

Submitted by: Chair of the Assembly at
the Request of the Mayor
Prepared by: Planning Department
For reading: August 9, 2005

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 10-11-05

Anchorage, Alaska
AR 2005-193

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING AN AMENDMENT TO AN ALCOHOLIC BEVERAGES CONDITIONAL USE IN THE B-3 DISTRICT FOR A BEVERAGE DISPENSARY USE PER AMC 21.40.180 D.8 FOR THE SETTER, LOCATED ON LOT 1, FANTASIES SUBDIVISION AND LOTS 4, 5 AND 6, BLOCK 26C, FOURTH ADDITION SUBDIVISION; SITE ADDRESS BEING 1911 EAST 5TH AVENUE, GENERALLY LOCATED BETWEEN EAST 4TH AND EAST 5TH AVENUES, ON THE EAST SIDE OF SITKA STREET.

(Mountain View Community Council) (Case 2005-103)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The amendment to a conditional use permit for an Alcoholic Beverages Conditional Use in the B-2A District for a Beverage Dispensary use per AMC 21.40.180 D.8 for The Setter, located on Lot 1, Fantasies Subdivision, and Lots 4, 5 and 6, Block 26C, Fourth Addition Subdivision; site address being 1911 East 5th Avenue, meets the applicable provisions of AMC 21.50.020 and AMC 21.50.160.

Section 2. The subject amendment to a conditional use permit for an Alcoholic Beverages Conditional Use in the B-3 District for a Beverage Dispensary Use per AMC 21.40.180 D.8 is subject to the following conditions:

1. A Notice of Zoning Action shall be filed with the District Records Office within 120 days of the Assembly's approval of the amendment for relocation and expansion of license premise on Lot 1, Fantasies Subdivision, to the final conditional use approval for a beverage dispensary use in the B-3 District.
2. All uses shall conform to the plans and narrative submitted with this conditional use application, including the second floor seating plan for 104 non-fixed seats (no date on drawing – states 107 actual number of occupants).
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 approximately 4,440 square-foot lounge area to be located on the second floor of the structure at Fantasies Subdivision, Lot 1. The lounge area proposes a bar, cooler, storage room and deck seating area. Plans and submittals indicate non-fixed seating of 104 and a facility occupant capacity of 107.

4. On-premise sale of alcohol beverages seven (7) days a week, Monday through Friday, 10:00 AM to 2:30 AM; Saturday and Sunday 10:AM to 3:00 AM. Liquor sales represent 85 percent compared to 15 percent 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. Prior to this conditional use becoming effective, resolve the physical separation of the entrances to the lounge and to the adult-oriented use with the Municipal Clerk's Office and the Planning Department.
8. No use involving the retail sale, dispensing or service of alcoholic beverages shall be allowed on any floor but the approved second floor of the three story structure on the petition site.
9. 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 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 11th day of October 2005.

ATTEST:

Anna L. Fairclough
Chair

Barbara S. Mendenhall
Municipal Clerk



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 519-2005

Meeting Date: August 9, 2005

From: Mayor

Subject: ALCOHOLIC BEVERAGES AMENDMENT TO A CONDITIONAL USE
FOR A BEVERAGE DISPENSARY USE IN THE B-3 DISTRICT PER
AMC 21.40.180 D.8 FOR THE SETTER.

1 DebcO, Inc., represented by Carol Hartman, dba The Setter, has made application for a
2 minor amendment to a Beverage Dispensary alcoholic beverages conditional use in the
3 B-3 District for Lot 1, Fantasies Subdivision and Lots 4, 5 and 6, Block 26C, Fourth
4 Addition Subdivision, per AMC 21.40.180 D.8 for a Beverage Dispensary license.
5

6 The Department finds that this request is a major amendment, which requires a public
7 hearing. The Department has advertised this request for a public hearing and required
8 the property to be posted in the event that the Assembly determines that this request is
9 a major amendment.
10

11 This is a request for an expansion and relocation of a beverage/dispensary license to a
12 new location within an expanded building for DebcO, Inc., dba The Setter. The petition
13 site includes one 19,523 square-foot (SF) lot at the northeast corner of East 5th Avenue
14 and Sitka Street, and three parcels to the north totaling 21,000 SF, which are located
15 across an alley and used for off-street parking for the uses on the other parcel. The
16 19,523 SF parcel, Fantasies Subdivision, Lot 1 was constructed with a one-story
17 structure in approximately 1957, according to Municipal Property Appraisal records. It
18 has been used as a bar/lounge with a beverage dispensary license since that time, prior
19 to annexation into the City of Anchorage on March 20, 1960. Thus, according to
20 AMC 21.55.070, the use of the beverage dispensary license in its current location
21 within the structure is considered to exist as a conditional use, and shall not be deemed
22 a nonconforming use. The license owned by the petitioner has been in their ownership
23 since 1968, and was transferred to this site.
24

25 The original structure size containing only the use of the bar was approximately 3,960
26 square feet according to Municipal Property Appraisal records. Approximately six
27 years ago, the petitioner decreased the floor area of the bar by separating the floor area
28 to allow for the addition of an adult cabaret for persons age 18 and over. This new
29 business, dba Fantasies, is licensed by the Municipality of Anchorage under AMC
30 10.40.050 as an adult-oriented establishment, specifically as an adult cabaret.

1 In 2004, the petitioner desired to add on to the building in order to expand both the bar
2 and the adult cabaret uses, and applied for Building Permit 04-5129. The permit is for
3 a 360 SF first floor addition, new 4,440 square-foot second floor and 4,450 square-foot
4 third floor. This also serves to further separate the use of the adult-oriented
5 establishment from the bar by moving the bar to the second floor, so that the adult-
6 oriented establishment will be on the first floor with a separate entrance from the bar,
7 which will be relocated to the second floor in its entirety. The third floor use is
8 unknown for long term use, but at this time is only proposed to be storage and office
9 for the purpose of this application.

10
11 The Department finds that this relocation and expansion of the bar, even though it
12 exists on the same physical lot, does not constitute a minor amendment to the existing
13 conditional use for the following reasons:

- 14
- 15 • Approximate 80 percent increase of floor area of the alcohol use area
- 16 • Approximate 68 percent increase in occupancy/seating for the alcohol use area
- 17 • Multiple uses in the same building, with expansion of both uses (approximately
18 3,795 square feet to 4,450 square feet for adult-oriented establishment, and
19 approximately 915 square feet to 4,440 square feet for alcohol use are)
- 20

21 The Department recommends that, due to the size of the expansion and need to ensure
22 that any potential neighborhood impacts are properly mitigated, this request should be
23 heard as a major amendment by the Assembly with a public hearing.

24
25 Daily operating hours currently are, and are proposed to be, 10:00 AM to 2:30 AM
26 weekdays, and 10:00 AM to 3:00 AM weekends, 365 days a year. Occupancy is
27 proposed to be 107, with 104 non-fixed seats, with 80 of those indoors and 24 seasonal
28 for the balcony.

29
30 The sale of alcoholic beverages represent 85 percent compared to 15 percent food
31 sales. Recorded music and patron dancing are the only forms of entertainment
32 provided. Approximately 12-15 employees may have direct contact with alcohol and
33 will all be trained in accordance with the Alcoholic Beverage Control Board's Liquor
34 Server Awareness Training Program. These employees will be required to keep their
35 cards up to date and renewed as required. The only entertainment noted that is defined
36 as "adult entertainment" is the viewing area to the stage of the adult cabaret on the first
37 floor. There will be no happy hours, games or contests that include consumption of
38 alcoholic beverages, and no solicitation or encouragement of alcoholic beverage
39 consumption. Sales to persons who are inebriated or underage are prohibited. The
40 application states that there are security personnel on duty during evening hours, with a
41 minimum of one security person at all times, and approximately four on weekends.

42
43 There are no churches or schools within 200 feet of the lounge.
44

1 The Anchorage Police Department reported three liquor related incidents over the past
2 two years, one minor consuming, one disturbance, and one assault. Treasury found no
3 outstanding taxes for this application. The Department of Health and Human Services
4 provided comments concerning allegations of OSHA violations, minors being allowed
5 in the lounge, and depiction of sexual material to children. They further commented
6 concerning whether or not it is in the public's best interest to allow further expansion
7 of the existing lounge given its co-location with an adult cabaret.

8
9 THIS AMENDMENT TO A CONDITIONAL USE FOR A BEVERAGE
10 DISPENSARY LICENSE IN THE B-3 DISTRICT GENERALLY MEETS THE
11 APPLICABLE PROVISIONS OF AMC TITLES 10 AND 21 AND ALASKA
12 STATUTE 04.11.090.

13
14 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department
15 Concur: Tom Nelson, Director, Planning Department
16 Concur: Mary Jane Michael, Executive Director, Office of Economic &
17 Community Development
18 Concur: Denis C. LeBlanc, Municipal Manager
19 Respectfully submitted: Mark Begich, Mayor
20

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

DATE: August 9, 2005

CASE NO.: 2005-103

APPLICANT: Debco, Inc., dba The Setter
New proposed name: Fantasies Upper Deck

REPRESENTATIVE: Carol Hartman

REQUEST: An Amendment to a Conditional Use for an Alcoholic Beverages Conditional Use in the B-3 (General Business) District for a Beverage Dispensary License per AMC 21.40.180D.8 for an expansion of license premises.

LOCATION: Fantasies Subdivision, Lot 1, and Fourth Addition, Block 26C, Lots 4, 5 and 6, generally located between East 4th and East 5th Avenues, on the east side of Sitka Street.

STREET ADDRESS: 1911 East 5th Avenue

COMMUNITY COUNCIL: Mountain View; adjacent to Airport Heights and Fairview.

TAX PARCEL: 003-081-66; 1-16, -15, -14/ Grid SW 1233

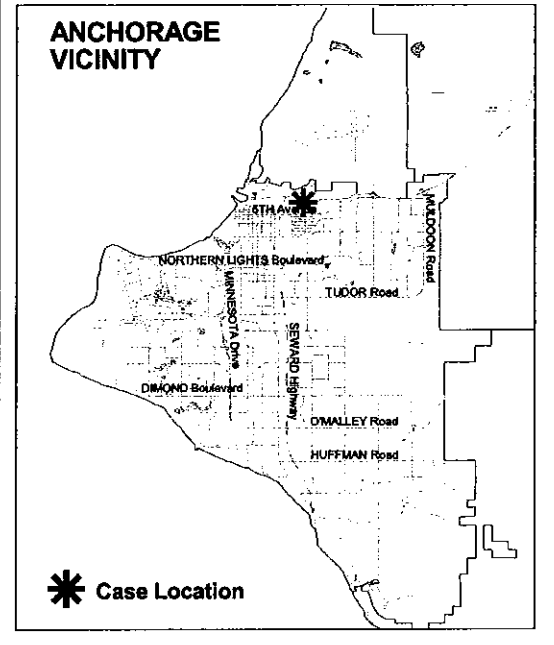
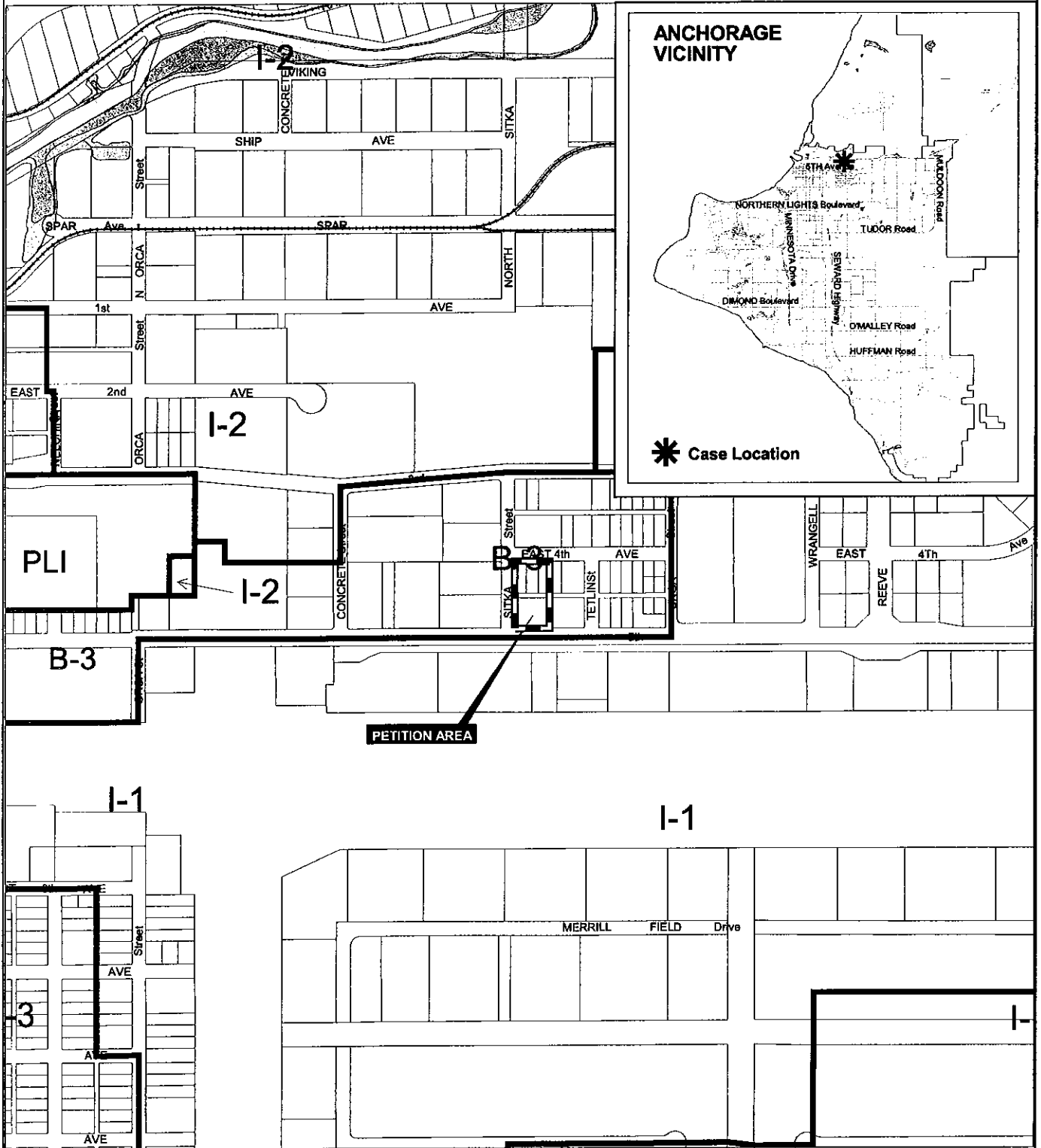
ATTACHMENTS

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

RECOMMENDATION SUMMARY:

The petitioner requested this be heard as a minor amendment to the existing conditional use. The Department finds that this request is a major amendment, which requires a public hearing. The Department has advertised for a public hearing and required the property to be posted in the event that the Assembly determines that this request is a major amendment.

CONDITIONAL USE-ALCOHOL 2005-103



Municipality of Anchorage
Planning Department

Date: June 28, 2005





SCALE 1" = 20'

APPROVED
MUNICIPALITY OF ANCHORAGE
TREASURER DEPARTMENT
8-17-04
8:51 PM



ROSEN CONSTRUCTION, INC.

I hereby certify that I have performed a survey of the following premises:

PROPOSED LOT 1, FANTASIES SUBDIVISION
AND LOTS 4, 5, AND 6, BLOCK 286, CITY OF

ALLEGEDLY SUBMISSION FROM THE ALLEGED

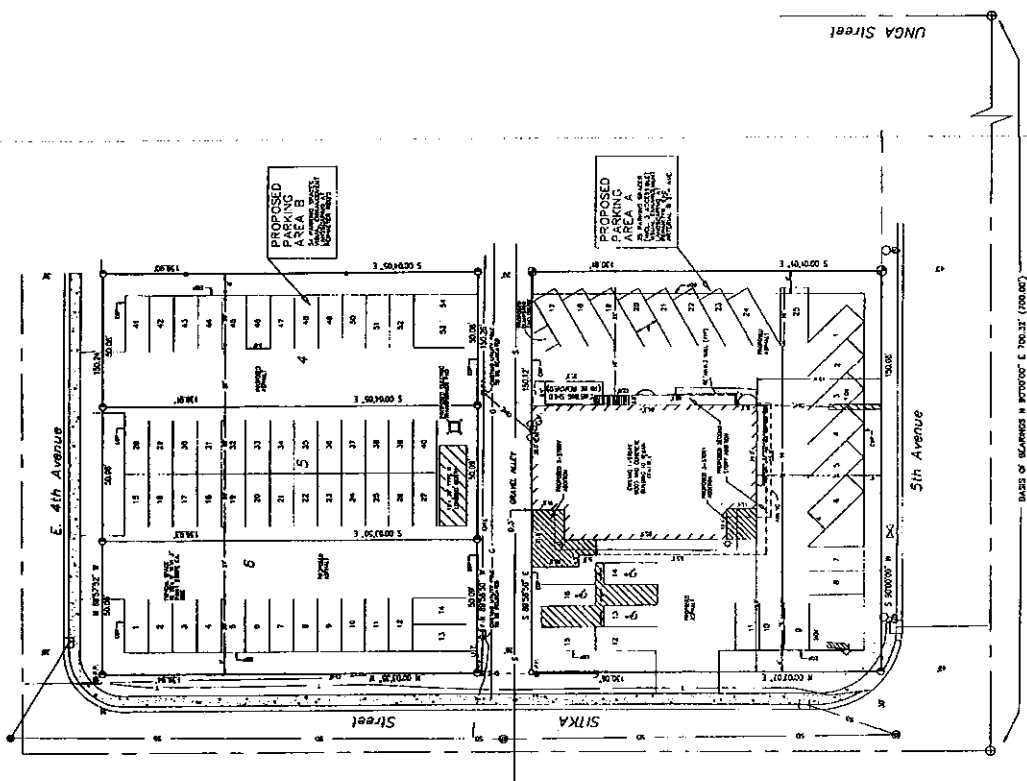
request for a guarantee of the quality of the product. The company will be pleased to provide a guarantee of the quality of the product.

Only except as indicated herein.
Dated at Antwerp, March

ma 2014 day of APRIL, 2004

LOUNGBURY & ASSOCIATES, INC.
Surveyors, Engineers, & Planners
723 W. 8th Ave. ANCHORAGE, ALASKA 99501-3451

REC-1233 FIELD BOOK No. 05-027



BASIS OF CLARINGS N 95°00'00" E 700.32' (700.00')

PLAY C-43 ARLO

LEGEND

- [illegible]

NOTES

- PAID, CONTAIN: 10.14.11 BOUND TEST

Content Information**Content ID :** 003100**Type:** AR_AllOther - All Other Resolutions**Title:** ALCOHOLIC BEVERAGES AMENDMENT TO A CONDITIONAL
USE FOR A BEVERAGE DISPENSARY USE IN THE B-3
DISTRICT PER AMC 21.40.180 D.8 FOR THE SETTER.**Author:** weaverjt**Initiating Dept:** Planning**Description:** ALCOHOLIC BEVERAGES AMENDMENT TO A CONDITIONAL
USE FOR A BEVERAGE DISPENSARY USE IN THE B-3
DISTRICT PER AMC 21.40.180 D.8 FOR THE SETTER.**Date Prepared:** 7/22/05 4:56 PM**Director Name:** Tom Nelson**Assembly Meeting**
Date MM/DD/YY: 8/9/05**Public Hearing**
Date MM/DD/YY: 8/9/05**Workflow History**

| <u>Workflow Name</u> | <u>Action Date</u> | <u>Action</u> | <u>User</u> | <u>Security Group</u> | <u>Content ID</u> |
|--------------------------|--------------------|---------------|-------------|-----------------------|-------------------|
| AllOtherARWorkflow | 7/22/05 5:03 PM | Checkin | weaverjt | Public | 003100 |
| Planning_SubWorkflow | 7/25/05 12:23 PM | Approve | weaverjt | Public | 003100 |
| ECD_SubWorkflow | 7/25/05 12:50 PM | Approve | thomasm | Public | 003100 |
| MuniManager_SubWorkflow | 7/29/05 2:59 PM | Approve | leblancdc | Public | 003100 |
| MuniMgrCoord_SubWorkflow | 7/29/05 3:20 PM | Approve | abbottmk | Public | 003100 |

M.O.A.
2005 AUG - 1 AM 11:41
CLERKS OFFICE