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Submitted by: Chair of the Assembly at
the Request of the Mayor
Prepared by: Planning Department
For reading: December 14, 2004

CLERK'S OFFICE
APPROVED
Date: 12-14-04
Anchorage, Alaska
AR 2004-306

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING
A CONDITIONAL USE FOR AN ALCOHOLIC BEVERAGES CONDITIONAL USE
IN THE B-3 (GENERAL BUSINESS) DISTRICT FOR A NEW BEVERAGE
DISPENSARY USE PER AMC 21.40.180D.8. FOR THE EL TANGO
RESTAURANT; LOCATED ON LOT 1A, BLOCK 1, TUDOR SQUARE
SUBDIVISION; GENERALLY LOCATED AT THE NORTHWEST CORNER OF
TUDOR ROAD AND OLD SEWARD HIGHWAY IN THE CITY CENTER MALL.

(El Tango) (Case 2004-175)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The conditional use permit for an Alcoholic Beverages Conditional Use in
the B-3 District for a new Beverage Dispensary License per AMC 21.40.180 D.8,
located on Lot 1A, Block 1, Tudor Square Subdivision, meets the required standards of
AMC 21.50.020 and AMC 21.50.160 and 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 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 beverage dispensary use per AMC 21.40.180 D.8 for
a 1,204 square-foot lease space located at 4300 Old Seward Highway, Suite
number GD01, Lot 1A, Block 1, Tudor Square Subdivision. The restaurant
has a facility occupant capacity of 200, and seating capacity of
approximately 150. 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.

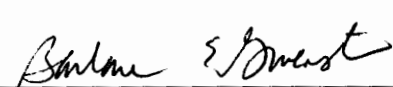
Section 2. Failure to comply with the conditions of this conditional use permit shall constitute grounds for its modification or revocation.

Section 3. This resolution shall become effective immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 14th
day of December 2005.

ATTEST:


Chair


Municipal Clerk

(2004-175)
(009-132-08)



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 893-2004

Meeting Date: December 14, 2004

From: Mayor
Subject: Alcoholic Beverages Conditional Use in the B-3 District for a Beverage Dispensary Use per AMC 21.40.180 D.8 for Argentinio H. Forest., dba "El Tango."

1 Argentinio H. Forest has made application for a final conditional use permit for a new
2 beverage dispensary license in the B-3 District for Lot 1A, Block 1, Tudor Square
3 Subdivision, per AMC 21.40.180 D.8 for "El Tango," an existing restaurant.
4

5 The proposal is to replace an existing restaurant/eating place liquor license with a new
6 beverage dispensary license located at the southeast corner of the parcel, nearest the
7 intersection of Old Seward Highway and Tudor Road in Suite GD01. The lease space
8 consists of 1,204 square feet. Within 1,000 feet of this application, there are two restaurant
9 licenses, one package store, and one beverage dispensary license. The proposed beverage
10 dispensary license is on the same site as one of the counted restaurant licenses.
11

12 The El Tango restaurant will specialize in South American and Caribbean cuisine. It will
13 occupy a 1,204 square-foot lease space, and have approximately 150 or more non-fixed
14 seats, plus a bar. The facility occupant capacity is 200 with seating capacity of
15 approximately 150. The restaurant will be open from 12:00 PM to 2:00 AM with liquor
16 available from 12:00 PM to 2:00 AM. The restaurant will normally operate seven days a
17 week with hours of operation as permitted by law. The petitioner estimates that 25% of
18 his total sales will be for alcohol. Employees will be trained in handling inebriated patrons,
19 and will be trained in accordance with the Alcoholic Beverage Control Board's "Liquor
20 Server Awareness Training Program". No security provisions are proposed. The
21 restaurant will provide recorded music, live music, floor shows, patron dancing and
22 sporting event television for entertainment.
23

24 There are two restaurant/eating places, one package store, and one beverage dispensary
25 licenses within 1,000 feet of the proposed restaurant, excluding the restaurant license
26 currently at the petition site which is proposed to be replaced by the beverage dispensary
27 license. There are no churches or schools within 200 feet of the petition site.
28

29 The Anchorage Police Department had no incident calls during the past two years to this
30 address. Treasury provided no comments regarding personal or business taxes. The
31 Department of Health and Human Services provided a response questioning the lack of
32 community standards for alcoholic beverage conditional uses.
33

1 This conditional use for the Beverages Dispensary License in the B-3 District generally
2 meets the applicable provisions of AMC Titles 10, 21, and Alaska Statute 04.11.090.

3
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5 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

6 Concur: Tom Nelson, Director, Planning Department

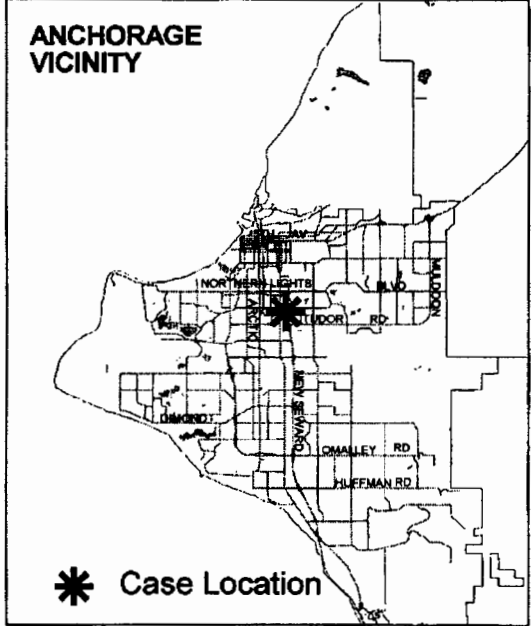
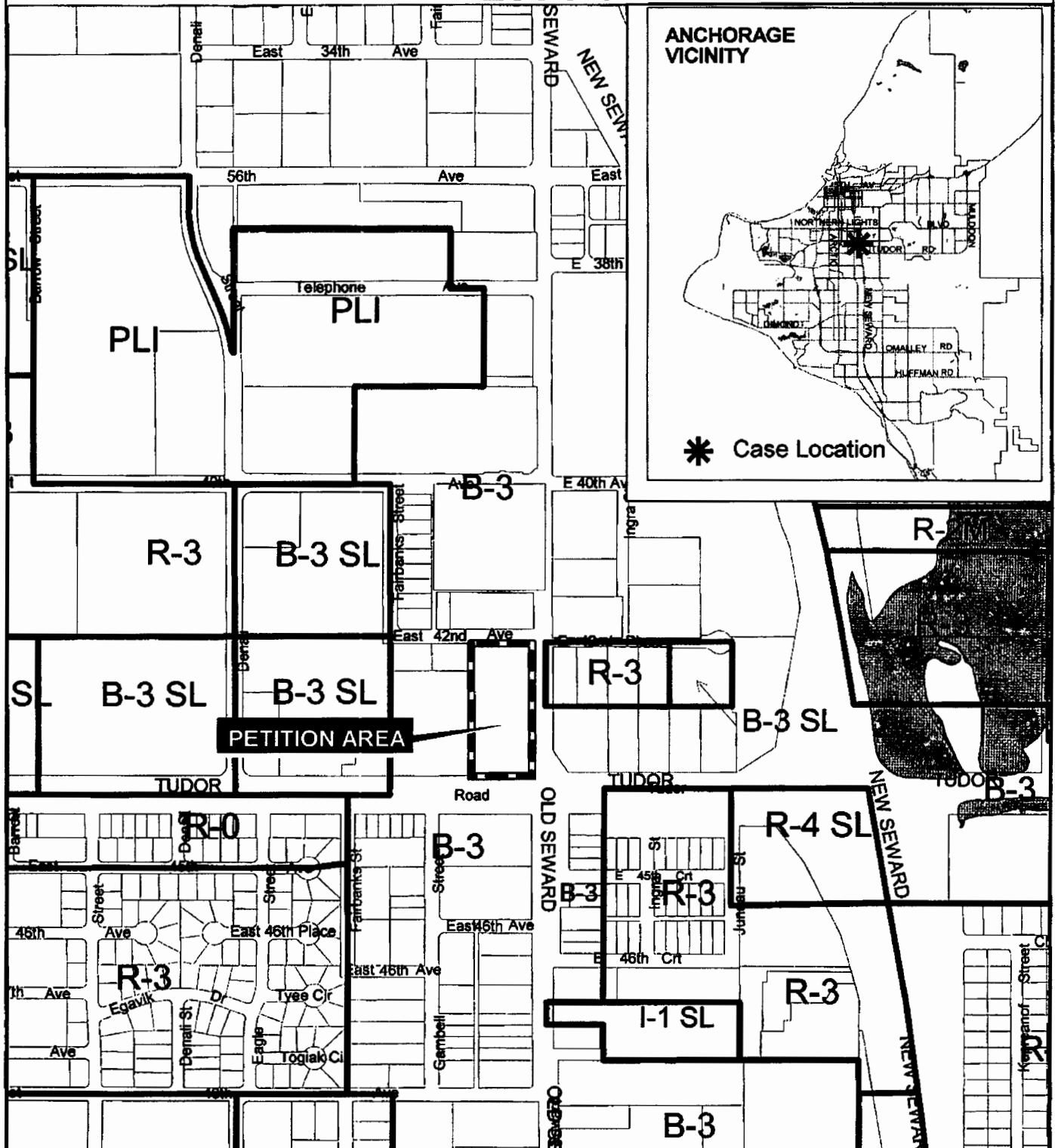
7 Concur: Mary Jane Michael, Director, Office of Economic & Community
8 Development

9 Concur: Denis C. LeBlanc, Municipal Manager

10 Respectfully submitted: Mark Begich, Mayor

CONDITIONAL USE - LIQUOR

2004-175

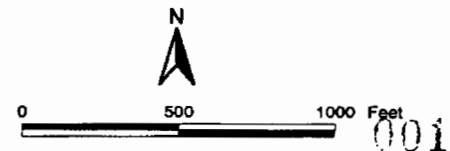


Municipality of Anchorage
Planning Department



Date: OCTOBER 12, 2004

- Flood Limits
- 100 Year Floodplain
 - 500 Year Floodplain
 - Floodway



001

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

DATE: December 14, 2004

CASE NO.: 2004-175

APPLICANT: Argentino H. Forest dba El Tango Restaurant

REPRESENTATIVE: Law Offices of Dan K. Coffey

REQUEST: Conditional Use for an Alcoholic Beverages Conditional Use in the B-3 District for a Beverage Dispensary 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: B-3
Topography: Level
Existing Use: Retail Commercial Strip Mall
Soils: Public Sewer & Water

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

SURROUNDING AREA

	NORTH	EAST	SOUTH	WEST
Zoning:	B-3	B-3/R-3	B-3	B-3
Land Use:	City Center Mall; Brown Jug Warehouse	KFC Restaurant; Williams Express; Multi-Family	Lithia Jeep Chrysler Car Dealership	City Center Mall; KTUU TV Station; Hooters 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 replace an existing restaurant/eating place liquor license with a new beverage dispensary 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 1,204 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 1,204 square foot lease space, have approximately 150 or more non-fixed seats plus a bar, and according to the application, a facility occupant capacity of 200, and seating capacity of approximately 150. The restaurant will be open from 12:00 PM to 2:00 AM with liquor available from 12:00 PM 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:

Forty-five (45) public hearing notices (PHNs) were mailed. At the time this report was written 0 PHN's were returned, 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.

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.

The Department of Health and Human Services provided a response questioning the lack of community standards for alcoholic beverage conditional uses.

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 petition facility.

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, excluding the restaurant license currently at the petition site, which is proposed to be replaced by the beverage dispensary license. Approving this beverage dispensary license would add a 2nd beverage dispensary 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 Mediterranean	4240 Old Seward Hwy #20	2520	Restaurant/Eating Place
Time Out Lounge	4600 Old Seward Hwy	1140	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 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 beverage dispensary license to an existing 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 beverage dispensary 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 beverage dispensary 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.**

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 beverage dispensary license 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 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

At the time this staff report was written, no response from Treasury had been received regarding the subject property regarding whether or not there are any outstanding or delinquent real property taxes or business personal 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 beverage dispensary 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 beverage dispensary use per AMC 21.40.180 D.8 for a 1,204 SF lease space located at 4300 Old Seward Highway, Suite #GD01, Tudor Square Subdivision, Block 1, Lot 1A. The restaurant has a facility occupant capacity of 200, and seating capacity of approximately 150. 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 :** 002411**Type:** AR_AllOther - All Other Resolutions

Alcoholic Beverages Conditional Use in the B-3 District for a

Title: Beverage Dispensary Use per AMC 21.40.180 D.8 for Argentinio H. Forest., dba "El Tango."**Author:** weaverjt**Initiating Dept:** Planning

Alcoholic Beverages Conditional Use in the B-3 District for a

Description: Beverage Dispensary Use per AMC 21.40.180 D.8 for Argentinio H. Forest., dba "El Tango."**Date Prepared:** 11/23/04 12:43 PM**Director Name:** Tom Nelson**Assembly Meeting**
Date MM/DD/YY: 12/14/04**Public Hearing Date**
MM/DD/YY: 12/14/04**Workflow History**

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
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Planning_SubWorkflow	11/23/04 1:54 PM	Approve	nelsontp	Public	002411
ECD_SubWorkflow	11/23/04 3:57 PM	Approve	thomasm	Public	002411
MuniManager_SubWorkflow	12/2/04 8:04 AM	Approve	leblancdc	Public	002411
MuniMgrCoord_SubWorkflow	12/6/04 7:11 AM	Approve	abbottmk	Public	002411

CLERK'S OFFICE
2004 DEC -6 PM 12:30
M.D.A.