 06/08/04**Date MM/DD/YY:****Public Hearing Date** 06/08/04**MM/DD/YY:**

CLERK OF COURT

2004 JUN -1 AM 11:57

MAY 11

Workflow History

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ECD_SubWorkflow	5/21/04 3:16 PM	Approve	thomasm	Public	001847
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ECD_SubWorkflow	5/26/04 1:21 PM	Approve	thomasm	Public	001847
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MuniMgrCoord_SubWorkflow	5/27/04 2:53 PM	Approve	katkusja	Public	001847

NEW PUBLIC HEARINGS