

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Community Development
Department
For Reading: November 22, 2011

CLERK'S OFFICE

APPROVED

Date: 11-22-11 **ANCHORAGE, ALASKA**

AR No. 2011-309

1 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING**
2 **AN ALCOHOLIC BEVERAGES CONDITIONAL USE FOR A BEVERAGE**
3 **DISPENSARY USE AND LICENSE NUMBER 133, IN THE B-3 SL (GENERAL**
4 **BUSINESS WITH SPECIAL LIMITATIONS) DISTRICT FOR GMRI, INC., DBA**
5 **THE OLIVE GARDEN ITALIAN RESTAURANT; LOCATED AT 1186 NORTH**
6 **MULDOON ROAD, GATEWAY SUBDIVISION, TRACT A, FRAGMENT**
7 **LOT 17B-3; GENERALLY LOCATED NORTH OF THE GLENN HIGHWAY AND**
8 **SOUTH AND WEST OF NORTH MULDOON ROAD.**

9
10 (Northeast Community Council) (Case 2011-127)

11
12 THE ANCHORAGE ASSEMBLY RESOLVES:

13
14 **Section 1.** A conditional use permit is hereby approved for an alcoholic
15 beverages conditional use for a beverage dispensary use and License
16 Number 133, in the B-3 SL (General Business with Special Limitations) District for
17 GMRI, Inc., dba The Olive Garden Italian Restaurant, located at 1186 North
18 Muldoon Road, Gateway Subdivision, Tract A, Fragment Lot 17B-3, generally
19 located north of the Glenn Highway and south and west of North Muldoon Road,
20 and generally meets the applicable provisions of AMC 21.15.030,
21 AMC 21.40.180.D8, and AMC 21.50.160.

22
23 **Section 2.** This conditional use is approved subject to the following conditions:

24
25 1. A Notice of Zoning Action shall be filed with the District Recorder's Office
26 within 120 days of the Assembly's approval for this beverage dispensary in the
27 B-3 SL district.

28
29 2. All uses shall conform to the plans and narrative submitted with this
30 conditional use application.

31
32 3. This alcoholic beverages conditional use approval is for a Beverage
33 Dispensary Use and License Number 133 in the B-3 SL (General Business with
34 Special Limitations) District per AMC 21.15.030, AMC 21.40.180.D.8 and
35 AMC 21.50.160 for approximately $\pm 7,500$ square feet of gross leasable area
36 located at 1186 North Muldoon Road, Anchorage, Alaska 99504, on Gateway
37 Subdivision, Tract A, Fragment Lot 17B-3, per Plat 2009-105.
38

1 4. On-premise sale of alcohol beverages will be seven days a week as
2 permitted per the Alaska Alcoholic Beverage Control Board requirements.
3

4 5. Employees will be trained in accordance with the Alcoholic Beverage
5 Control Board's "Liquor Server Awareness Training Program," as described in
6 AS 4.21.025 A. Upon demand, the applicant shall demonstrate compliance with a
7 liquor "Server Awareness Training Program" approved by the State of Alaska
8 Alcoholic Beverage Control Board, such as or similar to, the program for
9 "Techniques in Alcohol Management (T.A.M.)."
10


11 6. The use of the property by any person for the permitted purposes shall
12 comply with all current and future Federal, State and local laws and regulations
13 including but not limited to laws and regulations pertaining to the sale, dispensing,
14 service and consumption of alcoholic beverages and the storage, preparation,
15 sale, service and consumption of food. The owner of the property, the licensee
16 under the Alcoholic Beverage Control license and their officers, agents and
17 employees shall not knowingly permit or negligently fail to prevent the occurrence
18 of illegal activity on the property.
19

20 7. A copy of the conditions imposed by the Assembly in connection with this
21 conditional use approval shall be maintained on the premise at a location
22 visible to the public.
23

24 **Section 3.** Failure to comply with the conditions of this conditional use permit
25 shall constitute grounds for its modification or revocation.
26

27 **Section 4.** This resolution shall become effective immediately upon passage and
28 approval by the Anchorage Assembly.
29

30 PASSED AND APPROVED by the Anchorage Assembly this
31 22nd day of November 2011.
32

33
34 
35
36 Chair of the Assembly

37 ATTEST:
38

39
40 
41 Municipal Clerk
42

43 (Case 2011-127)
44 (Tax Parcel ID #006-441-29)



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 650-2011

Meeting Date: November 22, 2011

1 From: MAYOR

2
3 Subject: AN ALCOHOLIC BEVERAGES CONDITIONAL USE FOR A
4 BEVERAGE DISPENSARY USE AND LICENSE NUMBER 133, IN
5 THE B-3 SL (GENERAL BUSINESS WITH SPECIAL LIMITATIONS)
6 DISTRICT FOR GMRI, INC., DBA THE OLIVE GARDEN ITALIAN
7 RESTAURANT; LOCATED AT 1186 NORTH MULDOON ROAD,
8 GATEWAY SUBDIVISION, TRACT A, FRAGMENT LOT 17B-3;
9 GENERALLY LOCATED NORTH OF THE GLENN HIGHWAY AND
10 SOUTH AND WEST OF NORTH MULDOON ROAD.
11
12
13

14 GMRI, Inc., dba The Olive Garden Italian Restaurant, has made application for an
15 alcoholic beverages conditional use for a beverage dispensary use and License
16 Number 133, in the B-3 SL (General Business with Special Limitations) District,
17 located at 1186 North Muldoon Road, Gateway Subdivision, Tract A, Fragment
18 Lot 17B-3.
19

20 The petition site is ±91,790 square feet, generally located north of the Glenn
21 Highway and south and west of North Muldoon Road. The site is located within the
22 Tikahtnu Mall development which has several businesses.
23

24 The restaurant has approximately ±7,500 square feet of gross leasable floor space.
25 Hours of operation are as allowed by municipal ordinance and the Anchorage
26 Beverage Control Board, and are generally proposed to be from 11:00 a.m. to
27 1:30 a.m., seven days a week. All employees will be trained in accordance with the
28 Alcoholic Beverage Control Board's Liquor Server Awareness Training Program.
29

30 Within 1,000 feet of this application, there are two Beverage Dispensary Licenses
31 and one Package Store License. There are no known schools or churches within
32 200 feet of this site.
33

34 There were no comments received from the public in opposition to this conditional
35 use. The Northeast Community Council did not comment.
36

37 There are no delinquent Personal Property Taxes or Real Property Taxes owing at
38 this time. No comments were received from the Anchorage Police Department or
39 the Department of Health and Human Services at the time this report was written.

1 **THIS ALCOHOLIC BEVERAGES CONDITIONAL USE FOR A BEVERAGE**
2 **DISPENSARY USE AND LICENSE NUMBER 133, IN THE B-3 SL DISTRICT**
3 **GENERALLY MEETS THE REQUIRED STANDARDS OF AMC TITLE 10 AND**
4 **TITLE 21, AND ALASKA STATUTE 04.11.090.**
5
6

7 Prepared by: Al Barrett, Acting Current Planning Section Supervisor
8 Planning Division

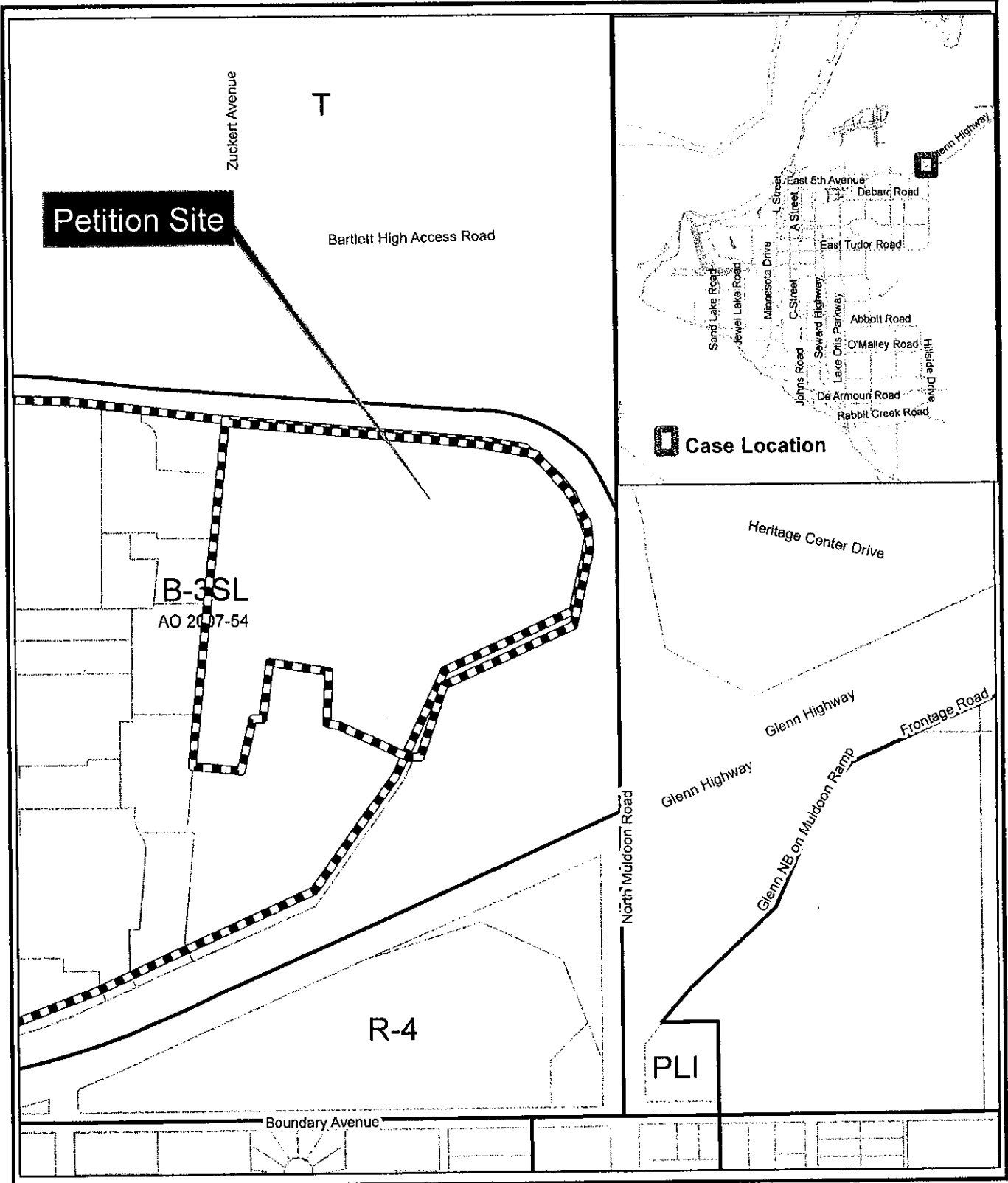
9 Approved by: Jerry T. Weaver, Jr., Director
10 Community Development Department

11 Concur: Dennis A. Wheeler, Municipal Attorney

12 Concur: George J. Vakalis, Municipal Manager

13 Respectfully submitted: Daniel A. Sullivan, Mayor

2011-127



Municipality of Anchorage
Planning Department
Date: October 07, 2011

Flood Limits

- 100 Year
- 500 Year
- Floodway



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

DATE: November 22, 2011

CASE NO.: 2011-127

APPLICANT: GMRI, Inc., dba The Olive Garden Italian Restaurant

REPRESENTATIVE: Colleen M. Hunter, Assistant Secretary, GMRI, Inc.

REQUEST: An alcoholic beverages conditional use for a beverage dispensary use and license #133, in the B-3 SL (General Business with Special Limitations) district per AMC 21.15.030, AMC 21.40.180.D8, and AMC 21.50.160.

LOCATION: Gateway Subdivision, Tract A, Fragment Lot 17B-3

STREET ADDRESS: 1186 North Muldoon Road, Anchorage, Alaska 99504

COMMUNITY COUNCIL: Northeast

TAX PARCEL: 006-441-29 / Grid SW1140

ATTACHMENTS:

1. Application
2. Departmental Comments
3. Posting Affidavit and Historical Information

RECOMMENDATION SUMMARY:

This conditional use generally meets the required standards of AMC Title 10 and Title 21, and State Statute 04.11.090.

SITE:

Acres: ±91,790 SF lot; ±7,500 SF building

Vegetation: Developed pad

Zoning: B-3 SL (General Business with Special Limitations per AO 2007-54)

Topography: Flat

Existing Use: Undeveloped pad in Commercial Mall

Soils: Public sewer and water

COMPREHENSIVE PLAN – Anchorage 2020 Plan

Classification: Not identified in the *1982 Anchorage Bowl Comprehensive Development Plan's* Generalized Land Use Plan

Density: Not identified in the *Anchorage 2020 Land Use Policy Map*
N/A

SURROUNDING AREA

	NORTH	EAST	SOUTH	WEST
Zoning:	N/A	B-3SL	B-3SL	B-3SL
Land Use:	North Muldoon Road	utility substation	undeveloped	undeveloped

SITE DESCRIPTION AND PROPOSAL:

The subject property is approximately 91,790 square feet located within the Tikahtnu Mall development. The petitioner has applied to the Alcoholic Beverages Control Board for Beverage Dispensary license #133 for a gross leasable floor area of approximately 7,500 square feet of floor space. The property is zoned B-3 SL per AO 2007-54.

Hours of operation are as allowed by Municipal ordinance and the Anchorage Beverage Control Board, with normal business hours from 11:00 AM to 1:30 AM, seven days a week. All employees will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program.

The floor plan shows 206 dining seats, 29 lounge seats, and 11 bar seats for a total of 246 seats and an additional 16 seats in the waiting area. The restaurant's parking requirement is met.

The petitioner made application to the Alcoholic Beverage Control Board to transfer a beverage dispensary license (#133) from 151 Park Lane, Anchorage, AK 99508 to this site, and is seeking final alcoholic beverages conditional use approval in the B-3 SL district per AMC 21.15.030, AMC 21.40.180.D8 and AMC 21.50.160. Within 1,000 feet of this application, there are two Beverage Dispensary Licenses and one Package Store License. There are no known schools or churches within 200 feet of this site.

PUBLIC COMMENTS:

Seventy-seven public hearing notices were mailed on October 19, 2011. At the time this report was written, one public comment was received. No comments were received from the Northeast 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.**

The standard is met.

The subject property is not identified in the 1982 *Anchorage Bowl Comprehensive Development Plan's* Generalized Land Use Plan or in the *Anchorage 2020* Land Use Policy Map.

The *Anchorage 2020 Comprehensive Plan* does not specifically address the sale of alcoholic beverages in the community. A strategy of the adopted *Anchorage 2020 Plan*, however, calls for the development of locational standards and criteria for retail sales/service of alcoholic beverages. To date this has not been done.

Several goals of the *Anchorage 2020 Plan* 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. Hotel dining, night clubs, bars, and restaurants which serve alcohol enhance the hospitality and tourism industry in Anchorage, and provide eating places for local residents and downtown employees. Another of the Plan's stated economic development goals are: "Business Support and Development: a quality of life and a financial climate that encourages businesses to start up, expand, or relocate in Anchorage" (p. 41).

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

The standard is met.

The B-3 SL district zoning regulations allow alcoholic beverage sales through the conditional use permit process.

C. Will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

The standard is met.

There are commercial, restaurant, and retail uses surrounding the petition site.

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 two Beverage Dispensary Licenses and one Package Store License within a 1,000-foot radius of the petition site. Approving this beverage dispensary conditional use will add a fourth license within a 1,000-foot radius of the petition site.

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 known churches or schools within this separation distance.

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.

The standard is met.

The B-3 SL district states that off-street parking shall be provided. Adequate off-street parking is provided at this site. There is an adequate entrance/exit driveway for vehicles to North Muldoon Road.

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

The standard is met.

A new beverage dispensary license at this location will not impact public services. Electrical, water and sewer, and natural gas are available on site. Road infrastructure and public transit (People Mover) is already in place. The petition site is within ARDSA and the Building Safety, Police, and Fire service areas.

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

The standard is met.

As a land use, a beverage dispensary conditional use and license will not cause or contribute to any environmental pollution. The on-street parking is paved, which helps control air pollution.

4. The maintenance of compatible and efficient development patterns and land use intensities.

The 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 13 AAC 104.145 to protest issue, renewal and transfer of 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.

Approval of this conditional use will add a fourth license and third beverage dispensary license within 1,000-feet.

Brown Jug	1106 North Muldoon Road	License #4558	Package Store
Red Robin	1106 North Muldoon Road	License #3304	Beverage Dispensary
Firetap Alehouse & Restaurant	1148 North Muldoon Road	License #1625	Beverage Dispensary

- 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.**

The standard is met.

The applicant states that all employees involved in the dispensing of alcoholic beverages 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.**

The standard is met.

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 application stipulates that the petitioner will abide by the 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 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.

The standard is met.

According to the application the petitioner states that within the building order will be maintained by properly trained staff and management and employees will be instructed to ask for the identification of all persons appearing to be under 30 years of age. Outside the building, employees will patrol the street frontages of the building, as needed, to ensure the minimization of loitering. The Olive Garden will work with the Anchorage Police Department, surrounding tenants, neighbors, neighboring community councils, and local area service patrols to combat any problems that arise in or near the facility. At the time this report was completed, no written comment had been received from the Anchorage Police Department.

- 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**

The standard is met.

There are no outstanding Business Personal Property taxes owing, 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.

No comments were received from the Department of Health and Human Services at the time this report was written.

- 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:

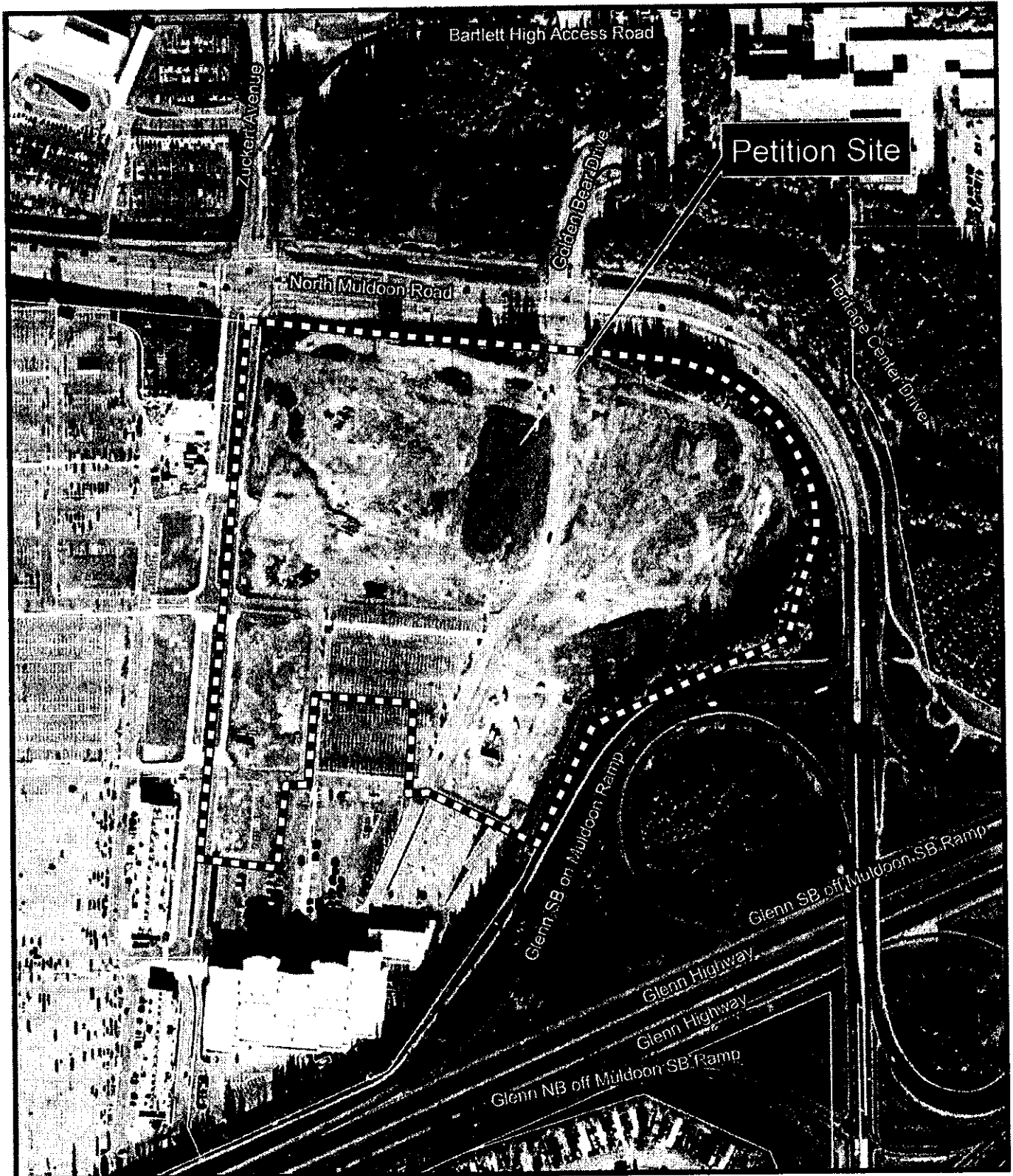
This application for an alcoholic beverages conditional use for a beverage dispensary use and license #133, in the B-3 SL (General Business with Special Limitations) district per AMC 21.15.030, AMC 21.40.180.D.8, and AMC 21.50.160, generally meets the required standards of AMC Title 10 and Title 21.

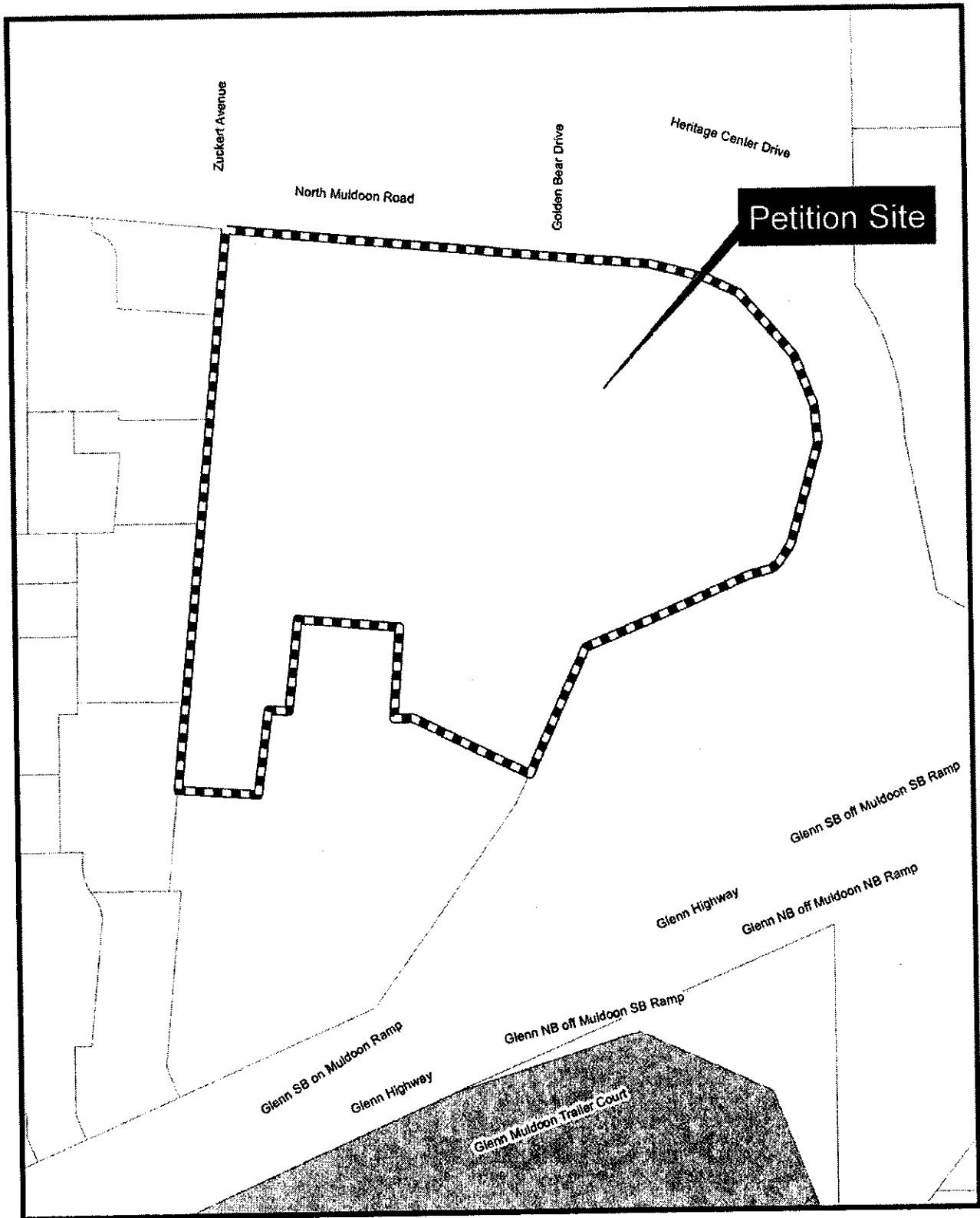
If after a public hearing on the matter, the Anchorage Assembly finds that the required standards have been met; staff recommends the following conditions of approval:

1. A Notice of Zoning Action shall be filed with the District Recorder's Office within 120 days of the Assembly's approval for this beverage dispensary in the B-3 SL district.
2. All uses shall conform to the plans and narrative submitted with this conditional use application.
3. This alcoholic beverages conditional use approval is for a Beverage Dispensary Use and License #133 in the B-3 SL (General Business) district per AMC 21.15.030, AMC 21.40.180.D.8 and AMC 21.50.160 for approximately ±7,500 square feet of gross leasable area located at 1186 North Muldoon Road, Anchorage, Alaska 99504, on Gateway Subdivision, Tract A, Fragment Lot 17B-3, per Plat 2009-105.

4. On-premise sale of alcohol beverages will be seven days a week as permitted per the Alaska Alcoholic Beverage Control Board requirements.
5. Employees will be trained in accordance with the Alcoholic Beverage Control Board's "Liquor Server Awareness Training Program," in accordance with Alaska Statute 04.21.025. 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.




2011-127





Municipality of Anchorage
Planning Department

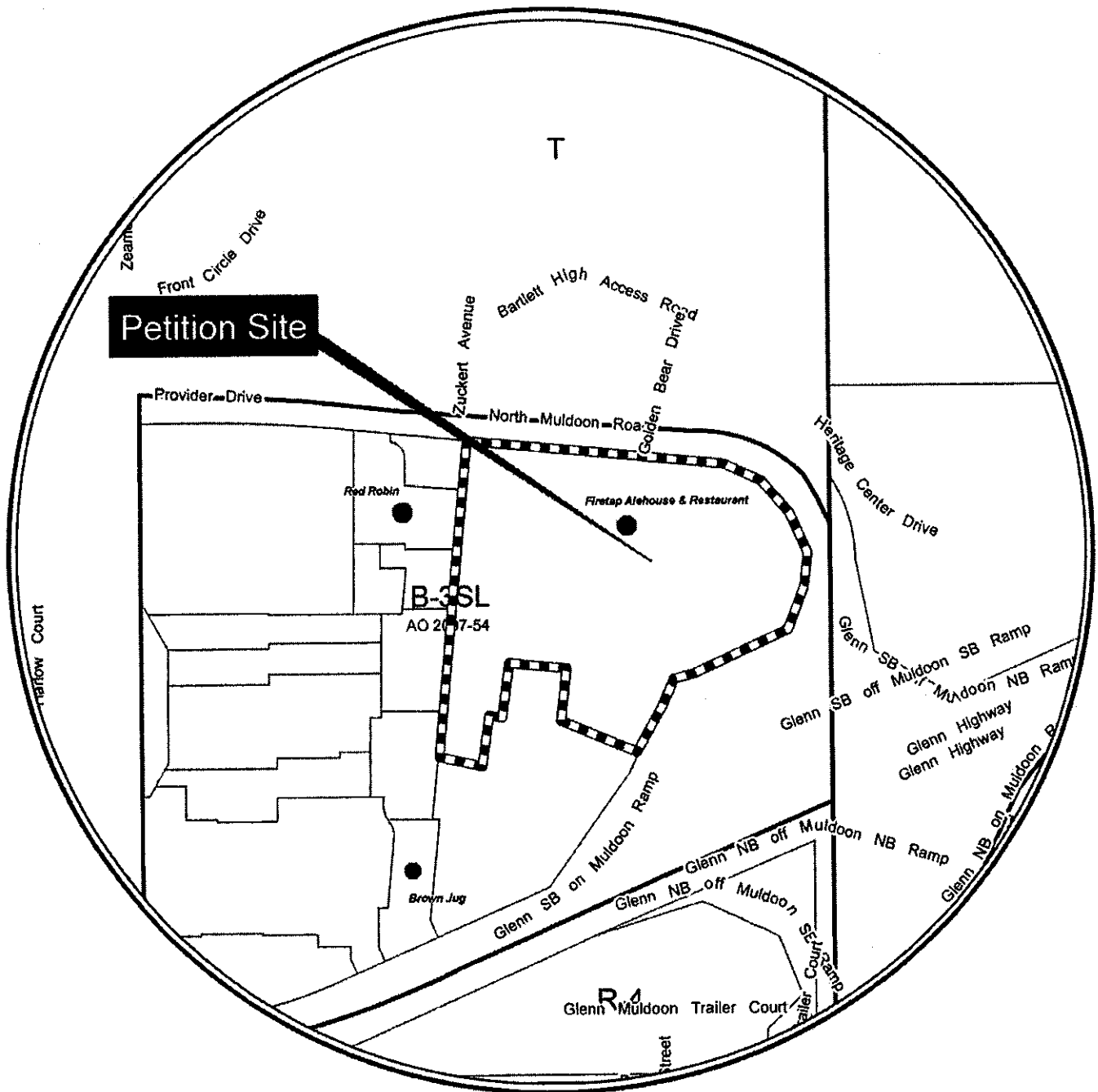
Date: October 07, 2011

-  Mobile Home Park
-  Multi-Family
-  Single Family



2011-127

● EXISTING LIQUOR LICENSES WITHIN 1000'



Municipality of Anchorage
Planning Department

Date: October 07, 2011



Alcohol Existing License List Report

Case Number: 2011-127 Description: 1000'

Parcel Business Name	Parcel Owner Name Applicant Name	Parcel Owner Address Business Address	City Lic. Number	State Lic. Zone	Zip Lic. Type
00634111000 Brown Jug - Tikahtnu Commons	NORTH ANCHORAGE REAL ESTATE Liquor Stores USA North, Inc	1556 PARKSIDE DR 1106 N. Muldoon Rd #110	WALNUT CREE 4558	CA B3SL	94596 Package Store
00644121000 Red Robin	NORTH ANCHORAGE REAL ESTATE Gourmet Ventures, Inc.	1556 PARKSIDE DR 1190 N. Muldoon Road	WALNUT CREE 3304	CA B3SL	94596 Beverage Dispensary
00644129000 Firetap Alehouse Tikahtnu	NORTH ANCHORAGE REAL ESTATE Tikahtnu LLC	1556 PARKSIDE DR 1148 N. Muldoon Road Pad M	WALNUT CREE 1625	CA B3SL	94596 Beverage Dispensary

Alcohol Church and School List Report

Case Number: 2011-127 Description: 200'

Parcel	Parcel Owner Name	Parcel Site Address	Description
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Application

Application for Conditional Use Retail Sale Alcoholic Beverages

Municipality of Anchorage
Planning Department
PO Box 196650
Anchorage, AK 99519-6650

Please fill in the information asked for below.

PETITIONER*		PETITIONER REPRESENTATIVE (IF ANY)	
Name (last name first) GMRI,		Name (last name first) Law Offices of Ernout & Coffey	
Mailing Address PO Box 695016 Orlando, FL 32869-5016		Mailing Address 3606 Rhone Circle, Suite 110 Anchorage, AK 99508	
Contact Phone: Day: 407.245.4711 Night: 407.810.9436		Contact Phone: Day: 274.3385 Night:	
FAX: 407.241.5504		FAX: 274.4258	
E-mail: chunter@darden.com		E-mail:	

*Report additional petitioners or disclose other co-owners on supplemental form. Failure to divulge other beneficial interest owners may delay processing of this application.

PROPERTY INFORMATION		
Property Tax # (000-000-00-000): 006-441-29		
Site Street Address: 1186 N. Muldoon Road, Anchorage, AK 99504		
Property Owner (if not the Petitioner): North Anchorage Real Estate Investors, LLC		
Current legal description: (use additional sheet in necessary) See attached Exhibit A.		
Zoning: B3 SL	Acreage: 1,190,101	Grid # SW 1140

ALCOHOLIC BEVERAGE CONTROL BOARD LICENSE PROPOSED

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Beverage Dispensary | <input type="checkbox"/> Private Club | <input type="checkbox"/> Restaurant, exempt |
| <input type="checkbox"/> Beverage Dispensary-Tourism | <input type="checkbox"/> Public Convenience | <input type="checkbox"/> Theater |
| <input type="checkbox"/> Brew Pub | <input type="checkbox"/> Recreational | <input type="checkbox"/> Other (Please explain): |
| <input type="checkbox"/> Package Store | <input type="checkbox"/> Restaurant | |

Is the proposed license: ☐ New ☒ Transfer of location: ABC license number: 133
Transfer license location:
Transfer licensed premises doing business as:

I hereby certify that (I am)/(I have been authorized to act for) owner of the property described above and that I petition for a retail sale of alcoholic beverages conditional use permit in conformance with Title 21 of the Anchorage Municipal Code of Ordinances. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department, Municipal Clerk, or the Assembly for administrative reasons.

9/13/2011 By: *Colleen M. Hunter* Colleen M. Hunter
ASST. SECRETARY

Date

Signature (Agents must provide written proof of authorization)

Accepted by: <i>FM</i>	Poster & Affidavit: <i>2</i>	Fee: <i>\$4,000</i>	Case Number: <i>2011-127</i>
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COMPREHENSIVE PLAN INFORMATIONAnchorage 2020 Urban/Rural Services: ☒ Urban ☐ RuralAnchorage 2020 West Anchorage Planning Area: ☐ Inside ☐ Outside

Anchorage 2020 Major Urban Elements: Site is within or abuts:

☐ Major Employment Center ☐ Redevelopment/Mixed Use Area ☐ Town Center☐ Neighborhood Commercial Center ☐ Industrial Center☒ Transit - Supportive Development Corridor

Eagle River-Chugiak-Peters Creek Land Use Classification:

☐ Commercial ☐ Industrial ☐ Parks/opens space ☐ Public Land Institutions☐ Marginal land ☐ Alpine/Slope Affected ☐ Special Study☐ Residential at _____ dwelling units per acre

Girdwood- Turnagain Arm

☐ Commercial ☐ Industrial ☐ Parks/opens space ☐ Public Land Institutions☐ Marginal land ☐ Alpine/Slope Affected ☐ Special Study☐ Residential at _____ dwelling units per acre**ENVIRONMENTAL INFORMATION** (All or portion site affected)Wetland Classification: ☐ None ☐ "C" ☐ "B" ☐ "A"Avalanche Zone: ☐ None ☐ Blue Zone ☐ Red ZoneFloodplain: ☐ None ☐ 100 year ☐ 500 yearSeismic Zone (Harding/Lawson): ☐ "1" ☐ "2" ☐ "3" ☐ "4" ☐ "5"**RECENT REGULATORY INFORMATION** (Events that have occurred in last 5 years for all or portion site)☐ Rezoning - Case Number:☐ Preliminary Plat ☐ Final Plat - Case Number(s):☐ Conditional Use - Case Number(s):☐ Zoning variance - Case Number(s):☐ Land Use Enforcement Action for☐ Building or Land Use Permit for☐ Wetland permit: ☐ Army Corp of Engineers ☐ Municipality of Anchorage**DOCUMENTATION**

Required:

- ☐ Site plan to scale depicting: building footprints; parking areas; vehicle and pedestrian circulation; lighting; landscaping; signage; and licensed premises location.
- ☐ Building plans to scale depicting: floor plans indicating the location of sales and service areas; building elevations (photographs are acceptable).
- ☐ Photographs of premises from each street frontage that include and show relationship to adjacent structures and the premises visible street address number.
- ☐ Narrative: explaining the project; construction, operation schedule, and open for business target date.
- ☐ Copy of a zoning map showing the proposed location.
- ☐ Copy of completed Alcoholic Beverage Control Board liquor license application form including all drawings and attachments, if filed with ABC Board.

Optional: ☐ Traffic impact analysis ☐ Economic impact analysis ☐ Noise impact analysis

PROPERTY OWNER AUTHORIZATION* (If petitioner is not property owner)

(I)(WE) hereby grant permission to and acknowledge that person shown as the petitioner on this application is applying for a conditional use permit for the retail sales of alcoholic beverages on a property under (MY)(OUR) ownership and that as part of the conditional use permit process the Assembly may apply conditions which will be (MY)(OUR) responsibility to satisfy.

SEPTEMBER 12, 2011

Date

NORTHANCHORAGE REAL ESTATE INVESTORS LLC, A DELAWARE LIMITED LIABILITY COMPANY
BY: BROCKMAN DEVELOPMENT COMPANY, INC. A CA CORPORATION, ITS GENERAL PARTNER
JIM STEPHENS, DIRECTOR OF DEVELOPMENT

Signature

*Report additional petitioners or disclose other co-owners on supplemental form. Failure to divulge other beneficial interest owners may delay processing of this application.

FACILITY OPERATIONAL INFORMATION

What is the proposed or existing business name (Provide both if name is changing):

The Olive Garden Italian Restaurant #4412

What is the gross leaseable floor space in square feet?

Approximately 7,500 square feet

What is the facility occupant capacity?

Approximately 285

What is the number of fixed seats(booth and non movable seats)?

Approximately 139

What is the number non-fixed seats(movable chairs, stools, etc.)?

Approximately 107

What will be the normal business hours of operation?

Sunday - Thursday 11:00 AM - 10:00 PM Friday & Saturday 11:00 AM - 11:00 PM

What will be the business hours that alcoholic beverages will be sold or dispensed?

Sunday - Thursday 11:00 AM - 10:00 PM Friday & Saturday 11:00 AM - 11:00 PM

What do you estimate the ratio of food sales to alcohol beverage sales will be?

Approx 10 - 15% % Alcoholic beverage sales

Approx 85 - 90% % Food sales

Type of entertainment proposed: (Mark all that apply)

☒ Recorded music ☐ Live music ☐ Floor shows ☐ Patron dancing ☐ Sporting events ☐ Other ☐ None

Do you propose entertainment or environmental conditions in the facility that will meet the definition of "indecent material" or "adult entertainment" as set forth by AMC 8.05.420 Minors-Disseminating indecent material or AMC 10.40.050 Adult oriented establishment? ☐ Yes ☒ No

DISTANCE FROM CHURCHES, DAY CARE, AND SCHOOLS

Locate and provide the names and address of all churches, day care, and public or private schools within 200 feet of the site property lines

Name

Address

N/A

PACKAGE STORES

Provide the projected percentage of alcoholic product inventory in the store where the retail unit price is:

N/A	%	less than \$5.00
N/A	%	\$5.00 to \$10.00
N/A	%	\$10.00 to \$25.00
N/A	%	greater than \$25.00

CONDITIONAL USE STANDARDS

The Assembly may only approve the conditional use if it finds that all of the following 4 standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Use additional paper if needed.

Explain how the proposed conditional use furthers the goals and policies of the comprehensive development plan and conforms to the comprehensive development plan in the manner required by AMC 21.05.

See attached narrative.

Explain how the proposed conditional use conforms to the standards for that use in this title and regulations promulgated under this title.

See attached narrative.

Explain how the proposed conditional use will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

See attached narrative.

Explain how the proposed conditional use 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.

See attached narrative.

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

See attached narrative.

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

See attached narrative.

4. The maintenance of compatible and efficient development patterns and land use intensities.

See attached narrative.

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 of 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.

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.

How many active liquor licenses are located on the same property as your proposed license? -0-

Within 1,000 feet of your site are how many active liquor licenses? -1-

How would you rate this area's license concentration on a scale of 1 to 5 with 5 = high -1-

How many active liquor licenses are within the boundaries of the local community council?

In your opinion, is this quantity of licenses a negative impact on the local community?

See attached narrative.

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.

How many employees in direct contact with alcohol will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program?

GMRI, Inc. will ensure its managers, servers, and bartenders comply with the State of Alaska Alcoholic Beverage Control Board requirements for Server Awareness Training. GMRI, Inc. estimates that its manager, server, and bartender staff will include approximately 50 individuals.

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.

- | | | |
|---|--|---|
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Happy hours? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Games or contests that include consumption of alcoholic beverages? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Patron access and assistance to public transportation? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Notice of penalties for driving while intoxicated posted or will be posted? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Non-alcoholic drinks available to patrons? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Solicitation or encouragement of alcoholic beverage consumption? |

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 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.

What are the proposed precautions to maintain order and prevent unlawful conduct at the licensed premises?

inside facility:

See attached narrative.

outside facility:

See attached narrative.

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

☒ Yes ☐ No *Are real estate and business property taxes current?*
☐ Yes ☒ No *Are there any other debts owed to the Municipality of Anchorage?*

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.

☒ Yes ☐ No *As the applicant and operator can you comply? If no explain*



THE LAW OFFICES OF
ERNOUF & COFFEY

A Professional Corporation

3606 Rhone Circle
Suite 110
Anchorage, AK 99508
t: 907/274-3385
f: 907/274-4258

September 14, 2011

Ms. Jillanne M. Inglis
MOA Planning Department
4700 Elmore Road
Anchorage, Alaska 99519

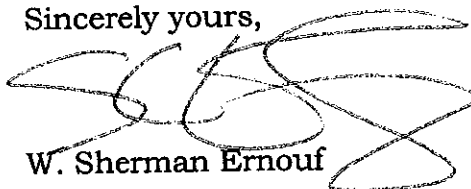
Re: Conditional Use Application-Alcohol
GMRI, Inc., dba The Olive Garden Italian
Restaurant #4412

Dear Ms. Inglis:

Enclosed please find a completed application for a conditional use permit for the sale of alcohol by our client GMRI, Inc. dba The Olive Garden Italian Restaurant #4412 in Anchorage at the Tikahnu Center. There are no pictures included in the application since the site is undeveloped. I have also enclosed a \$5 check for the Department to print the requested zoning map to be included with the application.

If you have any questions, or if you need any supplemental information relative to the application itself, please do not hesitate to contact my office directly so that we can help in any way that we can. Thank you for your time and courtesies in this regard.

Sincerely yours,



W. Sherman Ernouf

Enclosure: CUP Application

CC: Client

September 9, 2011

Municipality of Anchorage
Planning Department
4700 Elmore Road
Anchorage, Alaska 99507
VIA HAND-DELIVERY

Re: Letter of Authorization

To Whom It May Concern:

The Law Offices of Ernouf & Coffey, P.C. is representing GMRI, Inc. d.b.a. Olive Garden Italian Restaurant with regard to all matters surrounding our application for Conditional Use and liquor license. I therefore authorize you, the Municipality of Anchorage Planning Department, to speak with the Law Offices of Ernouf & Coffey on our behalf at any time.

Thank you for your time and courtesy in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colleen Hunter".

Colleen Hunter
GMRI, Inc.

LEGAL DESCRIPTION OF TENANT'S PARCEL:

A parcel of land within Fragment Lot 17B, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2009-105, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102. Records of the Anchorage Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

Commencing at the northwest corner of said Tract A, Gateway Subdivision per Plat 2007-102. Marked with a 3-1/4 inch brass cap monument which bears N00°03'15"E, the Basis of Bearing for this legal description, from the southwest corner of said Tract A, Gateway Subdivision which is marked with 3-1/4 inch brass cap monument; Thence N89°32'55"E on the north boundary of said Gateway Subdivision a distance of 224.50 feet; Then, continuing easterly on the north boundary of said Gateway Subdivision on the arc of a curve to the right, said curve having a radius of 5,629.60 feet, an arc length of 554.13 feet, and a central angle of 5°38'23" to a point on the north boundary marked by a 3-1/4 inch brass cap monument; Thence continuing S84°21'19"E on the north boundary of said Gateway Subdivision a distance of 474.60 feet to the northeast corner of Fragment Lot 10, per Plat Number 2007-103, the True Point of Beginning; Thence continuing S84°21'19"E on the north boundary of said Gateway Subdivision a distance of 328.20 feet to the northeast corner of proposed Lease Boundary; Thence S05°38'41"W a distance of 274.10 feet to the southeast corner of proposed Lease Boundary; Thence N84°21'19"W a distance of 127.10 feet; Thence S05°38'41"W a distance of 9.10 feet; Thence N84°21'19"W a distance of 201.10 feet to the southwest corner of proposed lease boundary and the east boundary of Fragment Lot 11 A, per Plat Number 2008-30; Thence N05°38'41"E on the east boundary of said Fragment Lot 11 A and Fragment Lot 10 distance of 263.20 feet to the True Point of Beginning, containing 2.107 acres more or less.

Subject to easements for ingress, parking, utilities and other easements in that certain Operation and Easement Agreement recorded August 29, 2007 under Serial Number 2007-055537-0, and as amended by that certain Amended and Restated Operation and Easement Agreement recorded May 13, 2008 under Serial Number 2008-028406-0, and as further amended by Consent and Joinder of Amended and Restated Operation and Easement Agreement recorded October 14, 2008 under Serial Number 2008-057361-0, and as further amended by First Amendment to Amended and Restated Operation and Easement Agreement recorded June 4, 2009 under Serial Number 2009-037163-0, Records of the Anchorage Recording District, Third Judicial District, State of Alaska.

STANDARDS FOR CONDITIONAL USE APPROVAL
BEVERAGE DISPENSARY LIQUOR LICENSE FOR
GMRI, Inc.

LOCATION AND DESCRIPTION OF PLANNED USE

GMRI, Inc., dba The Olive Garden Italian Restaurant #4412 is making application for a conditional use permit to allow "on premises" alcohol sales at the location of 1186 N. Muldoon Road Anchorage Alaska 99504. The location of the proposed licensed premise is located on the north east side of town and is currently an undeveloped site. The use of this location for the operation of a beverage dispensary liquor license within an upscale family restaurant is consistent with the Anchorage 2020 Comprehensive Plan as set out in the policies discussed below.

A. Explain how the proposed conditional use furthers the goals and policies of the Anchorage 2020 Comprehensive Plan and conforms to the Comprehensive Development Plan in the manner required by AMC 21.05.

The proposed conditional use to allow GMRI, Inc. to operate a beverage dispensary license at this location is consistent with the goals and policies of the Anchorage 2020 Comprehensive Plan. This location is in the heart of what the Plan labels a town center and a "Supportive Development Corridor." This particular area of North East Anchorage is well defined by the 2020 Plan to include a wide mix of uses such as retail businesses, restaurants, and office buildings. . The 2020 Plan seeks to increase employment in this area in the future. A mix of supportive retail uses such as an upscale family restaurant as proposed here, office buildings, and shopping facilities are important to the development of the major employment centers in Anchorage and is encouraged in the 2020 Plan. The development of an Olive Garden Restaurant for the enjoyment of families both in the north-east corridor and in entire Anchorage Bowl is completely consistent with the goals of the 2020 Plan.

B. Explain how the proposed conditional use conforms to the standards for that use in this title and regulations promulgated under this title.

The proposed conditional use for The Olive Garden Restaurant #4412 conforms to the standards of Title 21 as well as the Anchorage 2020 Comprehensive Plan in all respects.

The Anchorage 2020 Comprehensive Plan does not specifically address the sale of alcoholic beverages in the community. However, the Municipality does call for the development of location standards and criteria for retail sales/service of alcoholic beverages.

The standards for a conditional use for alcoholic beverage sales and consumption are found in AMC 21.50.160 and in 21.50.020.

The proposed conditional use conforms to all Title 21 standards and is consistent with the Comprehensive Plan. My client is available to meet with the North East Community Council to discuss their new business at any time. The operation of an upscale restaurant and professional bar with the service of alcohol is consistent with the code, and the Petitioner expects the conditional use to be supported by the local community.

C. Explain how the proposed conditional use will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

The proposed conditional use to allow The Olive Garden Italian Restaurant #4412 to operate a beverage dispensary liquor license at this location is compatible with the existing and planned land uses. This location is in the middle of a Transit – Supportive Development Corridor & Town Center in North East Anchorage. The planned land use for this location includes a mix of supportive retail uses such as restaurants, office buildings, drinking places, and shopping. Medium to high density residential mixed use areas have been designated near the major employment centers to provide opportunities for people to live close to work and be within walking distance to other supportive businesses in the area such as a quality family restaurant proposed here.

D. Explain how the proposed conditional use 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.

The restaurant is located at 1186 N. Muldoon Road in a convenient location that is more than sufficient in regard to accommodating vehicular and pedestrian traffic circulation and safety. People Mover bus stops are located throughout North East Anchorage for the convenience of their bus-riding customers. The site plan also provides for adequate parking to ensure patrons easy vehicular ingress and egress.

2. Demand For and Availability of Public Services and Facilities.

The following public services currently exist and/or will exist after construction is complete at The Olive Garden Italian Restaurant #4412:

1. Public utilities (sewer and water, waste collection, electricity, natural gas)
2. Police and Fire protection as provided by the Municipality of Anchorage
3. Public bus transportation is available to patrons of the bar and restaurant through People Mover with multiple pick-up locations to choose from in very close proximity.

There are no additional infrastructure requirements for any public services or facilities.

3. Noise, air, water, or other pollution.

The Olive Garden Italian Restaurant #4412 is committed to the operation of its facility in an environmentally responsible way. There will be no pollution other than the normal storage and removal of trash. State of the art equipment, cooking devices, and ventilation will be employed to insure that both visitors and neighbors alike will not be impacted by the restaurant's operations.

4. Maintenance of compatible and efficient development patterns and land use intensities.

The maintenance of compatible and efficient development patterns and land use intensities does not apply to this conditional use permit due to the fact that the general land use and zoning will not change as a result of an approval of a conditional use permit for the sale of alcohol on premise.

E. Public Safety

What are the proposed precautions to maintain order and prevent unlawful conduct at the licensed premises?

Inside Facility:

All servers will be TAM certified. The Olive Garden Italian Restaurant #4412 employees will be instructed to ask for the identification of all persons appearing to be under 30 years of age. Employees who violate this policy will be terminated and will be instructed so upon employment. Further, managers and all servers will be trained and reminded to assess the condition of drinkers as enumerated in the TAM training to prevent the service of alcohol to drunken persons.

Outside Facility:

Further, for the protection of patrons, The Olive Garden Italian Restaurant #4412 employees will patrol the street frontages of the building, as needed, to ensure the minimization of loitering. The Olive Garden will work with the Anchorage Police Department, surrounding tenants, neighbors, neighboring community councils and local area service patrols to combat any problems that arise in or near the facility.

NORTH MULDOON ROAD

NORTH MULDOON ROAD

GLENN HIGHWAY

AVE

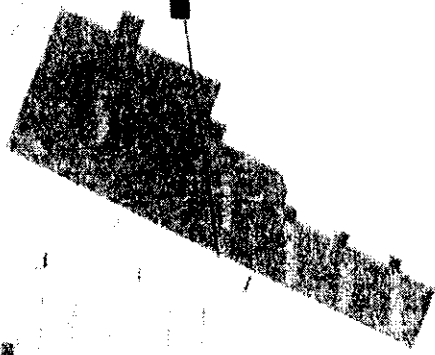
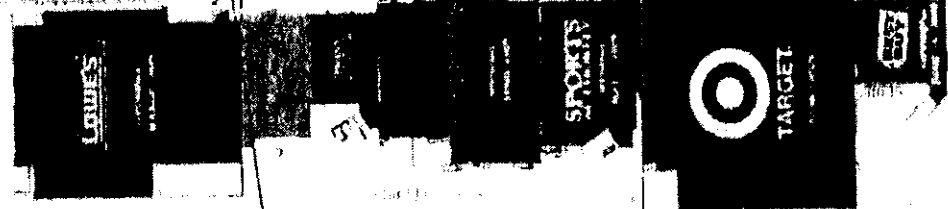
NON-COASTING ATION

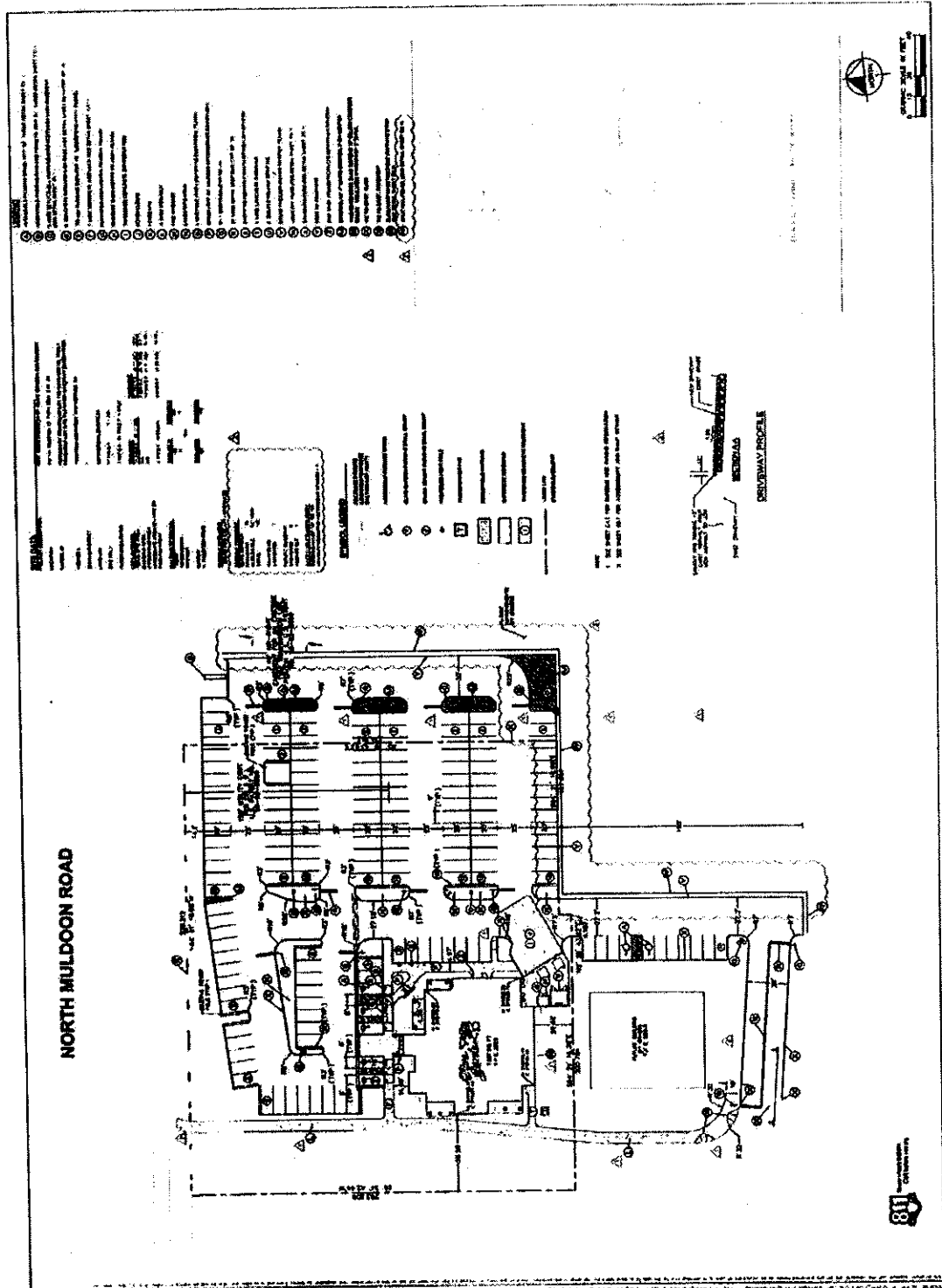
PAD 12
PRICE AVAILABLE RANGING FROM 1,000 TO 5,000

PAD 11
PRICE AVAILABLE RANGING FROM 1,000 TO 5,000

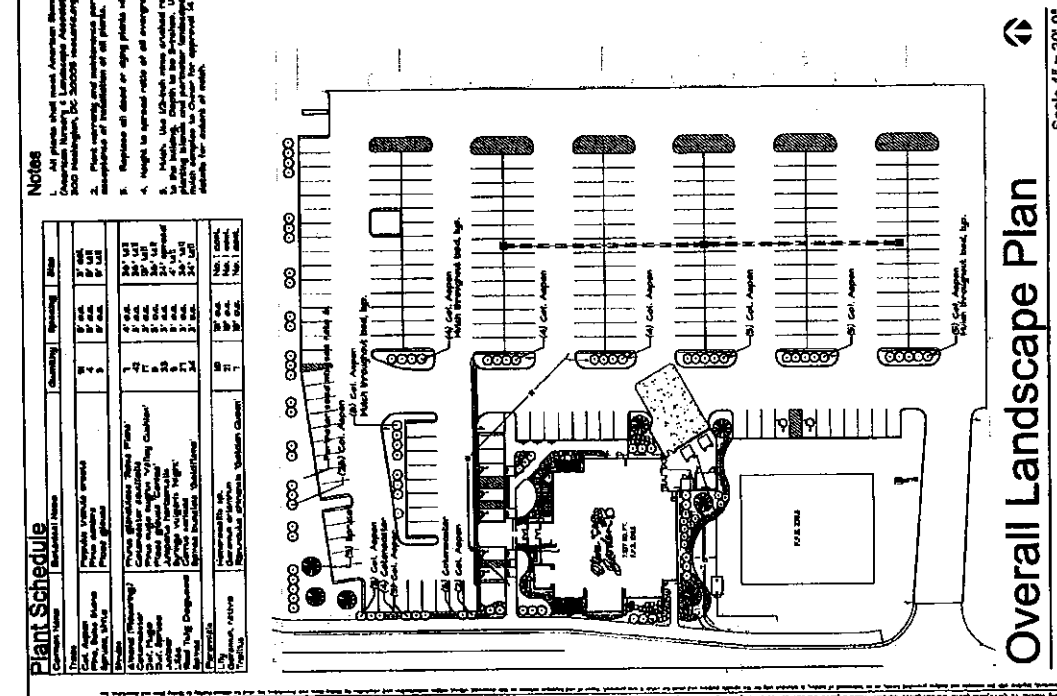
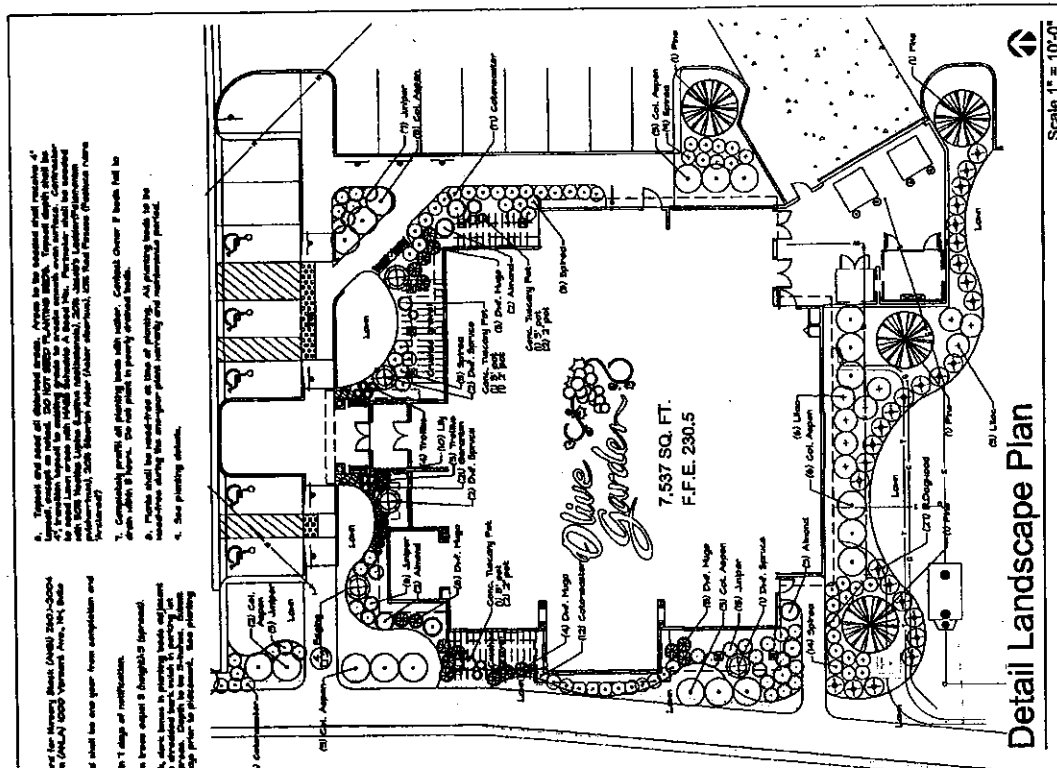
LEGEND

- Excluded Area
- In Vegetation
- Available





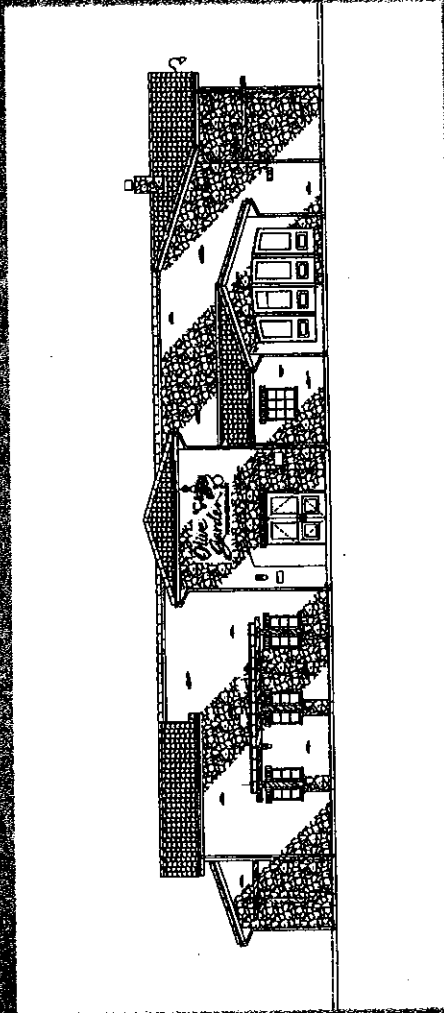
[illegible]



Olive Garden®

APPROVED

By Shawn P. Rödel at 4:19 pm, Jul 21, 2011



P75 Building

N. Muldoon Rd. & Old Glenn Hwy
Tikahtu Commons
Anchorage, AK

Store #TBD

March 24, 2011 - INITIAL

Landlord & Target
Approval Required

SES

Site Plan

Store #TBD

APPROVED

By Shawn P. Rödel at 4:20 pm, Jul 21, 2011

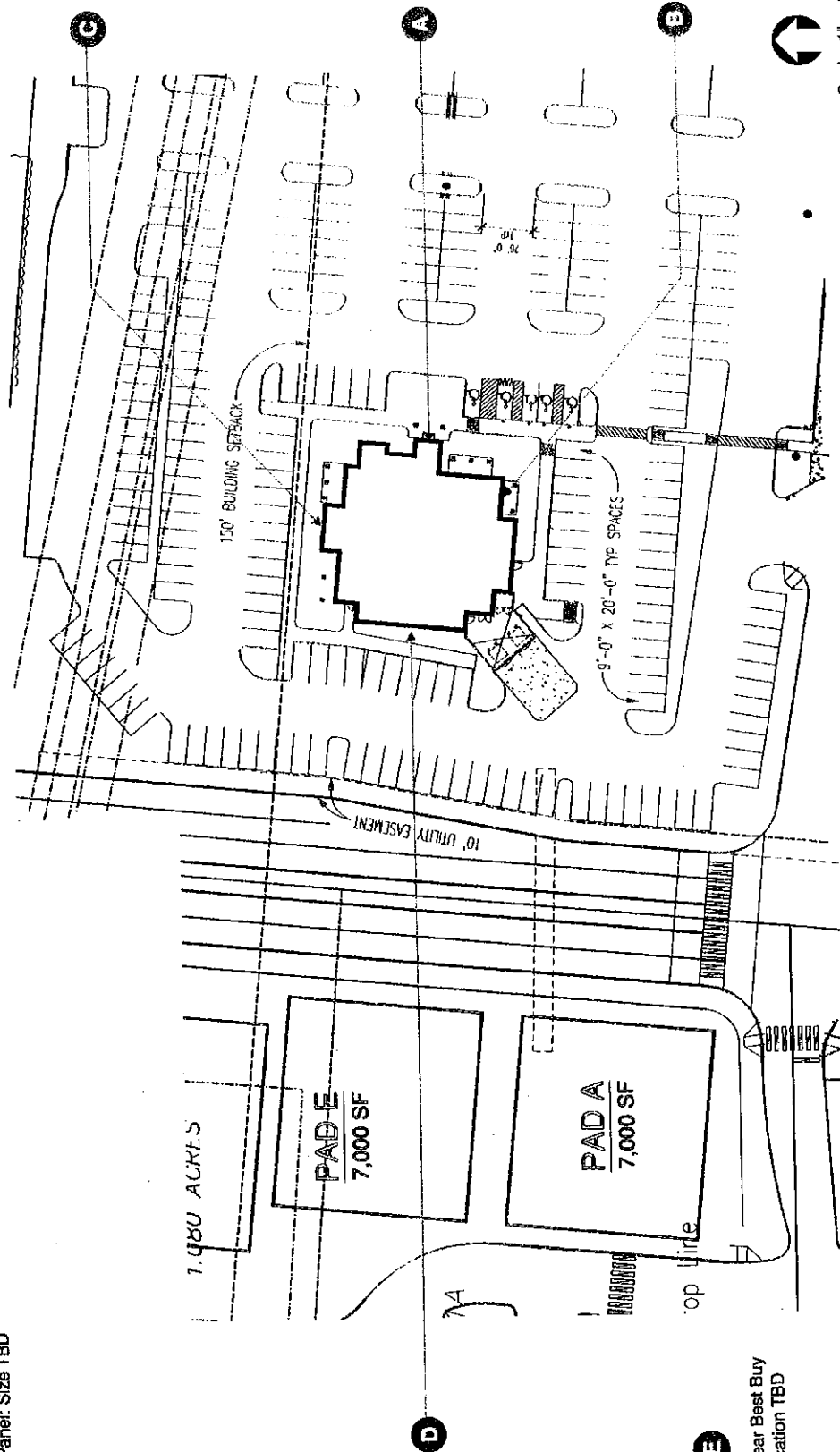
A 4'-6 1/2" x 10'-0" Cabinet: 45.42 SF

B 5'-5" x 11'-11" Cabinet: 64.55 SF

C 5'-5" x 11'-11" Cabinet: 64.55 SF

D 5'-5" x 11'-11" Cabinet: 64.55 SF

E Tenant Panel: Size TBD



Location near Best Buy
Exact location TBD

Code allows 2 SF per linear foot of primary frontage and 1.2 SF per linear foot of secondary frontage. Olive Garden can submit prototypical signage for review. 80% chance of approval.

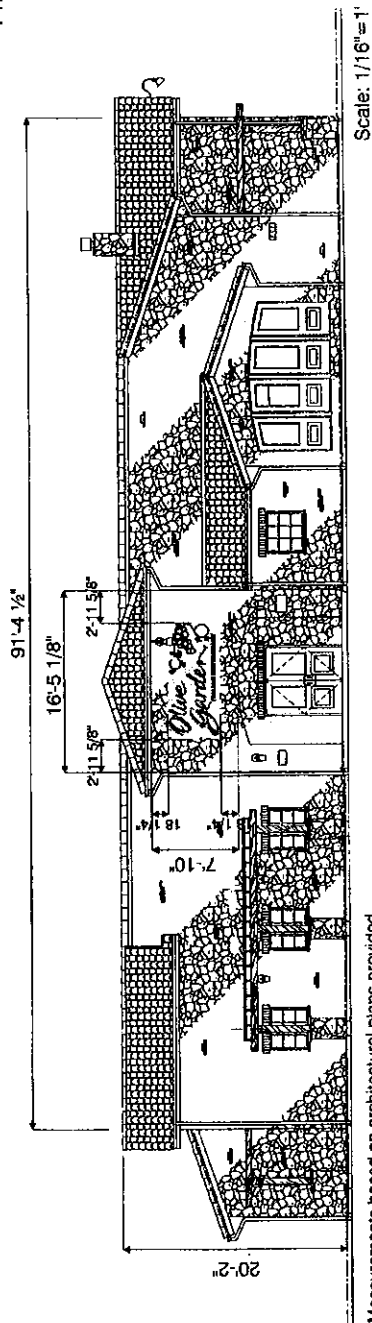
Landlord & Target Approval Required

APPROVED

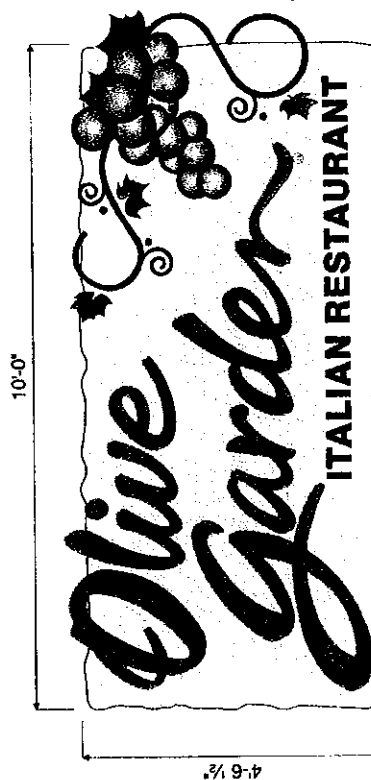
By Shawn P. Rödel at 4:20 pm, Jul 21, 2011

Front Elevation
Store #TBD
SVI Rating: 3.25

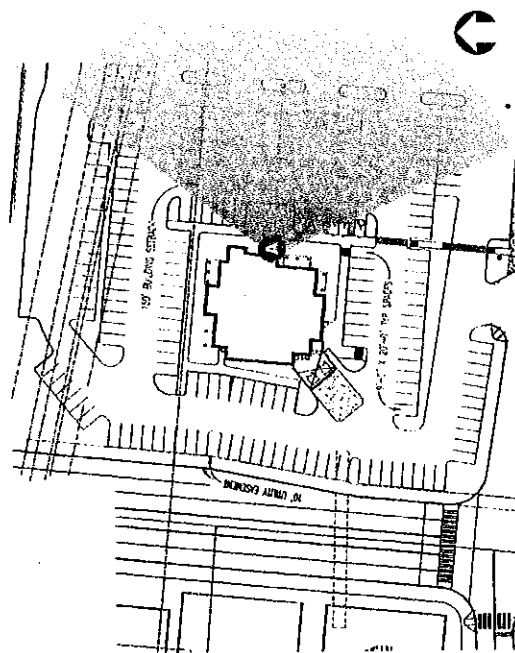
Photo Reference: #1



Measurements based on architectural plans provided.
Measurements to be field verified.



50 SF Cabinet (Internally Illuminated Letters w/LED)
Utilized Square Footage: 45.42 | Allowed Square Footage: 182
Scale: 3/8"=1'



Code allows 2 SF per linear foot of primary frontage and 1.2 SF per linear foot of secondary frontage. Olive Garden can submit prototypical signage for review. 80% chance of approval.

Landlord & Target Approval Required

APPROVED

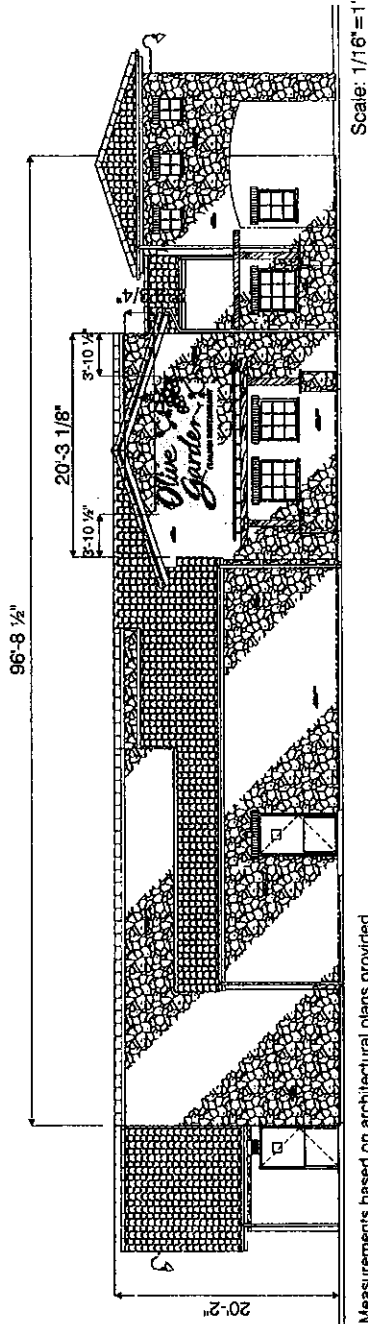
By Shawn P. Rödel at 4:20 pm, Jul 21, 2011

Left Elevation

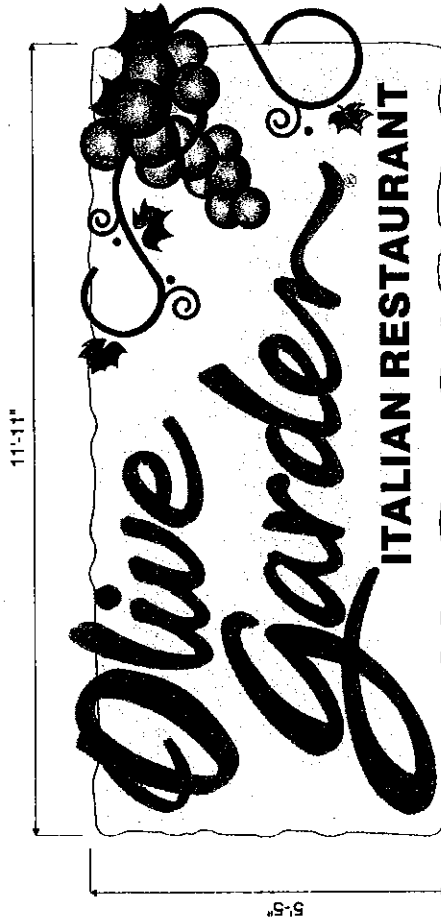
Store #TBD

SVI Rating: 3.25

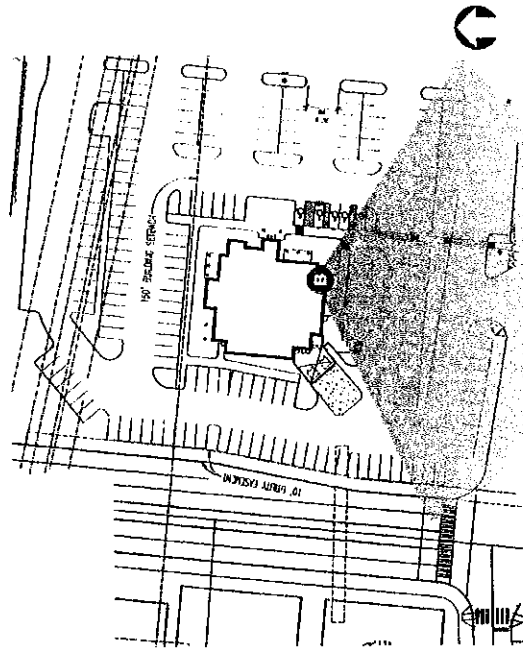
Photo Reference: #2



Measurements based on architectural plans provided.
Measurements to be field verified.



65 SF Cabinet (Internally Illuminated Letters w/LED)
Utilized Square Footage: 64.55 | Allowed Square Footage: 115
Scale: 3/8" = 1'



Code allows 2 SF per linear foot of primary frontage and 1.2 SF per linear foot of secondary frontage. Olive Garden can submit prototypical signage for review. 75% chance of approval.

Landlord & Target Approval Required

APPROVED

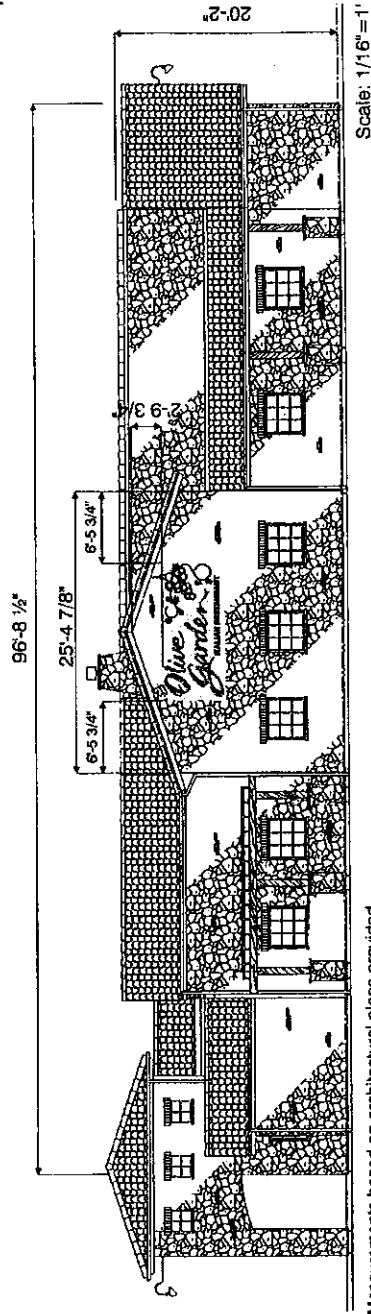
By Shawn P. Rödel at 4:20 pm, Jul 21, 2011

Right Elevation

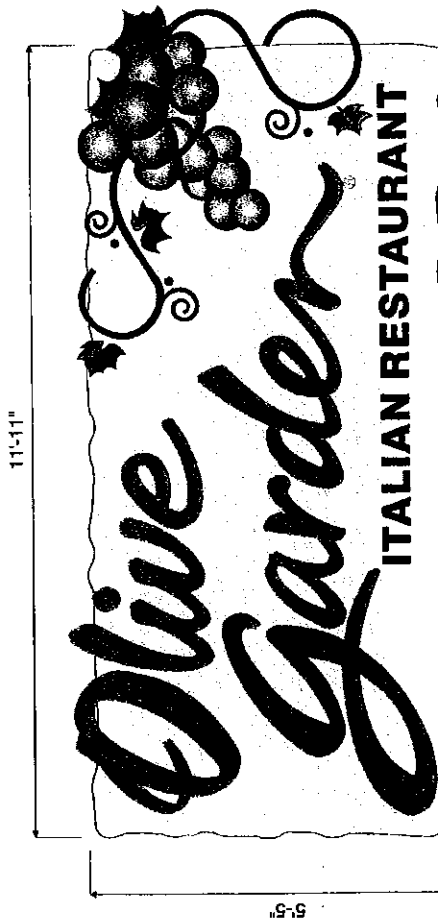
Store #TBD

SVI Rating: 2.75

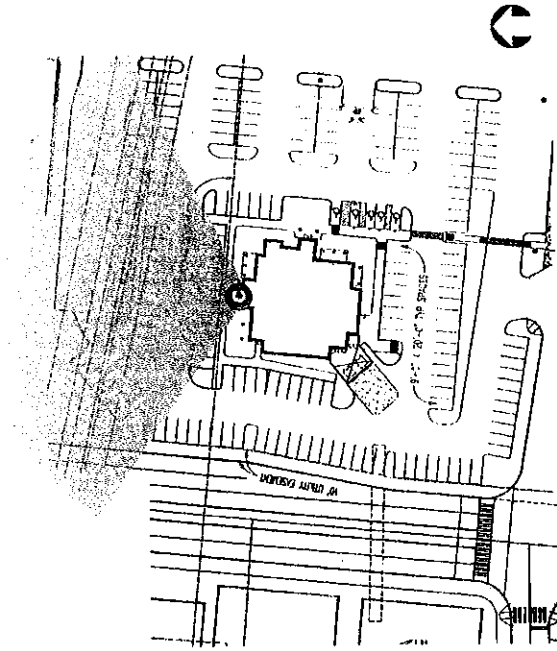
Photo Reference: #3



Measurements based on architectural plans provided.
Measurements to be field verified.



65 SF Cabinet (Internally Illuminated Letters w/LED)
Utilized Square Footage: 64.55 | Allowed Square Footage: 115
Scale: 3/8" = 1'



Code allows 2 SF per linear foot of primary frontage and 1.2 SF per linear foot of secondary frontage. Olive Garden can submit prototypical signage for review. 75% chance of approval.

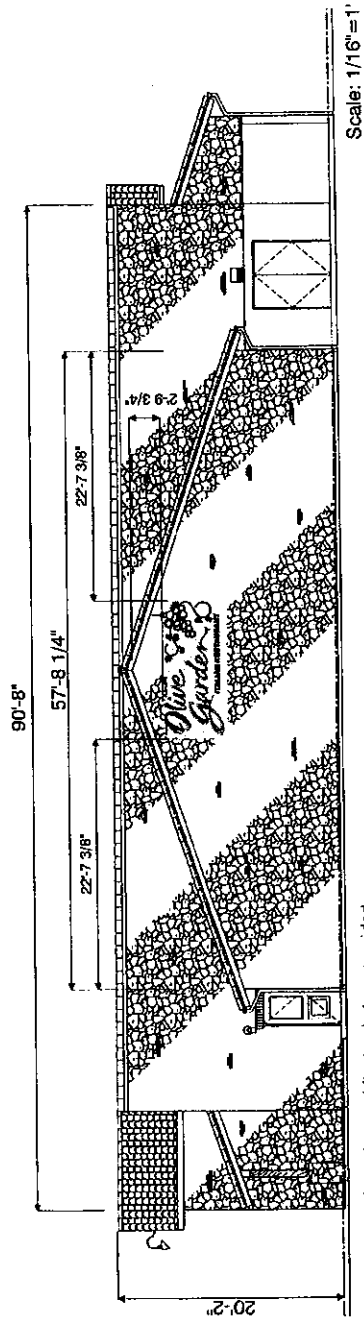
Landlord & Target Approval Required

APPROVED

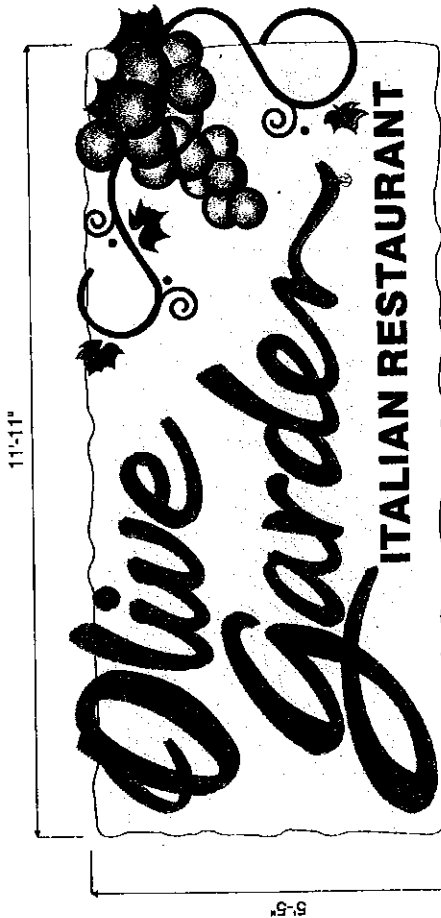
By Shawn P. Rödel at 4:20 pm, Jul 21, 2011

Rear Elevation
Store #TBD
SVI Rating: 3.0

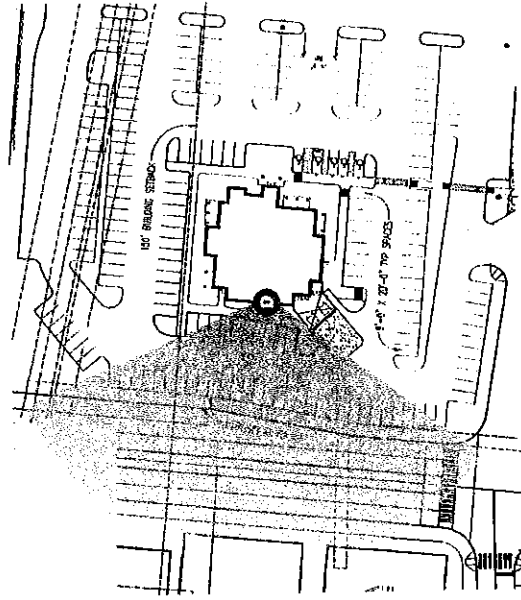
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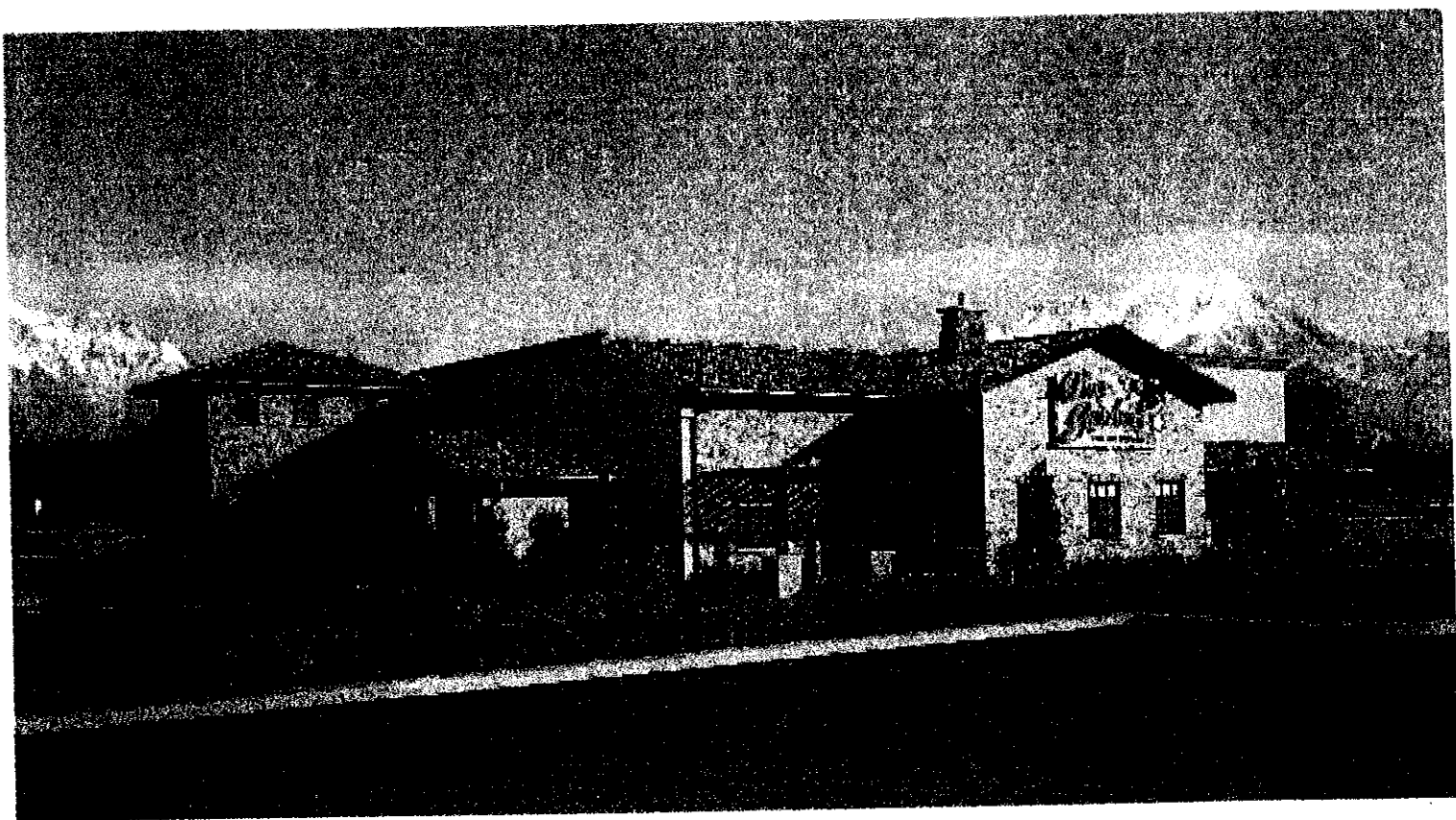


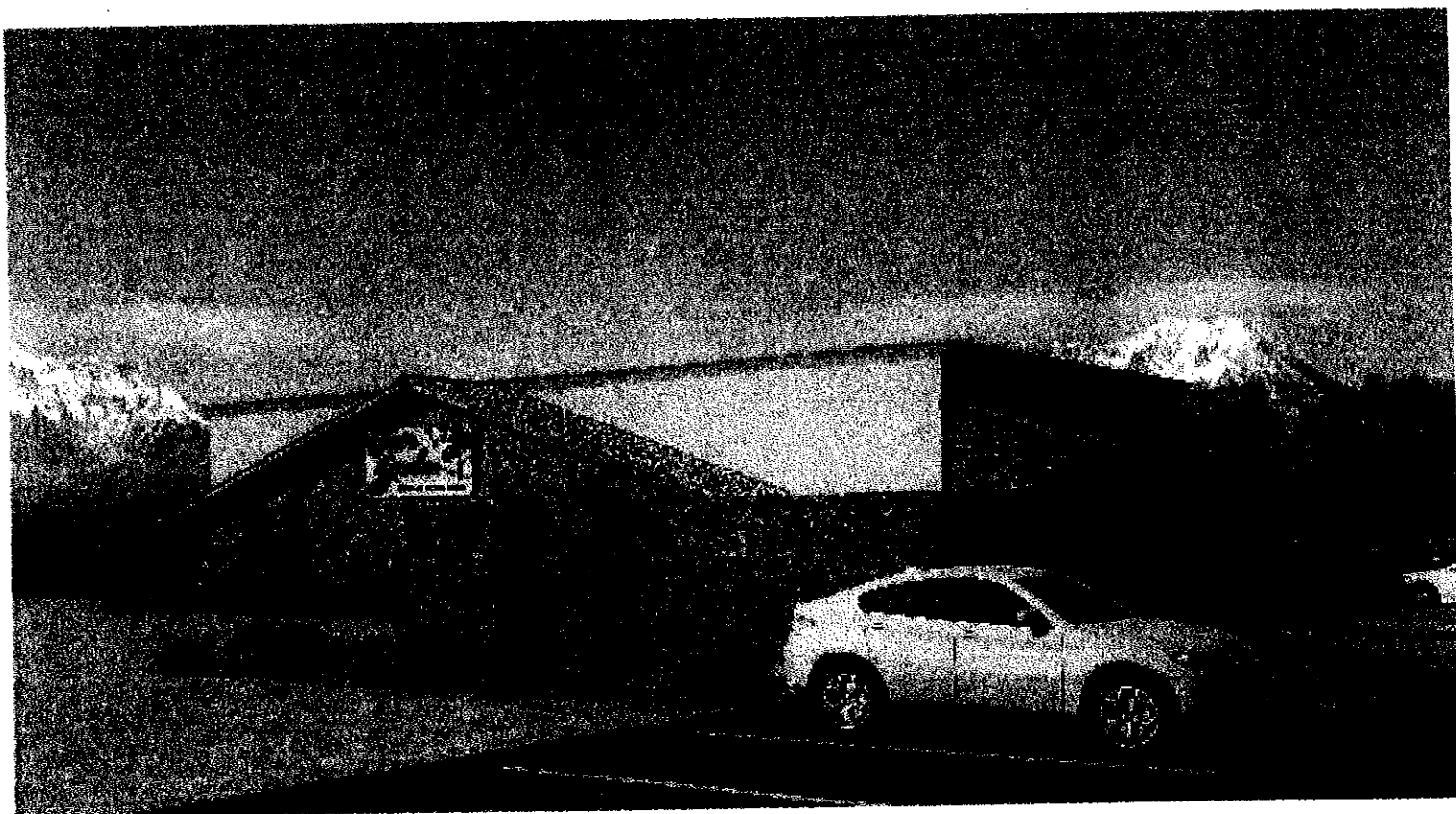
Measurements based on architectural plans provided.
Measurements to be field verified.

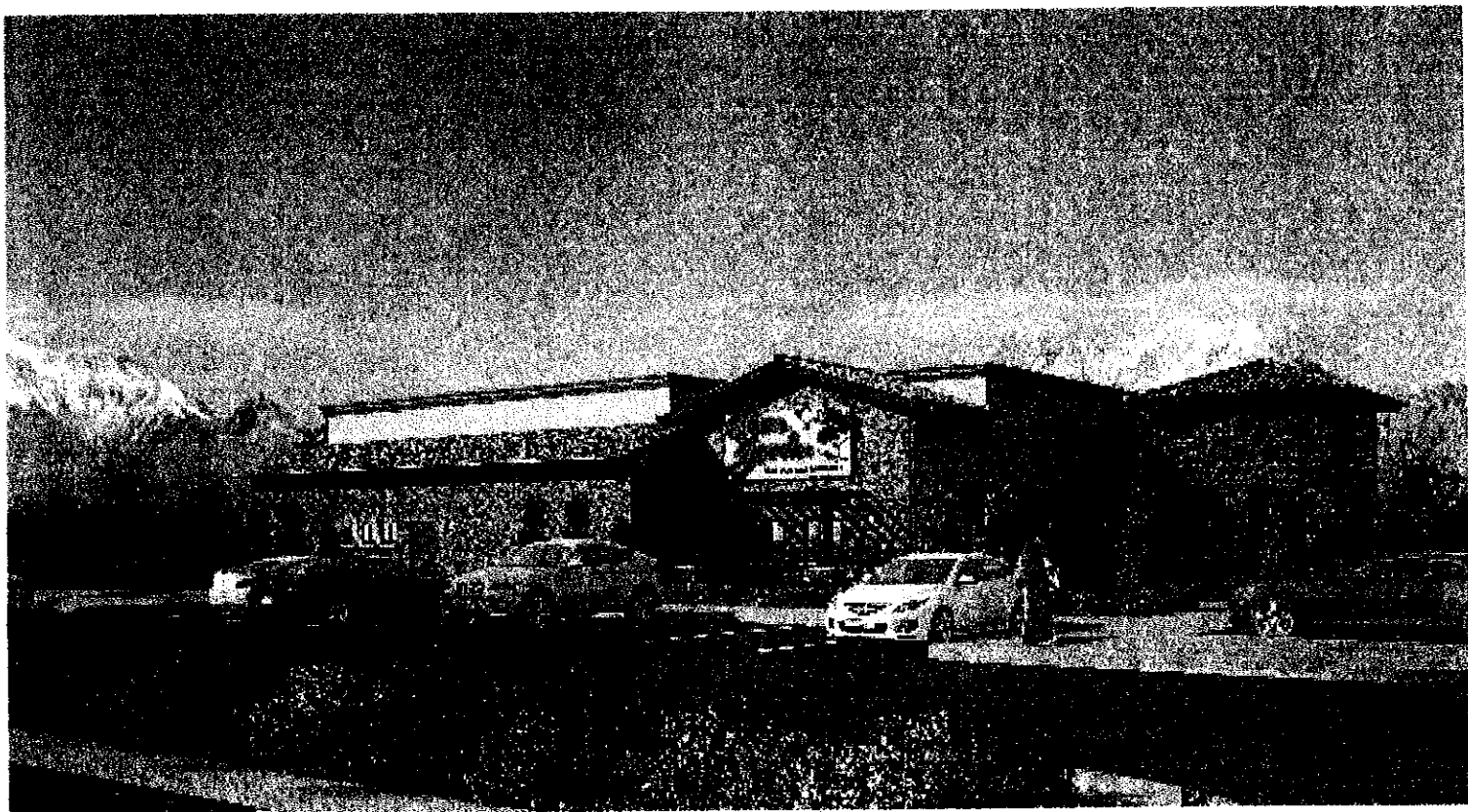


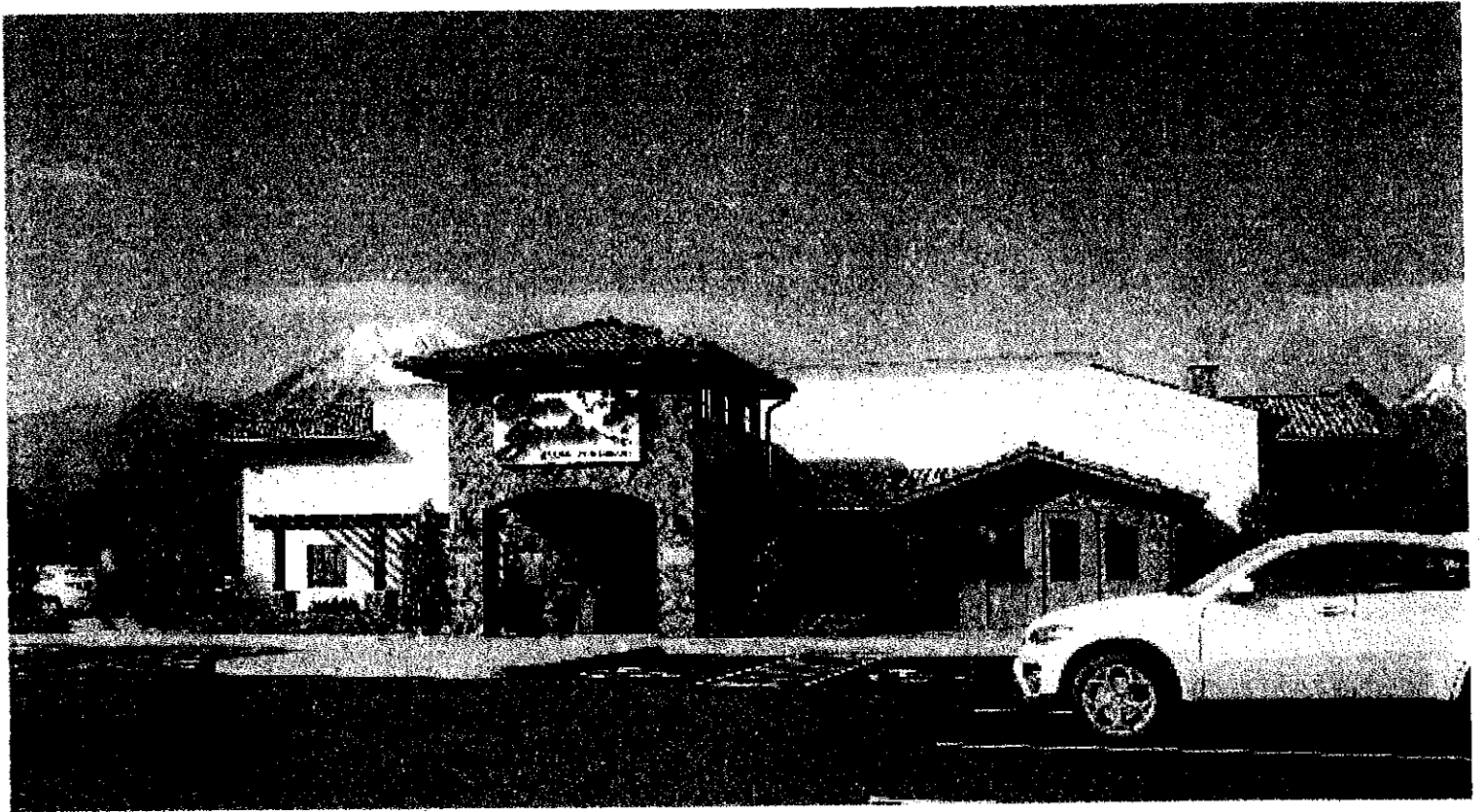
65 SF Cabinet (Internally Illuminated Letters w/LED)
Utilized Square Footage: 64.55 | Allowed Square Footage: 108
Scale: 3/8" = 1'











4700 ELMORE ROAD
PHONE: 343-8211



INSPECTIONS
343-8300

MUNICIPALITY OF ANCHORAGE
Development Services Department

Building Safety Division

OLIVE GARDEN
POSTING NOTICE FOR BUILDING PERMIT

611-1219

BUILDING PERMIT NUMBER

LOT 17B, BLOCK - , SUBD.

Gateway

Jimmy Rose Day

SHALL BE POSTED IN A CONSPICUOUS PLACE

MEMO TO ABC BOARD

LAW OFFICES OF ERNOUF & COFFEY, PC

Facsimile: (907) 274-4258

Phone: (907) 274-3385

E-mails:

sernouf@eclawfirm.net

dcoffey@eclawfirm.net

TO: ABC BOARD STAFF
FROM: AMANDA SHAWCROSS/SHERMAN ERNOUF
CC: GMRI, INC.
RE: TRANSFER OF BDL -#133
DATE: 9/30/11

The purpose of this memo is to transmit to you a completed application for the transfer of a beverage dispensary liquor license from Park Plaza, Inc., dba Park Plaza Lounge to GMRI, Inc. dba The Olive Garden Italian Restaurant #4412. Enclosed with this Memo is a check (#4538) for \$529.75 for filing fee, fingerprint cards, and restaurant designation permit fee.

The following documents are enclosed:

Transfer of BDL #133:

1. The first and second page of the license transfer application
2. Fingerprint Cards
3. Statement of Financial Interest
4. Certificate of Incorporation for GMRI, Inc.
5. Posting Affidavit
6. Affidavit of Publication
7. Restaurant Designation Permit
8. Menu
9. Lease
10. Diagram

If you have any questions in regards to this Memo or need any additional information, please call me directly at (907) 274-3385 or email ashawcross@eclawfirm.net. Thank you for your time and attention to this matter.

Alcoholic Beverage Control Board
5848 E Tudor Rd
Anchorage, AK 99507

Transfer Liquor License

PAGE 1 OF 2
(907) 269-0350
Fax: (907) 272-9412
www.dps.state.ak.us/abc

This application is for:

- ☐ Seasonal - Two 6-month periods in each year of the biennial period beginning _____ and ending _____
Mo/Day Mo/Day
- ☒ Full 2-year period

SECTION A - LICENSE INFORMATION. Must be completed for all types of applications.			FEES	
License Year: 2011/12	License Type: Beverage Dispensary	Statute Reference	License Fee: \$	
		Sec. 04.11.090	Filing Fee: \$100.00	
License #: 133			RDP: \$50	
Local Governing Body: (City, Borough or Unorganized) Municipality of Anchorage	Community Council Name(s) & Mailing Address: Northeast Community Council Kevin Smetstad 7660 Boundary Avenue Anchorage, AK 99504		Fingerprint: \$ 379.75 (\$54.25 per person)	
Name of Applicant (Corp/LLC/LP/LLP/Individual/Partnership): GMRI, Inc.			Total Submitted: \$ 529.75	
	Doing Business As (Business Name): The Olive Garden Italian Restaurant #4412	Business Telephone Number: TBD Fax Number: TBD		
Mailing Address: Attn: Licensing Dept. PO Box 695016	Street Address or Location of Premise: 1186 N. Muldoon Road Anchorage, AK 99504		Email Address: chunter@darden.com	
City, State, Zip: Orlando, FL 32869-5016				
SECTION B - TRANSFER INFORMATION.				
<input checked="" type="checkbox"/> Regular Transfer		Name and Mailing Address of CURRENT Licensee: Park Plaza, Inc. c/o John Colver 3201 C St., Ste. 203 4050 Amer Ave., Anchorage, AK 99508 Anchorage, AK 99503		
<input type="checkbox"/> Transfer with security interest: Any instrument executed under AS 04.11.670 for purposes of applying AS 04.11.360(4)(b) in a later involuntary transfer, must be filed with this Application (15 AAC 04.107). Real or personal property conveyed with this transfer must be described. Provide security interest documents.		Business Name (dba) BEFORE transfer: Park Plaza Lounge		
<input type="checkbox"/> Involuntary Transfer. Attach documents which evidence default under AS 04.11.670.		Street Address or Location BEFORE transfer: 151 Park Lane, Anchorage, AK 99508		
SECTION C - PREMISES TO BE LICENSED. Must be completed for RELOCATION applications.				
Closest school grounds: Bartlett High School 1101 N. Muldoon Rd. Anch., AK 99504	Distance measured under: <input type="checkbox"/> AS 04.11.410 OR <input type="checkbox"/> Local ordinance No. _____	<input type="checkbox"/> Premises is GREATER than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. <input checked="" type="checkbox"/> Premises is LESS than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. <input checked="" type="checkbox"/> Not applicable		
Closest church: Abundant Life Ministries, 8138 Peck Ave., Anch., AK 99504 Wesleyan Nazarene Church 239 Zappa Place, Anch., AK 99504	Distance measured under: <input type="checkbox"/> AS 04.11.410 OR <input type="checkbox"/> Local ordinance No. _____			
Premises to be licensed is: <input type="checkbox"/> Proposed building <input type="checkbox"/> Existing facility <input checked="" type="checkbox"/> New building		X Plans submitted to Fire Marshall (required for new & proposed buildings) X Diagram of premises attached		
Does any individual, corporate officer, director, Limited liability organization member, manager or partner named in this application have any direct or indirect interest in any other alcoholic beverage business licensed in Alaska or any other state?				
X Yes <input type="checkbox"/> No If Yes, complete the following. Attach additional sheets if necessary.				
Name	Name of Business	Type of License	Business Street Address	State
Some officers have direct interest in ownership of select Maryland Restaurants. See attached addenda for detail.				
Has any individual, corporate officer, director, limited liability organization member, manager or partner named in this application been convicted of a felony, a violation of AS 04, or been convicted as a licensee or manager of licensed premises in another state of the liquor laws of that state?				
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, attach written explanation.				

Office use only

Date Approved

Director's Signature

Liquor License

Corporations, LLCs, LLPs and LPs must be registered with the Dept. of Community and Economic Development.

Name of Entity (Corporation/LLC/LLP/LP) (or N/A if an Individual ownership): GMRI, Inc.		Telephone Number: 407-245-4711	Fax Number: 407-241-5504
Corporate Mailing Address: PO Box 695016	City: Orlando	State: FL	Zip Code: 32869-5016
Name, Mailing Address and Telephone Number of Registered Agent: Corporate Creations, Inc. 301 K Street, #200, Anchorage, AK 99501		Date of Incorporation OR Certification with DCED: 5/13/2011	State of Incorporation: Alaska
Is the Entity in compliance with the reporting requirements of Title 10 of the Alaska Statutes? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, attach written explanation. Your entity <i>must</i> be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.			

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with at least 10%)

Name	Title	%	Home Address & Telephone Number	Work Telephone Number	Date of Birth
See Attached List					

NOTE: On a separate sheet provide information on ownership other organized entities that are shareholders of the licensee.

Individual Licensees/Affiliates (The ABC Board defines an "Affiliate" as the spouse or significant other of a licensee. Each Affiliate must be listed.)

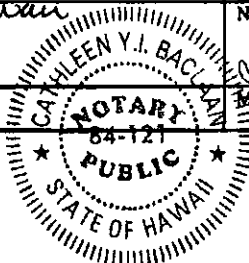
Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:	Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:
Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:	Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:

Declaration

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete, and this application is not in violation of any security interest or other contracted obligations.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

Signature of Current Licensee(s)		Signature of Transferee(s)	
Signature: <i>Herbert K.H. Lee, Jr.</i>		Signature: <i>GMRI, INC.</i>	
Signature: <i>Colleen M. Hunter</i>		Signature: <i>Colleen M. Hunter, Assistant Secretary</i>	
Name & Title (Please Print) Herbert K.H. Lee, Jr., President		Name & Title (Please Print) Colleen M. Hunter, Assistant Secretary	
Subscribed and sworn to before me this 19 th day of September, 2011		Subscribed and sworn to before me this 13 th day of September, 2011	
Notary Public in and for the State of Alaska <i>Hawaii</i>		Notary Public in and for the State of Alaska <i>Florida</i>	
<i>Cathy</i>		<i>Sharlene Soto</i>	
My commission expires: 04-12-2012		My commission expires:	

Transfer App 3/09



**GMRI, INC.
OFFICERS AND DIRECTORS
as of 10/18/2010**

Address all official correspondence to any of the Corporate Officers below to:
P.O. Box 88016, Orlando, FL 32889-2016

Name	Title	Residence	Birthdate	% of Stock Ownership
William R. White, III	President, Treasurer and Director	4035 Glider Rose Place Winter Park, FL 32792	11/11/1959	0%
C. Bradford Richmond	Vice President	10844 Emerald Chase Dr Orlando, FL 32836	9/4/1958	0%
Joseph G. Kern	VP/Secretary	415 East Pine St Apt #1615 Orlando, FL 32801	12/21/1961	0%
Horace G. Dawson III	Assistant Secretary	808 Brightwater Circle Maitland, FL 32751	10/23/1954	0%
Colleen M. Hunter	Assistant Secretary	11920 Delfina Lane Orlando, FL 32827	6/22/1972	0%
Douglas E. Wentz	Assistant Secretary	1025 Via Tuscan Oaks Way Winter Park, FL 32789	9/23/1958	0%
Jody G. Wolf	Assistant Secretary	2326 Florida Avenue Orlando, FL 32765	2/4/1962	0%

GMRI, Inc. is a wholly owned subsidiary of Darden Restaurants, Inc.,
Darden Restaurants, Inc. is publicly traded on the New York Stock Exchange as DRI.

21 with Addr-DOB-DL-SS-Tel No-%Stock

Colleen M. Hunter
Licensee/Shareholder

As Licensee and 1% stockholder of OG of Lexington Park, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B(BWL)	2/2010 - Present	Olive Garden #1797, Lexington Park, MD	5039

As Licensee and 1.3% stockholder of Baltimore GMR, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Rest./Bar	03/2010 - Present	Bahama Breeze #3033, Towson, MD	20100217
Rest./Bar	03/2010 - Present	Olive Garden #1505, White Marsh, MD	20100483
Rest./Bar	03/2010 - Present	Red Lobster #0834, White Marsh, MD	20100216
Rest./Bar	03/2010 - Present	Red Lobster #6227, Owing Mills, MD	20100465

As Licensee and 1% stockholder of GMR Hagerstown, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	7/2010 - Present	Red Lobster #625, Hagerstown, MD	20100425

As Licensee and 45% stockholder of OG of Westminster, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	08/2010 - Present	Olive Garden #1522, Westminster, MD	7BCL-0068

As Licensee and 40% stockholder of OG of Salisbury, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	08/2010 - Present	Olive Garden #1496, Salisbury, MD	2696

As Licensee and 1% stockholder of GMR Anne Arundel, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	07/2010 - Present	Red Lobster, # 6360, Anne Arundel, MD	Pending
Class B	07/2010 - Present	Olive Garden #1826, Anne Arundel, MD	Pending
Class B	07/2010 - Present	LongHorn Steakhouse #5358, Anne Arundel, MD	Pending
Class H(BWL)M,S	07/2010 - Present	Red Lobster #398, Annapolis, MD	401

* Some license numbers change annually

Joseph G. Kern
Licensee

As Licensee and 45% stockholder on behalf of Hagerstown OG, Inc.:

LIC TYPE	WHEN	LOCATION	*LIC. #
Rest./Bar	09/2007 - Present	Olive Garden #1719, Hagerstown, MD	20090733

As Licensee and 1% stockholder of OG of Lexington Park, Inc.:

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	09/2010 - Present	Olive Garden #1797, Lexington Park, MD	5063

As Licensee and 1% stockholder of GMR Anne Arundel, Inc.

LIC TYPE	WHEN	LOCATION	*LIC. #
Class B	07/2010 - Present	Red Lobster, # 6360, Anne Arundel, MD	Pending
Class B	07/2010 - Present	Olive Garden #1826, Anne Arundel, MD	Pending
Class B	07/2010 - Present	LongHorn Steakhouse #5358, Anne Arundel, MD	Pending
Class H(BWL)M,S	07/2010 - Present	Red Lobster #398, Annapolis, MD	401

* Some license numbers change annually

STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD

STATEMENT OF FINANCIAL INTEREST

CONFIDENTIAL

TO BE COMPLETED BY EACH APPLICANT, EITHER INDIVIDUAL OR CORPORATE

AS 04.11.450(a) states that no person other than a licensee may have a direct or indirect financial interest in the business for which the license is issued.

Applicant: GMRI, Inc.		DBA: The Olive Garden Italian Restaurant #4412
EIN or SSN: [REDACTED]	Location: 1186 N. Muldoon Road, Anchorage, AK 99504	
List each owner, shareholder, member in the boxes below:		
GMRI, Inc. is a wholly owned subsidiary of Darden Restaurants, Inc., which is publically traded on the New York Stock Exchange as DRI		

List below persons, firms, lending institutions or corporations which have or may have any financial involvement in furthering purchases of assets, revenues or operating capital for the licensed business operations.

NAME	ADDRESS	AMOUNT	PURPOSE
NONE			

Under the penalties of perjury, I declare that I have examined this application, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signature of Applicant/Transferee

Calvin M. Hunt

9/13/2011

Date

Subscribed and sworn to before me this

13th Day of September 20 11

Sharon Soto

Notary Public in and for the State of Alaska Florida

My commission expires Soto



Comm# DD0784434

Expires 4/30/2012

Florida Notary Assn., Inc

STATE OF ALASKA
ALCOHOL BEVERAGE CONTROL BOARD
Licensed Premises Diagram

INSTRUCTIONS: Draw a detailed floor plan of your present or proposed licensed premises on the graph below; show all entrances and exits, and all fixtures such as tables, booths, games, counters, bars, coolers, stages, etc.

DBA: The Olive Garden Italian Restaurant # 4412

PREMISES LOCATION: 1186 N. Muldoon Road, Anchorage, AK 99504

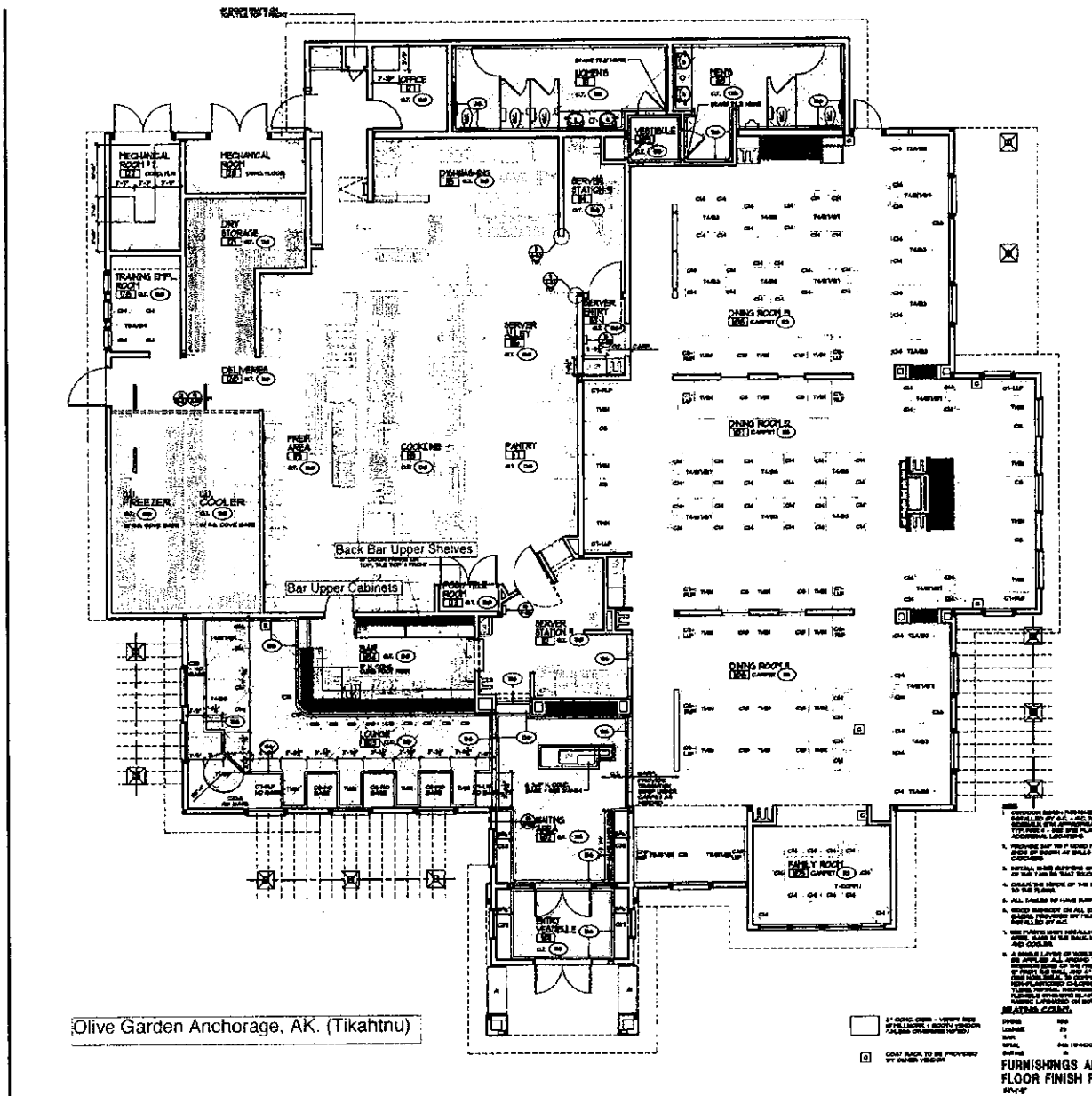
Indicate scale by x after appropriate statement or show length and width of premises. 1 SQ. = 4 FT.

SCALE A: 1 SQ. = 1 FT.

SCALE B:

Length and width of premises in feet: **L98'- 1/2" x W104'-2 1/4"**

Outline the area to be designated for sale, service, storage, and consumption of alcoholic beverages in red.
DO NOT USE BLUE INK OR PENCIL ON THIS DIAGRAM.



STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD
APPLICATION FOR RESTAURANT DESIGNATION PERMIT - AS 04.16.049 & 15 AAC 104.715-794
FEE: \$30.00

The granting of this permit allows access of persons under 21 years of age to designated licensed premises for purposes of dining, and persons under the age of 19 for employment. If for employment, please state in detail, how the person will be employed, duties, etc. (13 AAC 104.745).

This application is for designation of premises where: (please mark appropriate items).

- 1 ☒ Under AS 04.16.010(c) Bona fide restaurant/eating place.
2 ☒ Persons between 16 & 21 may dine unaccompanied.
3 ☒ Persons under 16 may dine accompanied by a person 21 years or older.
4 ☒ Persons between 16 and 19 years may be employed. (See note below).

LICENSEE: GMRL, Inc.

D/B/A: The Olive Garden Italian Restaurant # 4412

ADDRESS: 1186 N. Muldoon Road, Anchorage, AK 99504

1. Hours of Operation: Sun-Thur 11am-10pm, Fri & Sat 11am-11pm Telephone # TBD
2. Have police ever been called to your premises by you or anyone else for any reason: ☐ Yes ☒ No
If yes, date(s) and explanation(s).

3. Duties of employment: Server, host, kitchen staff, cleaning staff.

4. Are video games available to the public on your premises? No. _____

5. Do you provide entertainment: ☐ Yes ☒ No If yes, describe. None other than recorded music

6. How is food served? ☒ Table Service _____ Buffet Service _____ Counter Service _____ Other* _____

7. Is the owner, manager, or assistant manager always present during business hours? ☒ Yes ☐ No

*** A MENU AND A DETAILED LICENSED PREMISES DIAGRAM MUST ACCOMPANY THIS APPLICATION ***

This permit remains in effect until the liquor license is transferred OR at the discretion of the Alcoholic Beverage Control Board.
(13 AAC 104.795)

I certify that I have read AS 04.16.049, AS 04.16.060, 13 AAC 104.715-795 and have instructed my employees about provisions contained therein.

GMRL, Inc.
By: Colleen M. Hunter
Applicant(s) signature
Colleen M. Hunter, Asst. Secretary
Subscribed and sworn to before me this
13th day of September, 2011

Sharlene Soto
Notary Public in and for Alaska
SHARLENE SOTO
My Commission expires _____
Comm# DD0784434
Expires 4/30/2012
Florida Notary Assn., Inc.

Application approved (13 AAC 104.725(e))
Governing Body Official

Date: _____

Director, ABC Board

Date: _____

NOTE: AS 04.16.049(c) requires that written parental consent and an exemption by the Department of Labor must be provided to the licensee by the employee who is under 19 years of age. Persons 19 and 20 years of age are not required to have the consent or exemption.

- * Describe how food is served on back of form.

**STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD**

**AFFIDAVIT IN CONNECTION WITH POSTING LIQUOR LICENSE APPLICATION
Section 04.11.260, 04.11.310, & AAC 104.125 Alaska Statutes, Title 4**

POSTING AFFIDAVIT

I, the undersigned, being first duly sworn on oath, depose and say that:

1. a. Posting of application for a new _____ liquor license
for _____
located at _____
(address and/or location)
- OR
- b. Posting of application for transfer of a Beverage Dispensary liquor license
currently issued to Park Plaza, Inc. whose business name (d/b/a)
is Park Plaza Lounge located at 151 Park Lane, Anchorage, AK 99508.
(address and/or location)

2. Has been completed by me for the following 10 FULL day period:

20 September, 2011 to 29 September 2011

*** Prior to the filing of said application, a true copy of the application was posted at the following described locations: (name and address of location)

- a. Location of premises to be licensed 1186 N. Muldoon Road, Anchorage, AK 99401 (Undeveloped Site).
- b. Other conspicuous location in the area US Post Office, 240 Muldoon Road, Anchorage, AK 99504.
3. I believe that with the approval of this application population would not at one time exceed in the aggregate of one license of the type requested for population as provided by law. AS 04.11.400 (check one)
- a. ☐ a radius of five (5) miles of the proposed location.
- b. ☒ an incorporated city, organized borough or unified municipality.
- c. ☐ does not apply (application filed under AS 04.11.400(d)(e)(g) or transfer of license holder or location within an incorporated city or unified municipality or organized borough).
- d. ☐ established village.

A B Shawcross
(signature)

SUBSCRIBED and SWORN to me this 30 day of September, 2011

[Signature]
Notary Public in and for Alaska
My commission expires: 10/11/12

Alaska Department of Revenue
TAX CLEARANCE REQUEST FORM

Applicant's Name: Park Plaza, Inc.

EIN/SSN: 99-0261424

Mailing Address: ~~4350 Arnes Avenue~~

c/o John Colver
3201 C Street, Ste. 203
Anchorage, AK 99503

City/State/Zip Code: ~~Anchorage, AK 99508~~

I hereby authorize the Alaska Department of Revenue to release to

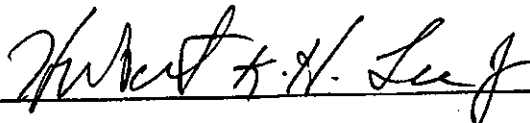
Alcoholic Beverage Control Board
(Name of Department or Agency)

Departments Statute on tax clearance: AS 04-21.030(2)

whose facsimile number or email address is 907-272-9412,

confirmation that all taxes, penalties and interest due the Department of Revenue have been paid
and that there are no outstanding amounts due.

Signed:



Printed Name:

Herbert K.H. Lee, Jr.

Title*:

President, Park Plaza Inc.

Liquor License # 133

*If tax clearance is being requested on behalf of a corporation/LLC/partnership, must be signed by an officer/member/partner.

DEPARTMENT USE ONLY

- ☐ The above applicant is current on all taxes, penalties and interest due and is in good standing with the Alaska Department of Revenue.
- ☐ The above applicant is not current on all taxes, penalties and interest due and is not in good standing with the Alaska Department of Revenue.

Ta

Department of Revenue Representative

Date

STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD
CREDITORS AFFIDAVIT AS 04.11.280 AND AS 04.11.360

AFFIDAVIT

I/We Park Plaza, Inc. being first duly sworn on oath, depose
and state that I/we am/are the licensee(s) and transferor(s) of that certain business known as
Park Plaza Lounge located at
151 Park Lane Anchorage Alaska 99508 in connection with liquor license
number 133 and that the following is a listing of accounts payable and taxes owed by the
above licensed business as of _____.

Creditor/Taxing Authority	Complete Mailing Address	Amount	Purpose of Liability
NONE			

SIGNED

[Signature]

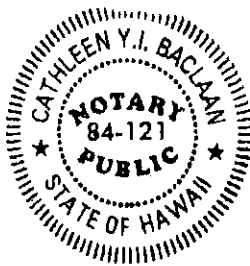
SIGNED

9-8-11

SIGNED

SIGNED

(Rev. 5/2001)



Subscribed & sworn to before me this
8th day of September 2011

[Signature]

Notary Public in & for Alaska Hawaii

My commission expires 04/12/2012

NOTARY'S CERTIFICATION

I certify that the foregoing Affidavit

☒ dated September 8, 2011

☐ undated at the time of notarization,
consists of 2 pages and was notarized
in the First Judicial Circuit of Hawaii.

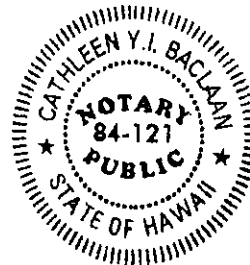
[Signature]

09/08/2011

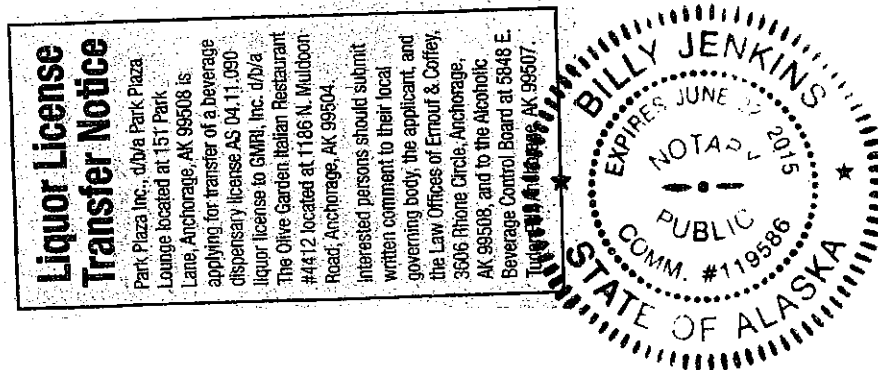
Cathleen Y.I. Bacalan
Notary Public State of Hawaii

Date

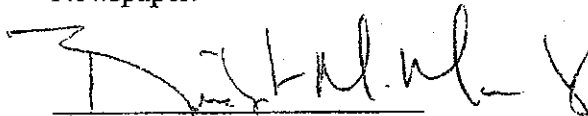
my commission expires: 04/12/2012



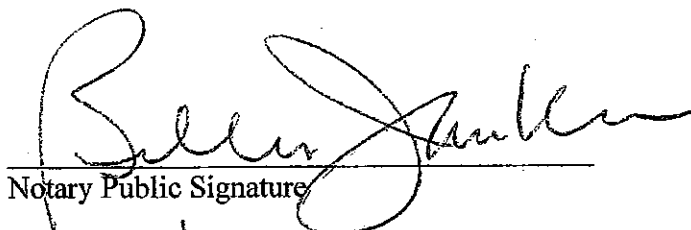
ANCHORAGE PUBLISHING, CO.
540 E. Fifth Avenue
Anchorage, Alaska 99501
Phone: 561-7737 Fax: 561-7777



I, Bridget Mackey, advertising representative for Anchorage Publishing, Co., verify that the liquor license transfer notice for Park Lanes d/b/a Park Plaza Lounge to The Olive Garden Restaurant #4412 appeared in the October 6, 2011 issue of the Anchorage Press Newspaper.


Bridget Mackey

Subscribed and sworn to me in the Municipality of Anchorage, in the state Alaska, on this 6TH day of OCTOBER, 2011.


Notary Public Signature
JUNE 22, 2015
Commission Expires

ANCHORAGE PUBLISHING, CO.

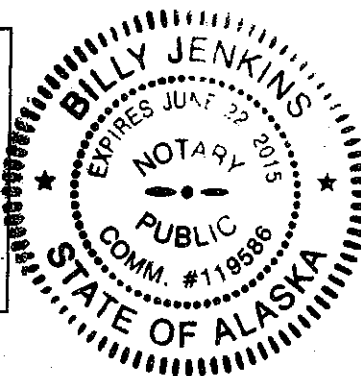
540 E. Fifth Avenue

Anchorage, Alaska 99501

Phone: 561-7737 Fax: 561-7777

**Liquor License
Transfer Notice**

Park Plaza Inc., d/b/a Park Plaza Lounge located at 151 Park Lane, Anchorage, AK 99508 is applying for transfer of a beverage dispensary license AS 04.11.090 liquor license to GMRI, Inc. d/b/a The Olive Garden Italian Restaurant #4412 located at 1186 N. Muldoon Road, Anchorage, AK 99504. Interested persons should submit written comment to their local governing body, the applicant, and the Law Offices of Ernot & Coffey, 3605 Rhine Circle, Anchorage, AK 99508, and to the Alcoholic Beverage Control Board at 5848 E. Tudor Rd., Anchorage, AK 99507.



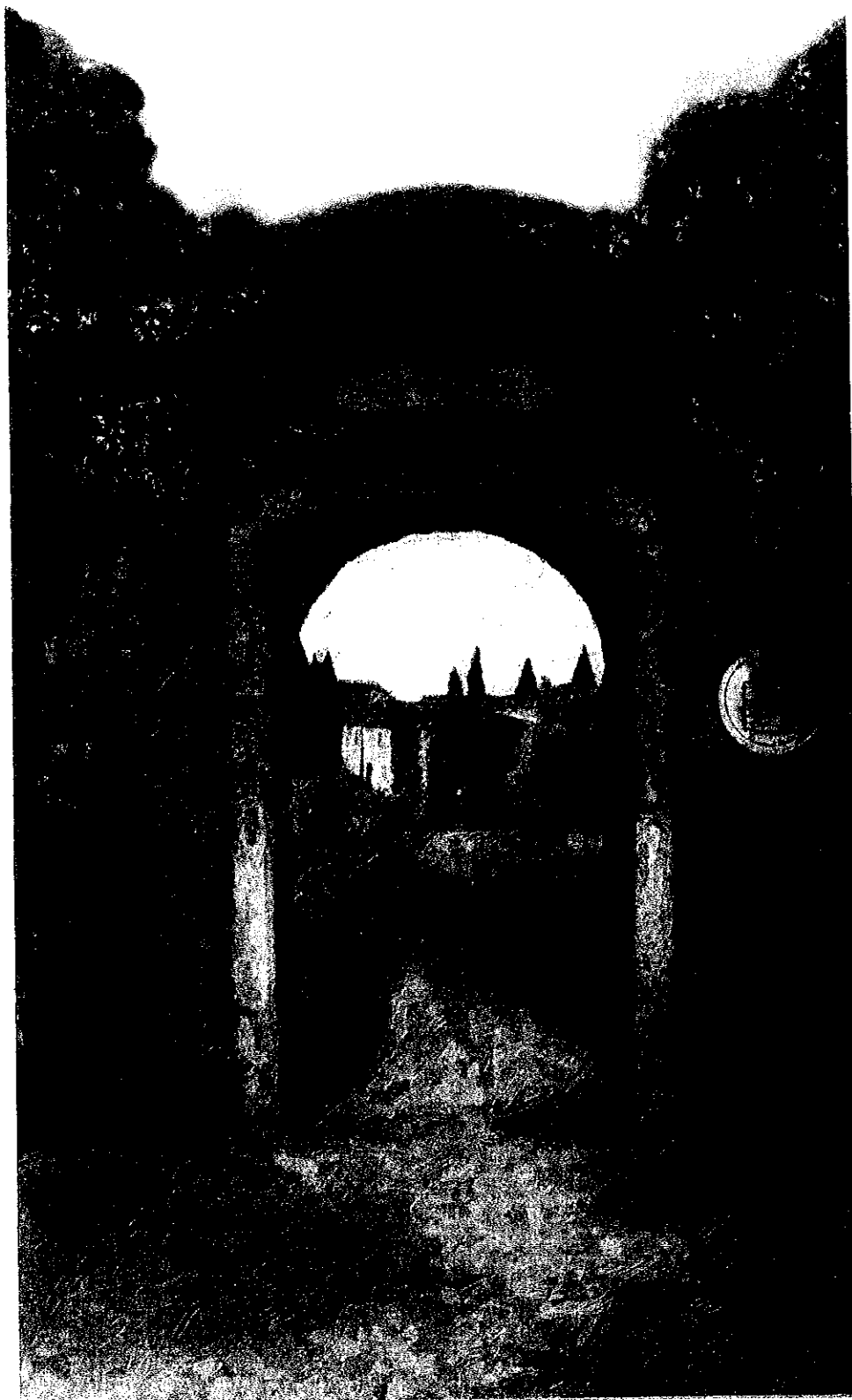
I, Bridget Mackey, advertising representative for Anchorage Publishing, Co., verify that the liquor license transfer notice for Park Lanes d/b/a Park Plaza Lounge to The Olive Garden Restaurant #4412 appeared in the September 15, and 22, 2011 issues of the Anchorage Press Newspaper.

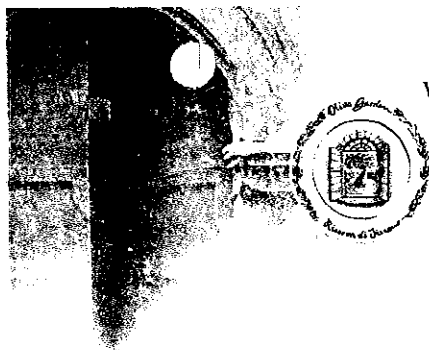

Bridget Mackey

Subscribed and sworn to me in the Municipality of Anchorage, in the state Alaska, on this 6th day of OCTOBER, 2011.


Notary Public Signature

June 22, 2015
Commission Expires





We proudly serve Italian specialties inspired by our Culinary Institute of Tuscany.SM Olive Garden chefs train at this cooking school located at Riserva di Fizzano, an eleventh century village in the heart of Italy's Tuscany region.

Antipasti (Appetizers)

Create a Sampler Italiano

Choose from: calamari, stuffed mushrooms, fried zucchini, chicken fingers, fried mozzarella or toasted beef and pork ravioli.

Three Choices 9.50 Two Choices 8.25

Stuffed mushrooms prepared with clams.

Bruschetta

A traditional topping of roma tomatoes, fresh basil and extra-virgin olive oil. Served with toasted ciabatta bread. 6.25

Caprese Flatbread

Mozzarella cheese, tomatoes and basil on flatbread crust with garlic spread. 6.35

Grilled Chicken Flatbread

Grilled chicken, mozzarella cheese, roasted red peppers and basil on flatbread crust with alfredo sauce and garlic spread. 7.35

Mussels di Napoli

Mussels in the shell, simmered with wine, garlic-butter and onions. 8.95

Hot Artichoke-Spinach Dip

A blend of artichokes, spinach and cream cheese. Served with Tuscan bread. 7.25

Lasagna Fritta

Parmesan-breaded lasagna pieces, fried and served over alfredo sauce, topped with parmesan cheese and marinara sauce. 7.65

Smoked Mozzarella Fonduta

Oven-baked smoked mozzarella, provolone, parmesan and romano cheese. Served with Tuscan bread. 7.25

Dipping Sauces for Breadsticks

Freshly prepared alfredo or marinara sauce, served warm. 2.95

Sicilian Scampi

Large shrimp sautéed in extra-virgin olive oil with white wine, garlic and lemon. 9.95

Stuffed Mushrooms

Parmesan, romano and mozzarella cheese, clams and herb breadcrumbs baked in mushroom caps. 6.35

Calamari

Tender calamari, lightly breaded and fried. Served with parmesan-peppercorn and marinara sauces. 8.25

Zuppe e Insalate (Soups & Salads)

Chicken & Gnocchi

A creamy soup made with roasted chicken, traditional Italian dumplings and spinach. 4.65

Pasta e Fagioli

White and red beans, ground beef, tomatoes and pasta in a savory broth. 4.65

Grilled Chicken Caesar

Grilled chicken over romaine in a creamy Caesar dressing topped with imported parmesan cheese and croutons. 9.25

Minestrone

Fresh vegetables, beans and pasta in a light tomato broth – a vegetarian classic. 4.65

Zuppa Toscana

Spicy sausage, russet potatoes and cavolo greens in a creamy broth. 4.65

Garden-Fresh Salad

Our famous house salad, tossed with our signature Italian dressing. 5.35
(Unlimited refills)

Pizze (Pizzas)

Create Your Own Pizza

Enjoy your pizza entrée with unlimited homemade soup or garden-fresh salad.

Choose up to four toppings. 10.95

Pepperoni, bell peppers, Italian sausage, onions, mushrooms, black olives or roma tomatoes.

Chicken Alfredo Pizza

Pizza topped with grilled chicken, Italian cheeses, alfredo sauce and scallions.

Served with unlimited homemade soup or garden-fresh salad. 10.95

Pizzas are also available as an appetizer. 9.25

Cucina Classica (Classic Recipes)

Lasagna Classico

Layers of pasta, meat sauce and mozzarella, ricotta, parmesan and romano cheese.** 12.50

Five Cheese Ziti al Forno

Ziti pasta in a five cheese marinara sauce, baked with a layer of melted Italian cheeses. 11.25

Spaghetti with Meat Sauce

Traditional meat sauce seasoned with garlic and herbs over spaghetti.** 9.95

Spaghetti & Meatballs

Traditional meat sauce over spaghetti with meatballs (or Italian sausage).** 12.25

Chicken Parmigiana

Parmesan-breaded chicken breasts, fried and topped with marinara sauce and mozzarella cheese. Served with spaghetti. 13.25

Fettuccine Alfredo

Parmesan cream sauce with a hint of garlic, served over fettuccine. 11.50

Eggplant Parmigiana

Lightly breaded eggplant, fried and topped with marinara sauce, mozzarella and parmesan cheese. Served with spaghetti. 11.50

Capellini Pomodoro

Roma tomatoes, garlic, fresh basil and extra-virgin olive oil tossed with capellini. 9.95

Tour of Italy

Homemade lasagna, lightly breaded chicken parmigiana and creamy fettuccine alfredo.** 15.50

Carne (Beef & Pork)

Pork Milanese

Pan-seared pork scaloppini crusted with Italian herb breadcrumbs, served with asiago cheese-filled tortelloni pasta tossed in a garlic-butter sauce with fresh spinach. 14.75

Mixed Grill*

Skewers of grilled marinated steak and chicken with a rosemary demi-glaze, served with grilled vegetables and Tuscan potatoes. 15.75

Steak prepared medium unless otherwise requested.

Steak Toscano*

Grilled 12 oz choice center cut Strip steak brushed with Italian herbs and extra-virgin olive oil. Served with Tuscan potatoes and bell peppers. 18.95

Steak Gorgonzola-Alfredo*

Grilled beef medallions drizzled with balsamic glaze, served over fettuccine tossed with spinach and gorgonzola-alfredo sauce. 14.95
Steak prepared medium unless otherwise requested.

Chianti Braised Short Ribs

Tender boneless beef short ribs slow cooked in a chianti wine sauce. Served with portobello mushroom risotto and steamed vegetables. 15.75

New! Parmesan Crusted Bistecca*

Grilled 8 oz center cut sirloin topped with parmesan-herb breading, baked golden brown. Served with garlic parmesan mashed potatoes and asparagus drizzled with balsamic glaze. 15.95

Pasta Ripiena (Filled Pastas)

Braised Beef & Tortelloni

Tender sliced short ribs and portobello mushrooms tossed with asiago-filled tortelloni in a basil-marsala sauce. 13.25

Ravioli di Portobello

Portobello mushroom-filled ravioli in a creamy smoked cheese and sun-dried tomato sauce. 11.50

Cheese Ravioli

Cheese-filled ravioli topped with marinara or meat sauce and melted Italian cheeses.** 10.50

New! Lasagna Rollata al Forno

Lasagna rolls stuffed with ricotta, mozzarella, asiago, parmesan and romano cheese. Topped with mozzarella and seasoned breadcrumbs, baked in five cheese marinara. 12.25

Enjoy our freshly baked garlic breadsticks and your choice of homemade soup or garden-fresh salad with any entrée.

Pollo (Chicken)

Venetian Apricot Chicken

Grilled chicken breasts in an apricot citrus sauce. Served with broccoli, asparagus and diced tomatoes. 13.25

Chicken Alfredo

Grilled chicken tossed with fettuccine and fresh alfredo sauce. 13.50

Garlic-Herb Chicken con Broccoli

Rosemary-seasoned chicken breasts sautéed with fresh broccoli in a garlic cream sauce over orecchiette pasta. 12.95

Chicken & Shrimp Carbonara

Chicken and shrimp with bucatini pasta in a parmesan cream sauce with pancetta bacon and roasted red peppers, baked and topped with seasoned breadcrumbs. 15.95

Chicken Marsala

Sautéed chicken breasts in a savory sauce of mushrooms, garlic and marsala wine. Served with Tuscan potatoes and bell peppers. 14.50

Chicken Scampi

Chicken breast tenderloins sautéed with bell peppers, roasted garlic and onions in a garlic cream sauce over angel hair. 13.75

Stuffed Chicken Marsala

Oven-roasted chicken breast stuffed with Italian cheeses and sun-dried tomatoes, topped with mushrooms and a creamy marsala sauce. Served with garlic parmesan mashed potatoes. 14.95

Pesce (Fish & Seafood)

Shrimp Primavera

Shrimp, bell peppers, onions and mushrooms in a bold arrabiata sauce over penne. 14.25

Seafood Alfredo

Sautéed shrimp and scallops tossed with creamy fettuccine alfredo. 14.75

Capellini di Mare

Shrimp, clams and mussels sautéed in white wine, garlic and a zesty marinara sauce. Served over capellini and topped with fresh basil. 15.95

Grilled Shrimp Caprese

Grilled marinated shrimp served over angel hair pasta with melted mozzarella, fresh basil and tomatoes in a garlic-butter sauce. 15.95

Seafood Portofino

Mussels, scallops, shrimp and mushrooms with linguine in a garlic-butter wine sauce. 15.25

Shrimp & Crab Tortelli Romana

Shrimp, crab and smoked mozzarella-filled ravioli, topped with sautéed shrimp in a three cheese and sun-dried tomato sauce. 16.25

Herb-Grilled Salmon

Salmon filet brushed with Italian herbs and extra-virgin olive oil. Served with seasoned broccoli. 16.75

Seafood Brodetto

Scallops, shrimp and delicate tilapia with spinach and mushrooms simmered in a light white wine and marinara-saffron broth. Served with toasted ciabatta bread. 15.95

Parmesan Crusted Tilapia

Oven-baked delicate white fish crusted with parmesan cheese. Served with Italian vegetables over angel hair tossed in a light garlic-butter sauce. 14.50



This olive branch highlights our delicious low fat entrées.

For our *Garden Fare® Guide*, which includes our low fat and gluten free selections, or for our complete *Nutrition Information Guide*, please ask your server.

*These menu items are cooked to order. Consuming raw or undercooked meats may increase your risk of foodborne illness.

**Our meat sauce is made with pan-seared beef and Italian sausage.

When sharing an entrée and salad, there will be an additional charge for salad refills.

An optional 18% gratuity will be added to parties of 8 or more.

Vini (Wines)

Our wines are listed from milder to bolder to assist you in selecting a wine that best complements your meal. Salut !

Principato

Our Signature House Wines

From family vineyards in Trentino, Italy to your table.

	glass	magnum (two 3 glasses)
Bianco (White)	4.95	32.00
Rosato (Blush)	4.95	32.00
Rosso (Red)	4.95	32.00



Spumante (Sparkling)

	glass/epit	bottle
Asti Martini & Rossi	6.50	25.00
Prosecco Zonin	6.75	—

Bianco e Rosato (White & Blush)

Slightly Sweet

Moscato Castello del Poggio	5.95	23.00
White Zinfandel Sutter Home	5.35	20.00
White Zinfandel Beringer	6.50	25.00
Riesling Chateau Ste. Michelle	5.65	22.00
Riesling Kendall-Jackson Vintner's Reserve	6.65	26.00

Light & Fruity

Pinot Grigio Cavit	5.65	22.00
<i>New!</i> Pinot Grigio Sartori	6.50	25.00
Pinot Grigio Bottega Vinaia	7.50	29.00
Fiano Mandra Rossa	5.95	23.00
Pinot Grigio-Sauvignon Blanc Bertani Due Uve	6.95	27.00

Full & Smooth

Chardonnay Woodbridge by Robert Mondavi	5.35	20.00
Chardonnay Chateau Ste. Michelle	6.95	27.00
Chardonnay Kendall-Jackson Vintner's Reserve	7.95	31.00

Rosso (Red)

Smooth & Fruity

Lambrusco Riunite	5.35	20.00
Pinot Noir Cavit	5.65	22.00
Pinot Noir Estancia	7.35	28.00
Sangiovese Rocca delle Macie Rubizzo	6.35	24.00
Valpolicella Secco-Bertani	6.50	25.00
Nero d'Avola Arancio	6.25	24.00

Soft Berry Flavors

Chianti Straccali	5.50	21.00
Chianti Classico Gabbiano	6.50	25.00
Chianti Classico Riserva Rocca delle Macie	7.65	30.00
Merlot Ecco Domani	5.95	23.00
Merlot Clos du Bois	7.95	31.00
<i>New!</i> Winemaker's Blend Seven Daughters	6.95	27.00
Sangiovese-Syrah Rocca delle Macie SaSyr	7.75	30.00

Robust & Rich

Super Tuscan Villa Antinori	9.65	38.00
Cabernet Robert Mondavi Private Selection	6.95	27.00
Cabernet Beringer Founders' Estate	6.50	25.00
Cabernet Sterling Vintner's Collection	7.95	31.00
Red Zinfandel Rancho Zabaco	6.95	27.00
<i>New!</i> Brunello di Montalcino Col d'Orcia	—	65.00
Amarone Bertani	—	95.00

Bevande Speciali (Specialty Drinks)

Signature Cocktails

Italian Margarita

Sauza Gold Tequila, Triple Sec and DiSaronno Amaretto. 6.65

Sangrias – Berry, Peach or Tropical

A blend of chilled wine, fresh fruit and a splash of fruit juices. 5.35 glass 20.00 pitcher

Venetian Sunset

Martini & Rossi Asti with pineapple and cherry juices. 5.65

Strawberry Fresco

Smirnoff Citrus Vodka, fresh strawberries and lemonade. 6.50

Pomegranate Margarita Martini

Patrón Silver Tequila, Citronge Orange Liqueur, pomegranate syrup and fresh citrus juices. 7.75

Strawberry-Limoncello Martini

Smirnoff Citrus Vodka, Caravella Limoncello and strawberries. 7.75

Mango Martini

Malibu mango rum, mango purée and citrus juices. 7.75

Chocolate Martini

Godiva Chocolate Liqueur, Smirnoff Vanilla Twist Vodka and cream. 7.75

Frozen Specialties

Bellinis – Peach, Strawberry or Wild Berry

A frozen blend of Martini & Rossi Asti and fresh fruit. 5.95

Limoncello Lemonade

Frozen lemonade, Smirnoff Citrus Vodka and Caravella Limoncello – an Italian liqueur. 6.35

Frozen Margaritas – Strawberry, Strawberry-Mango or Wild Berry

A frozen margarita made with Sauza Gold Tequila and fresh fruit. 6.35

Daiquiris

Bacardi Rum and fresh fruit. Choose from strawberry, peach, mango or wild berry. 6.35

Birra (Beer)

Imports & Specialties

Corona, Heineken, Peroni,
Samuel Adams Lager, Stella Artois,
Samuel Adams Seasonal, Guinness,
Newcastle Brown Ale

Draft

Blue Moon,
Bud Light
Available in 14 or 20 oz.

Premium

Bud Light, Miller Lite, Coors Light,
Budweiser, Michelob Ultra,
O'Doul's (Non-Alcoholic)

Please ask your server for additional offerings.

Bevande (Beverages)

Handcrafted Specialties

Signature lemonades, fruit drinks & sodas made to order

New! Strawberry-Mango Limonata

Refreshing strawberry and mango purée, mixed with sweet lemonade and sliced strawberries.

New! Bella Limonata

Refreshing mix of sweet lemonade, pomegranate and pineapple juices with fresh sliced fruit.

New! Berry Acqua Fresca

Refreshing strawberry, blackberry and raspberry purée, mixed with acai berry and sparkling water, topped with fresh berries.

Italian & Cream Sodas

Raspberry, vanilla, orange, cherry, caramel or lemon syrup mixed with soda water. Choose with or without cream.

Specialty Coffees & Hot Teas

Caffè la Toscana Coffee*, Lavazza Espresso, Caramel Hazelnut Macchiato, Caffè Mocha, Cappuccino, Frozen Cappuccino, Caffè Latte, Herbal & Flavored Hot Teas*

Bottled Water & Fruit Juices

Acqua Panna Natural Spring Water, San Pellegrino Sparkling Mineral Water, Assorted Fruit Juices*

Iced Teas & Raspberry Lemonade

Bellini Peach-Raspberry Iced Tea*, Fresh Brewed Iced Tea*, Raspberry Lemonade*

Fountain Drinks

Coca-Cola**, Diet Coke**, Sprite**, Dr Pepper**

*Enjoy complimentary refills.



NET GROUND LEASE

BETWEEN:

North Anchorage Real Estate Investors, LLC,
a Delaware Limited Liability Company

(Landlord)

and

GMRI, Inc.
a Florida corporation

(Tenant)

LOCATION:

**Tikahtnu Commons Shopping Center
NWC of Glenn Highway & Muldoon Road
Pad I
1184 N. Muldoon Road
Anchorage, Alaska**

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EXHIBIT	B-2	Site Plan of Leased Premises (<i>showing the location of Tenant's Parcel, Tenant's Protected Area, and Tenant's Building Zone, and Center Landscape Area</i>)
EXHIBIT	C	Landlord's Work
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NET GROUND LEASE

This Net Ground Lease (the "**Lease**") is made and entered into as of July 14, 2011 (the "**Effective Date**") by and between North Anchorage Real Estate Investors, LLC, a Delaware limited liability company or its designated assignee ("**Landlord**"), and GMRI, Inc., a Florida corporation ("**Tenant**"), with respect to the leasing of Tenant's Parcel (defined below) by Tenant from Landlord. In consideration of the mutual terms, covenants, and conditions set forth in this Lease, Landlord and Tenant hereby covenant and agree as follows:

ARTICLE I INTRODUCTORY PROVISIONS

1.1 **Definitions.** The following terms for purposes of this lease shall have the meanings hereinafter specified:

1.1.1 "**Common Areas**" shall mean the parking areas, parking area lighting, private streets, roads, driveways, aisles, sidewalks, fire corridors, landscaped areas (excluding the landscaped areas attributable solely to the Tenant's Building to be maintained by Tenant), utility and sewer lines and systems, stormwater ponds and drainage areas, and other facilities and service areas for common use, whether or not shown on Exhibit B-1 hereto, and any additions thereto or enlargements thereof, which are located anywhere within the Shopping Center Premises and serve Tenant's Parcel, and which serve other properties which may be added to the Shopping Center by Landlord.

1.1.2 "**Common Area Maintenance Charges**" shall mean the charges imposed on Tenant by Section 3.5 of this Lease.

1.1.3 "**Condemnation**" shall mean a physical or regulatory taking of all or part of the Shopping Center Premises, or any interest therein or right accruing thereto, in one or more proceedings by public or private authorities exercising the right of regulation of land, condemnation or eminent domain, or one or more conveyances to any public or private authority that has the power of regulation of land, condemnation or eminent domain and has threatened to exercise such power with respect to the property or interest conveyed.

1.1.4 "**Conditions Precedent**" shall mean the conditions stated in Section 5.3 to be satisfied or waived during the Feasibility Period.

1.1.5 "**Contemplated Use**" shall mean the operation of a full service Italian restaurant serving Italian food and all alcoholic beverages in a manner consistent with Tenant's customary business practices. Tenant will have the right to be and remain open those days and hours it may deem appropriate provided such days and hours are standard and in effect at a majority of other "Olive Garden" restaurants (or, if Tenant changes the use in accordance with the terms and conditions of this Lease, provided such days and hours are standard and in effect at a majority of the Tenant's other restaurants of the same concept). Notwithstanding the foregoing, Landlord acknowledges that, during the first thirty (30) days after opening for business, the Contemplated Use may be open generally for dinner only.

1.1.6 **"Effective Date"** shall mean and refer to the date of full execution and delivery of this Lease, both parties having signed the Lease and initialed all changes.

1.1.7 **"Expiration Date"** shall mean the last day of the term of this Lease (including any extensions thereof) or, if this Lease is lawfully canceled or terminated, the date on which the cancellation or termination becomes effective.

1.1.8 **"Feasibility Period"** shall mean a period of one hundred eighty (180) days commencing on the Effective Date (as further described in Section 5.3).

1.1.9 **"Floor Area"** shall mean, with respect to each building or structure on the Shopping Center Premises, the number of square feet of floor area at the ground floor level (including, basements and floor area occupied for storage) lying within the exterior faces of exterior walls (except party walls as to which the center line, not the exterior faces, shall be used for measurement purposes) excluding, however, (i) all loading and receiving docks, (ii) garden centers, and (iii) theatre entry vestibules, mezzanines and utility or mechanical rooms serving more than one space. No deduction or exclusion from Floor Area shall be made by reason of columns, stairs, elevators, escalators, or other interior construction or equipment.

1.1.10 **"Interest Rate"** shall mean, unless otherwise specifically set forth herein this Lease to the contrary, the rate of interest at which any sums not paid when due from one party to the other shall bear interest from the date due until repaid in full, which rate shall be calculated at the prime rate as quoted in the Wall Street Journal, plus 1%.

1.1.11 **"Landlord"** shall mean and include, at any given time and subject to the provisions of Section 16.2, Landlord herein named and each successor to or assignee of any interest of Landlord herein named under this Lease.

1.1.12 **"Landlord's Property"** shall mean the tract or tracts of land described in Part II of Exhibit A hereto (which includes Tenant's Parcel), as conceptually depicted on Exhibit B-1.

1.1.13 **"Landlord's Buildings"** shall mean those buildings located on Landlord's Property and owned by Landlord.

1.1.14 **"Leased Premises"** shall mean Tenant's Parcel and any and all buildings, structures and improvements now or at any time hereafter erected, constructed or situated upon Tenant's Parcel or any part thereof, including, without limitation, Tenant's Building, foundations, building fixtures and conduits, equipment of every kind and description now or hereafter affixed or attached to, or used in connection with any such buildings, structures or improvements (but not including Tenant's Equipment), perimeter sidewalks and truck ramps and loading and delivery areas, together with any and all replacements of, additions to, and substitutes for any such buildings, structures or improvements hereafter located on Tenant's Parcel; provided, however, that the Leased Premises shall expressly not include any ownership interest in the land comprising Tenant's Parcel.

1.1.15 **"Lease Year"** shall mean a period of time conforming to the following: the first Lease Year of the term of this Lease shall mean the period beginning on the Rent

Commencement Date, and ending 12 months after the first day of the first month following such date unless the Rent Commencement Date is the first day of a month, in which case the first Lease Year shall terminate on the date 12 months after such date. The second Lease Year of the term of this Lease shall commence on the day following the last day of the first Lease Year and end 12 months thereafter; and succeeding Lease Years during the term of this lease shall commence and end on dates corresponding to those on which the second Lease Year begins and ends.

1.1.16 **"Mortgage"** shall mean an indenture of mortgage, a deed of trust to a trustee, or any other instrument in the nature thereof creating a lien on or other security interest in the Shopping Center Premises or any part thereof.

1.1.17 **"Mortgagee"** shall mean any institution, entity or person that is the beneficiary under a Mortgage.

1.1.18 **"Occupant"** shall mean any one entitled by ownership, lease, or other written agreement to use and occupy Floor Area within the Shopping Center Premises including, without limitation, the parties hereto.

1.1.19 **"OEA"** shall mean the Amended and Restated Operation and Easement Agreement by and between Target Corporation, Lowe's HIW, Inc. and Landlord dated May 13, 2008 and recorded as Instrument No. 2008-028406-0, as amended by that certain amendment dated June 4, 2009 and recorded as Instrument No. 2009-037163-0.

1.1.20 **"Permitted Title Exceptions"** shall mean the title exceptions and matters disclosed by the Title Commitment and accepted by Tenant.

1.1.21 **"Permittee"** shall mean any Occupant and its officers, directors, employees, representatives, agents, partners, contractors, licensees, subtenants, customers, visitors, and invitees.

1.1.22 **"Related Corporation"** shall mean a corporation, partnership, or other business entity, which, directly or indirectly, controls, is controlled by, or is under common control with, another corporation, partnership, or other business entity. If more than 50% of the voting stock of a corporation shall be owned by another corporation or by a partnership or other business entity, the corporation whose stock is so owned shall be deemed to be controlled by the corporation, partnership, or business entity owning such stock.

1.1.23 **"Rent Commencement Date"** shall mean the earlier of (i) the date Tenant opens for business within the Leased Premises, (ii) one hundred eighty (180) days from waiver of all of the Conditions Precedent within the Feasibility Period (as further described in Section 5.3), or (iii) one hundred eighty (180) days from the date Tenant commences construction of the Tenant Improvements on the Leased Premises.

1.1.24 **"Shopping Center"** shall mean the shopping center constructed and/or to be constructed on the Shopping Center Premises, as shown on Exhibit B-1 hereto, and any additions thereto or enlargements thereof.

1.1.25 **"Shopping Center Premises"** shall mean the tract or tracts of land described in Part I of Exhibit A hereto and shown on Exhibit B-1 hereto, including the Common Areas, with the improvements erected and/or to be erected thereon.

1.1.26 **"Successor Corporation"** shall mean a corporation or other business entity into or with which another corporation or other business entity shall be merged or consolidated or to which all or substantially all of the assets of such other corporation or other business entity shall be transferred.

1.1.27 **"Tenant"** shall mean and include, at any given time, Tenant herein named and, jointly and severally with any person, firm, corporation or other legal entity to whom or to which Tenant's interest in this Lease shall be assigned pursuant to the terms of this Lease.

1.1.28 **"Tenant's Building"** shall mean the single-story restaurant building to be erected by Tenant on Tenant's Parcel within the building limit lines and at the location depicted on the site plan attached hereto as Exhibit B-2 pursuant to Article V hereof, which building shall (i) not in any event be larger than 8,000 square feet measured from the outside of the exterior walls and/or entrance of the subject building, inclusive of enclosed storage area not to exceed 500 square feet, which for purposes of such measurement shall include any fully enclosed loading areas; (ii) not exceed 30 feet in height measured from the top of the finished floor to the top of the highest point of such building; (iii) consist of only one structure; and (iv) be a single user building and will not be demised into multiple units.

1.1.29 **"Tenant's Building Zone"** The ownership and title to Tenant's Building and all improvements, including Common Area improvements and utility lines, located outside of Tenant's Building but within that certain perimeter around Tenant's Building bounded by the outer edge of all sidewalk curbs surrounding Tenant's Building or, where no such sidewalk surrounds Tenant's Building, ten feet from the edge of Tenant's Building (such area being referred to in this Lease as "Tenant's Building Zone").

1.1.30 **"Tenant's Equipment"** shall mean any and all trade fixtures, merchandise, furniture, machinery, appliances, furnishings, equipment or personal property affixed or installed in or about Tenant's Building and maintained by Tenant in connection with the conduct of Tenant's business. Heating, ventilating, air conditioning, plumbing, electrical, sprinkler, detection, and illumination equipment (excluding interior lighting fixtures) are considered part of Tenant's Building and are not part of Tenant's Equipment.

1.1.31 **"Tenant's Parcel"** shall mean that certain tract of land described in Part III of Exhibit A, which shall consist of that certain Shopping Center building pad depicted as "Pad I" on Exhibit B-1, including that certain tract of land adjacent to such pad, consisting of approximately 91,748 square feet, all of which is depicted as Tenant's Parcel on Exhibit B-2. Tenant's Parcel shall include any and all Common Areas, improvements, structures, landscaping and improvements now or hereafter located, erected, constructed or situated thereon, except for Tenant's Building.

1.1.32 **"Tenant's Protected Area"** shall mean that certain area depicted as Tenant's Protected Area on Exhibit B-2.

1.1.33 **"Title Commitment"** shall mean the Title Company's commitment to issue the Title Policy to Tenant.

1.1.34 **"Title Company"** shall mean First American Title National Commercial Services, Attention: Rachael Yenque, 111 N. Orange Avenue, Suite 1285, Orlando, FL 32801, Phone: (407) 843-8669, Facsimile: (888) 216-9921.

1.1.35 **"Title Policy"** shall mean the Owner's Title Insurance Policy insuring Tenant's leasehold title to the Leased Premises in the amount of \$1,567,500, without ALTA pre-printed exceptions and subject only to Permitted Title Exceptions, to be issued by the Title Company. Tenant shall pay the premium for such Title Policy.

1.1.36 **"Unavoidable Delays"** shall mean delays due to strike, lockout, or other labor or industrial disturbance (whether or not on the part of employees of either party hereto), civil disturbance, future order of any government, court or regulatory body claiming jurisdiction, war, act of the public enemy, riot, sabotage, blockade, embargo, catastrophe, failure or inability to secure materials or labor by reason of priority or similar regulation or order of any government or regulatory body, lightning, earthquake, fire, storm, hurricane, flood, washout, explosion, act of God or any cause whatsoever beyond the reasonable control of either party hereto whether or not similar to any of the causes hereinabove stated; provided, however, that for purposes of this definition, lack of funds or inability to obtain financing shall not be deemed to be a cause beyond the control of either party.

1.2 **Interpretation.** For purposes of interpreting the provisions of this Lease the following shall apply:

1.2.1 The words **"term of this Lease"**, **"the term hereof"**, or words of like import shall be deemed to refer to the Initial Term of this Lease provided for in Section 2.2 hereof captioned **"Term"** together with any extension or renewal thereof which shall become effective pursuant to the provisions of this Lease or by reason of the lawful exercise of an option or right granted hereunder.

1.2.2 Whenever the word **"including"** is used in this Lease, it shall be deemed to mean **"including but not limited to."**

1.2.3 If more than one party is designated as Tenant at the beginning of this Lease, or succeeds to the interest of Tenant hereunder, all such parties shall be deemed to be tenants hereunder and their obligations in such capacity shall be joint and several obligations.

1.2.4 Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

1.2.5 Captions and headings throughout this Lease and the Index are inserted only as a matter of convenience and are not to be given any effect whatsoever in construing this Lease.

1.3 Exhibits to Lease. Attached to this Lease and hereby made a part hereof are the following, which for the purpose of identification have been initialed by the parties hereto:

1.3.1 Exhibit A – legal descriptions of the Shopping Center Premises, Landlord's Property and Tenant's Parcel.

1.3.2 Exhibit B-1- Site plan of the Shopping Center Premises showing the location of the other buildings and improvements constructed and/or anticipated to be constructed within the Shopping Center Premises, if at all. The site plan is provided for information only to show approximate locations. Landlord may elect not to construct, or may elect to modify, any proposed improvements shown on the plan.

1.3.3 Exhibit B-2- Site plan of the Leased Premises showing the location of (i) Tenant's Parcel, Tenant's Protected Area, and Tenant's Building Zone and Center Landscape Area, and (ii) the proposed building limit lines for Tenant's Building. The site plan is provided for information only to show approximate locations.

1.3.4 Exhibit C – A list of Landlord's work and Tenant's utility requirements.

1.3.5 Exhibit D – A list of prohibited uses applicable to the Leased Premises.

1.3.6 Exhibit E – Sign criteria applicable to the Shopping Center Premises.

1.3.7 Exhibit F – Nondisturbance and Attornment Agreement.

1.3.8 Exhibit G – Condemnation Area.

1.3.9 Exhibit H – Pylon sign location.

1.3.10 Exhibit I – Driveway Work

1.3.11 Exhibit J – Tenant's proposed floor plan, elevations, and signage

1.3.12 Exhibit K – Water Line Relocation Work

ARTICLE II LEASED PREMISES, TERM AND EXTENDED TERMS

2.1 Leased Premises. For the consideration and upon and subject to the covenants, agreements, terms and conditions herein set forth, Landlord hereby demises, rents and leases to Tenant, and Tenant hereby leases, rents and hires from Landlord, the Leased Premises (not including Tenant's Equipment which shall be owned by Tenant) for the term hereinafter stated, and Landlord hereby grants to Tenant for such term:

2.1.1 a non-exclusive easement, right and privilege for Tenant and its Permittees to use the Common Areas located outside of Tenant's Parcel in common with Landlord and other Occupants and their Permittees; reserving, however, to Landlord a non-exclusive easement, right

and privilege for Landlord, other Occupants and their Permittees and the Permittees of any tenant, subtenant, concessionaire or licensee of Landlord, to use the Common Areas located within Tenant's Parcel in common with Tenant and other Occupants and their Permittees; and

2.1.2 a non-exclusive easement to use all utility and sewer lines and installations, if any, which (i) are situated within that part of the Shopping Center Premises which lies outside Tenant's Parcel, and (ii) serve improvements exclusively situated on Tenant's Parcel.

2.1.3 Notwithstanding anything contained herein to the contrary, Tenant acknowledges that Landlord may make changes or modifications to the design of the Shopping Center and to the Common Areas within the Shopping Center Premises, provided, however, that any such changes or modifications within the Tenant's Protected Area: (i) shall be conducted at reasonable hours so as not to unreasonably interfere with the construction or operation of any improvements on Tenant's Parcel or the operation of Tenant's business being conducted thereon, (ii) does not unreasonably interfere with Tenant's access to Muldoon Road, and (iii) does not unreasonably interfere with any of the parking spaces located within the Tenant's Parcel. With respect to changes to Tenant's Protected Area, Landlord shall provide Tenant with not less than fifteen (15) days prior written notice of such proposed changes.

2.2 Term. Tenant shall have and hold the Leased Premises (not including Tenant's Building or Tenant's Equipment which shall be owned by Tenant during the term of the Lease), together with any and all appurtenances belonging or appertaining thereto, and the non-exclusive easements, rights and privileges herein granted to Tenant, for a term ("**Initial Term**") commencing on the Rent Commencement Date, and continuing thereafter to and including the date which is ten (10) years from the Rent Commencement Date. When the Rent Commencement Date has been determined, Landlord and Tenant shall enter into an agreement in recordable form setting forth such date.

2.3 Options to Extend. Tenant shall have four (4) successive options (each, an "**Extension Option**" and together, "**Extension Options**") to extend the term of this Lease, each for a separate additional period of five (5) years (an "**Extended Term**"), from the Expiration Date on which the Initial Term or Extended Term (as applicable) would otherwise occur. Each such Extension Option shall be upon and subject to the same terms, covenants and conditions as those herein specified except that Tenant may not again exercise any previously exercised Extension Option under this section and the Minimum Rent payable during each Extended Term shall be as set forth in Section 3.1.2 of this Lease, as applicable. Tenant may only exercise the Extension Option for the successive Extended Term if Tenant has already properly exercised the Extension Option for the immediately preceding Extended Term. If Tenant elects to exercise the Extension Options, it shall do so, in each instance, by delivering to Landlord written notice of such election at least two hundred seventy (270) days before the beginning of the additional period for which the term hereof is to be extended by the exercise of such Extension Option (the "**Extension Notice**"). If Tenant fails to deliver to Landlord an Extension Notice within the prescribed time period, the Extension Option(s) shall forever lapse, and there shall be no further right to extend the Lease term. If Tenant delivers such Extension Notice, the then applicable term of this Lease shall be automatically extended for the additional period of years covered by the Extension Option so exercised without execution of an extension or renewal lease. The

Extension Options granted herein shall not be assignable by Tenant separate from or apart from this Lease. Notwithstanding anything to the contrary contained herein, each Extension Option shall only be permitted to be exercised by Tenant on the express conditions that (i) at the time of Tenant's delivery of an Extension Notice, and upon the commencement of the applicable Extended Term, Tenant shall not be in default under any of the provisions of the Lease beyond any applicable notice and cure period, (ii) Tenant has not been 10 or more days late (following receipt of any notice to which Tenant is otherwise entitled under this Lease) in the payment of Rent or any other monetary obligation of Tenant hereunder more than a total of 2 times in any consecutive 5 year period during the Term, and (iii) at the time of Tenant's delivery of an Extension Notice, and at all times prior to the commencement of the applicable Extended Term, Tenant shall continue to regularly conduct its business with the public from the Leased Premises.

2.4 Condition of Tenant's Parcel. Physical possession of Tenant's Parcel shall be delivered to Tenant by Landlord upon substantial completion of Landlord's improvements to Tenant's Parcel, if any, subject to the provisions of Section 5.12 herein with respect to Landlord's and its Permittees reasonable right to access Tenant's Parcel for the completion of any improvements within the Common Areas located outside Tenant's Parcel required to be constructed and installed by Landlord ("**Landlord's Improvements**"). Notwithstanding the foregoing, Tenant and Tenant's Permittees shall have the right to access the Tenant's Parcel and commence construction activities relative to the Tenant Improvements (defined in Section 5.4 below) upon completion of Landlord's Improvements, and Tenant and Landlord shall coordinate their construction efforts such that neither Landlord's nor Tenant's construction activities will unreasonably be delayed or impaired. Landlord shall not in any event or circumstance be required to install any improvements on or about Tenant's Parcel except for the minimum improvements identified in Section 5.2. Except as specifically set forth herein, Tenant acknowledges that neither Landlord nor any of Landlord's agents, representatives or employees has made any representations as to the suitability or fitness of Tenant's Parcel for the conduct of Tenant's business, including, without limitation, any storage incidental thereto, or for any other purpose.

2.5 Holdover of Possession by Tenant. If Tenant holds possession of the Leased Premises after the expiration of the then applicable term of this Lease with Landlord's consent, Tenant shall become a tenant from month-to-month upon the terms and provisions of this Lease, provided the monthly Minimum Rent during such hold over period shall be 150% of the Minimum Rent due on the last month of the then applicable Lease term, payable in advance on or before the first day of each month. Acceptance by Landlord of the monthly Minimum Rent without the additional 50% increase of Minimum Rent shall not be deemed or construed as a waiver by Landlord of any of its rights to collect the increased amount of the Minimum Rent as provided herein at any time. Such month-to-month tenancy shall not constitute a renewal or extension for any further term. All Extension Options not already duly exercised by Tenant under the terms of this Lease shall be deemed automatically terminated and be of no force or effect during said month-to-month tenancy. Tenant shall continue in possession until such tenancy shall be terminated by either Landlord or Tenant giving written notice of termination to the other party at least 30 days prior to the effective date of termination. This paragraph shall not be construed as Landlord's permission for Tenant to hold over. In the event of holdover by Tenant, Landlord shall continue to fulfill all of its obligations hereunder without delay or interruption.

2.6 Title to Tenant Improvements. The ownership and title to Tenant's Building and all improvements, including improvements and utility lines located within Tenant's Parcel shown on Exhibit B-2, and to all alterations, changes, improvements and additions to such building or within Tenant's Parcel shall be and remain in Tenant during and throughout the term of this Lease until the Expiration Date. Title to all Common Area improvements and utility lines, facilities and improvements on, in or outside of the Tenant's Parcel, and all additions or modifications thereto shall be and remain in Landlord during and throughout the term of this Lease.

2.7 Surrender. Upon the Expiration Date of the then applicable term of this Lease, or the earlier termination of this Lease, Tenant shall quit and surrender to Landlord the Leased Premises, and all the Tenant Improvements and alterations, in first class condition and repair (except for ordinary wear and tear, in compliance with current codes) and free and clear of all liens, charges, mortgages or encumbrances which are in any way caused or created by any act or omission of Tenant; provided, however, provided at Landlord's sole election, by written notice delivered to Tenant at least ninety (90) days prior to the Expiration Date (or concurrent with Landlord's notice of termination if this Lease is terminated early), Landlord may require Tenant to demolish and raze Tenant's Building and all other improvements constructed upon or within Tenant's Building Zone by or for Tenant, remove all debris and take all other actions required by good construction practice in order to give the area previously occupied by such razed improvements an attractive appearance and so as to enable such to be maintained in a good, clean, safe and orderly condition, in compliance with all Laws in this Lease, consistent with the character of a first class shopping center and the OEA. During the term of this Lease, the Tenant Improvements shall not be conveyed, transferred, or assigned unless such conveyance, transfer, or assignment shall be to a person, corporation or other entity to whom this Lease is being transferred or assigned simultaneously therewith in compliance with the provisions of Article 8 hereof. Any attempted conveyance, transfer, or assignment of the Tenant Improvements, whether voluntarily or by operation of law or otherwise, to any person, corporation, or other entity shall be void and of no effect whatever unless such conveyance, transfer, or assignment shall be to a person, corporation, or other entity to whom this Lease is being transferred or assigned simultaneously therewith in compliance with the provisions of Article 8. Similarly, so long as the Tenant Improvements or any part thereof shall remain on the Leased Premises, any attempted transfer or assignment of the leasehold interest of Tenant under this Lease shall be void and of no effect whatever unless such transfer or assignment shall be to a person, corporation, or other entity to whom the Tenant Improvements are being conveyed, transferred, or assigned simultaneously therewith. Upon termination of this Lease, all Tenant's right, title, and interest in the Tenant Improvements, except for Tenant's Equipment, or any entity or person acquiring title thereto through Tenant shall cease and terminate, and title to the Tenant Improvements, except for Tenant's Equipment, shall vest in Landlord. In such an event, no further deed or other instrument shall be necessary to confirm the vesting in Landlord of title to the Tenant Improvements. However, upon any termination of this Lease, Tenant, upon request of Landlord, shall execute, acknowledge, and deliver to Landlord a deed confirming that all of Tenant's right, title, and interest in or to the Tenant Improvements, except for Tenant's Equipment, has expired, and that title to the Tenant Improvements has vested in Landlord. Landlord shall pay the cost of recording said deed. Tenant shall have the right, within ten (10) business days following the Expiration Date of this Lease to remove Tenant's Equipment and any personal property from the Leased Premises. Tenant shall restore to good condition any damage to the Lease Premises

caused by Tenant by the removal of any of Tenant's Equipment or personal property on or before ten (10) business days following the Expiration Date of this Lease.

After the Expiration Date of this Lease, Landlord shall, at its sole option, have the right to elect to do one of the following: (i) retain or dispose of in any manner any of Tenant's Equipment or personal property which Tenant does not remove within ten (10) business days following the Expiration Date. Title to all such Tenant's Equipment and personal property that Landlord elects to retain or dispose of shall vest in Landlord, Tenant waives all claims against Landlord for any damage to Tenant resulting from Landlord's retention or disposition of Tenant's Equipment, personal property, Tenant's Building, or the Tenant Improvements following the time period set forth in this section, or (ii) require Tenant to remove all Tenant's Equipment and personal property which may on that day be on the Leased Premises, at Tenant's sole cost and expense, and in no case later than 5 days after Landlord's notice of its election of either subsentence (i) or (ii) above. Tenant shall restore to good condition any damage to the Leased Premises caused by its removal of Tenant's Equipment or personal property. Furthermore, Tenant shall be liable to Landlord for Landlord's costs for storing, removing and disposing of Tenant's Equipment and personal property.

If Tenant fails to surrender the Leased Premises to Landlord on or before the Expiration Date or earlier termination of this Lease, Tenant shall hold Landlord harmless from all actual (non-speculatory) damages resulting from Tenant's failure to surrender the Leased Premises, including without limitation, claims made by a succeeding Tenant resulting from Tenant's failure to timely and properly surrender the Leased Premises.

Tenant covenants and agrees that it will surrender the Leased Premises free and clear of all violations thereon placed by any federal, state, municipal, or other agency or authority due to acts or omissions or occupancy of Tenant or its Permittees, and shall indemnify Landlord against any and all loss, expense, damage, costs, and attorney fees arising out of Tenant's failure to do so.

ARTICLE III RENT AND OTHER CHARGES

3.1 Minimum Rent. From and after the Rent Commencement Date, for each Lease Year of the term of this Lease, Tenant shall pay to Landlord the fixed minimum rent (the "Minimum Rent") in the amounts set forth below, payable in equal monthly installments, plus the additional rent, as set forth in this Lease, including, without limitation, Sections 3.2, 3.3, 3.5, 3.6, 3.7 and Article IV, payable at the times and in amounts more specifically provided hereinbelow (the "Additional Rent"). The term "Rent" shall mean and refer to the aggregate of the Minimum Rent and the Additional Rent. Except as expressly set forth in Section 15.6 below ("Self Help") the Minimum Rent shall be paid in lawful money of the United States of America, in advance, on the first day of each calendar month, without prior notice or demand, or abatement, claim, deduction or offset. Tenant shall pay Landlord the first month's Minimum Rent within 5 calendar days of the Rent Commencement Date. The monthly Minimum Rent for any fractional part of a calendar month at the beginning or end of the Lease term shall be a proportionate part of the monthly Minimum Rent for a full calendar month based upon a 30 day

month. Payment shall be made to Landlord's address designated in Section 16.1 below or at such other place as may be designated in writing from time to time by Landlord.

3.1.1 Minimum Rent During Initial Term. During the Initial Term, the amount of the Minimum Rent payable is as follows:

(a) Lease Years 1 through 5: \$ [REDACTED] annually (\$ [REDACTED] monthly).

(b) Lease Years 6 through 10: \$ [REDACTED] annually (\$ [REDACTED] monthly).

3.1.2 Minimum Rent During Extension Terms. During the Extension Terms, if any, the amount of the Minimum Rent payable is as follows:

(a) Lease Years 11 through 15: \$ [REDACTED] annually (\$ [REDACTED] monthly).

(b) Lease Years 16 through 20: \$ [REDACTED] annually (\$ [REDACTED] monthly).

(c) Lease Years 21 through 25: \$ [REDACTED] annually (\$ [REDACTED] monthly).

(d) Lease Years 26 through 30: \$ [REDACTED] annually (\$ [REDACTED] monthly).

3.2 Percentage Rent.

3.2.1 Percentage Rent. In addition to the Minimum Rent and other sums to be paid by Tenant hereunder, Tenant shall pay as Percentage Rent (the "Percentage Rent") the amount by which a percentage of "Gross Sales" (as defined below) made by Tenant from or upon the Leased Premises during each calendar year exceeds the applicable dollar amount shown below (the "Breakpoint"): during Lease Years 1 to 5, the Breakpoint shall be \$ [REDACTED]; during Lease Years 6 to 10, the Breakpoint shall be \$ [REDACTED]. If Tenant exercises its Extension Option(s), the Breakpoint for the 1st Extended Term shall be \$ [REDACTED], the Breakpoint for the 2nd Extended Term shall be \$ [REDACTED], the Breakpoint for the 3rd Extended Term shall be \$ [REDACTED], and the Breakpoint for the 4th Extended Term shall be \$ [REDACTED]. The Percentage Rent for each calendar year shall be calculated by multiplying the amount of Gross Sales for such year which exceeds the applicable Breakpoint by 3%. Said Percentage Rent shall be computed each calendar year, Tenant shall pay to Landlord the Percentage Rent amounts so computed. If the date Tenant initially opens for business in the Leased Premises is other than the first day of a full calendar year, then Percentage Rent attributable to the period between such initial opening date and the first day of the first full calendar year shall be based on Gross Sales in excess of the Breakpoint, measured through the one year anniversary of the Rent Commencement Date for such period. Tenant shall pay an amount equal to 3% of the Gross Sales measured in excess of the Breakpoint, multiplied by a fraction, the numerator of which is the number of days in the partial calendar year and the

denominator of which is 365. The product shall be payable on or before the last day of the 14th full calendar month following the Rent Commencement Date. For any other partial calendar year during the Lease term, Tenant's Percentage Rent shall likewise be calculated on a 12 month period based upon the 12 month period immediately preceding the expiration of the Lease.

3.2.2 Statement of Gross Sales. Tenant agrees to furnish or cause to be furnished to Landlord a statement of Gross Sales of Tenant within thirty (30) days after the close of each calendar month, and an annual statement, including a monthly breakdown of Gross Sales, within 30 days after the close of each calendar quarter. Such statements shall show the gross selling prices of all merchandise and services with all adjustments allowed thereto pursuant to Section 3.2.3. Such statements shall be signed by a responsible officer of Tenant. Tenant shall record at the time of sale, in the presence of the customer, all receipts from sales or other transactions, whether cash or credit, in a cash register or registers having a sealed and continuous tape which cumulates and consecutively numbers all purchases. Tenant shall keep (i) full and accurate books of account and records in accordance with generally accepted accounting principles consistently applied, including, without limitation, a sales journal, general ledger, and all bank account statements showing deposits of Gross Sales revenue, (ii) all such cash register receipts with regard to the Gross Sales and credits, refunds and other pertinent transactions made from or upon the Leased Premises (including the Gross Sales of any subtenant, licensee or concessionaire), and (iii) detailed original records of any exclusions or deductions from Gross Sales (including any exclusions or deductions from Gross Sales of any subtenant, licensee or concessionaire). Such books, receipts and records shall be kept for a period of 2 years after the expiration of the period for which Percentage Rent is paid, and shall be available for inspection and audit by Landlord and its representatives at Tenant's offices within the United States upon sixty (60) days written notice; provided, such notice of audit shall not occur during Tenant's general business audit. In addition, upon request of Landlord and sixty (60) days prior written notice, Tenant agrees to send copies of such information to Landlord in the United States a copy of Tenant's state and local sales and use tax returns, to the extent such returns are required in the State of Alaska. The receipt by Landlord of any statement for any period shall not bind it as to the correctness of the statement. Landlord shall, within two (2) years after the receipt of any such statement, be entitled to an audit of such Gross Sales (including the Gross Sales of any subtenant, licensee or concessionaire). Such audit shall be conducted by either Landlord or a certified public accountant to be designated by Landlord during normal business hours at the principal place of business of Tenant in the United States. If it shall be determined as a result of such audit that there has been a deficiency in the payment of Percentage Rent, then such deficiency shall become immediately due and payable with interest at the Interest Rate from the date when said payment should have been made. In addition, if Tenant understates Gross Sales by more than 5% and if Landlord is entitled to any additional Percentage Rent as a result of said understatement, or if such audit shows that Tenant has failed to maintain the books of account and records required by this Paragraph 3.2.2 so that Landlord is unable to verify the accuracy of Tenant's statement, then Tenant shall pay to Landlord all reasonable costs and expenses (including reasonable auditor fees) which may be incurred by Landlord in conducting such audit and collecting such underpayment, if any. Any information gained from such statements or inspection shall be confidential and shall not be disclosed other than to carry out the purpose hereof; provided, however, Landlord shall be permitted to divulge the contents of any such statements: (i) so long as a confidentiality agreement is entered into between Landlord and any intended recipient of such information relating to Percentage Rent or Gross Sales generated in

connection with the Leased Premises other than Landlord's lender, in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Leased Premises, or (ii) in connection with any administrative or judicial proceedings in which Landlord is involved where Landlord may be required to divulge such information.

3.2.3 Gross Sales. The term "**Gross Sales**" of Tenant, as used in this Lease, is defined to be the gross selling price of all merchandise or services sold in or from the Leased Premises by Tenant, its subtenants, licensees and concessionaires, whether for cash or on credit and whether made by store personnel or by approved vending, video, pinball or gaming machines, which shall be adjusted by excluding the following:

(a) The selling price of all merchandise returned by customers and accepted for full credit or the amount of discounts and allowances made thereon;

(b) Goods returned to sources, or transferred to another store or warehouse owned by or affiliated with Tenant;

(c) Sums and credits received in the settlement of claims for loss of or damage to merchandise, to the extent previously reported as Gross Sales;

(d) The price allowed on all merchandise traded in by customers for credit or the amount of credit for discounts and allowances made in lieu of acceptance thereof;

(e) Alteration workroom charges and delivery charges, but only if separately stated on Tenant's sales slips and which are reasonable and commensurate with the service performed;

(f) Cash refunds made to customers in the ordinary course of business, but this exclusion shall not include any amount paid or payable for what are commonly referred to as trading stamps;

(g) Interest, service or sales carrying charges or other charges, however denominated, paid by customers for extension of credit on sales and to the extent not included in the merchandise sales price, or charges paid to bank or credit card companies, including credit card finance charges;

(h) Receipts from public telephones, stamp machines, public toilet locks, or vending machines installed solely for use by Tenant's employees;

(i) Sales taxes, so-called luxury taxes, consumers' excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed upon the sale of merchandise or services, but only if collected separately from the selling price of merchandise or services if collected from customers and paid to the taxing authority;

(j) Sales of fixtures, equipment or property which are not stock in trade, or the proceeds from a bulk sale (made out of the ordinary course of business);

(k) Gift certificates, promotional discounts or like vouchers, until such time as the same shall have been converted into a sale by redemption;

(l) Sales to employees not exceeding 2% of gross revenues;

(m) Charitable sales, which are donated items that are recorded as sales;

(n) Insurance proceeds;

(o) Sales of trade fixtures, or other personal property that are not held for sale at retail;

(p) Gratuities and service charges included in customer bills to the extent passed through to service employees; or

(q) Transactions where no consideration is received by Tenant, such as but not limited to complimentary meals and/or complimentary gift certificates and the discount portion of sales (e.g., if a dinner which would normally sell for \$20.00 is sold at a special price of \$15.00, or for which the customer has a \$5.00 coupon only the \$15.00 paid will be included in Gross Sales).

All sales originating at the Leased Premises shall be considered as made and completed therein, even though bookkeeping and payment of the account may be transferred to another place for collection and even though actual filling of the sale or service order and actual delivery of the merchandise may be made from a place other than the Leased Premises. Each sale upon installments or credit shall be treated as a sale for the full cash price at the time of sale.

3.3 Additional Rent. Every payment required to be made by Tenant pursuant to this Lease other than Minimum Rent shall be Additional Rent due Landlord hereunder, whether or not expressly designated as Additional Rent, and Tenant's failure to pay such Additional Rent to Landlord when due shall entitle Landlord to exercise all rights and remedies provided in the Lease for a default by Tenant.

3.4 Apportionment of Annual Charges. If under the terms of this Lease any charges other than Minimum Rent shall be payable to Landlord for a first Lease Year which is longer than 365 days (or 366 days if such year includes the date "February 29") or for any fractional Lease Year, the amount payable for such first Lease Year or fractional Lease Year shall be adjusted by multiplying the amount of the Lease Year payment by a fraction having as its numerator the number of days in such first Lease Year or fractional Lease Year and having as its denominator the number "365" (or "366" if such first Lease Year or fractional Lease Year includes the date "February 29"), and the amount so arrived at shall be the amount payable for such first Lease Year or fractional Lease Year, as the case may be.

3.5 Common Area Maintenance Charges.

3.5.1 In consideration of Landlord's [or the developer under the OEA] ("Maintenance Director") providing the services and performing the work required of Landlord

under the provisions of Article X hereof in operating and maintaining (i) the Shopping Center, and (ii) the Common Areas, to the extent actually maintained by Landlord, Tenant shall reimburse Landlord in advance on or before the first day of each month for its Pro Rata Share (as defined below) of the costs so incurred by Landlord or the Maintenance Director during the period commencing on the Rent Commencement Date and continuing until the Expiration Date of the term of this Lease (the "**Common Area Maintenance Charges**").

3.5.2 Subject to the exclusions contained in the last paragraph of this section as well as the provisions of Section 3.5.3 below, the Common Area Maintenance Charges shall include all direct costs and expenses of every kind and nature whatsoever reasonably incurred by Landlord in operating and maintaining the Shopping Center and/or the Common Areas in the Shopping Center Premises, to the extent actually maintained by Landlord as set forth hereunder and Article X, and any and all costs and expenses incurred by Landlord, as an owner, under the OEA with respect to the operation and/or maintenance of the Shopping Center and/or the Common Areas in the Shopping Center Premises, including, without limitation, any and all expenses incurred in maintaining, repairing, replacing, restoring, cleaning and providing security protection (if Landlord or the Maintenance Director elects to provide such in its sole discretion), traffic control, insurance, landscaping, lighting and other utility charges, and all parking lot maintenance, repair and replacements, and all other capital expenditures, repairs and replacements in the Common Areas, together with (i) a third party management fee and (ii) an administrative fee to Landlord to cover Landlord's administrative and overhead expenses in an amount of 10% of "Adjusted CAM"; Adjusted CAM is equal to the aggregate of such costs of the Common Area Maintenance Charges, less costs of taxes and other governmental impositions (referred to as the "**Administrative Charge**"). In addition to the foregoing, if Tenant conducts business from the Leased Premises after 11:00 p.m., then Tenant shall pay all costs for lighting of the parking lot after 11:00 p.m. in an amount as indicated on any bill from a utility company providing such service if such lighting is separately metered, and if such lighting is not separately metered, then Tenant shall pay the amount attributable to such use by Tenant and its Permittees of the lighting as reasonably determined by Landlord.

Notwithstanding the foregoing, the following items shall be excluded from the Common Area Maintenance Charges: expenses relating to management of the Shopping Center in areas other than Common Area services, such as enforcement of individual tenant leases unrelated to Common Areas; the cost of the initial construction of the site improvements within the Common Areas, it being agreed that repairs, maintenance, and/or replacements of such initially constructed improvements are not excluded by this limitation; debt service, including principal, interest, late charges and penalties provided Tenant pays timely; repairs due to casualty to the extent reimbursed by insurance proceeds.

3.5.3 Tenant Performs Maintenance. At any time during the term of this Lease during which Landlord's (and its affiliates') ownership interests in the Shopping Center are limited to Tenant's Parcel (or Tenant's Parcel and one other parcel within the Shopping Center, but where Landlord has elected not to perform any common area maintenance on such other parcel), Landlord may elect, in writing, not to perform maintenance of the Common Areas within the boundaries of Tenant's Parcel. If Landlord so elects, Tenant shall, within 45 days from Landlord's notification of same, assume the common area maintenance obligations on Tenant's Parcel and Tenant shall be responsible for and shall as a material term of this Lease be required

to maintain such Common Areas in a manner and quality similar to that employed generally by other first class shopping centers in Anchorage, Alaska. The parties acknowledge that it is Landlord's desire to maintain the Shopping Center, including Tenant's Parcel, in a first class manner and quality. If Tenant is required to maintain such Common Areas as set forth above, to the extent Tenant does not maintain, repair and replace the Common Areas located within the boundaries of Tenant's Parcel in accordance with the above standards, Landlord shall have the right to maintain, repair and replace the Common Areas located within the boundaries of Tenant's Parcel on behalf of Tenant and charge back these costs to Tenant under this Lease, and such costs and/or charges shall be due and payable within 30 days of a written invoice therefor. Notwithstanding Landlord's election to require that Tenant maintain the Common Areas within Tenant's Parcel, Tenant shall still be responsible for reimbursing Landlord and/or Maintenance Director for Tenant's Pro Rata Share of those Common Area Maintenance Charges attributable to individual costs and expenses which are being provided to the Common Areas as a whole on all Landlord's Property, the Shopping Center Premises or the operation of the Shopping Center, and which, for whatever reason cannot be separately assessed between the Common Areas located within Tenant's Parcel and the balance of the Common Areas on Landlord's Property or the Shopping Center Premises.

3.5.4 Calculation of Pro Rata Share. Tenant's pro rata share of the Common Area Maintenance Charges (or certain specific Common Area Maintenance Charges designated by Landlord in its reasonable business judgment ("CAM Charge Item")) incurred by Landlord and/or the Maintenance Director in operating and maintaining the Shopping Center Premises and/or the Common Areas in the Shopping Center Premises shall be stated as a fraction using one or a combination of the two following options, as determined in Landlord's reasonable business judgment, it being agreed that (i) with respect to Common Area Maintenance Charges relating to the entire Shopping Center Premises (or a smaller portion thereof designated by Landlord in its reasonable business judgment (the "Maintenance Area")), Tenant's pro rata share for such Maintenance Area shall be stated as a fraction, the denominator of which shall be the floor area of all constructed buildings located within the Shopping Center Premises or such smaller portion thereof comprising the Maintenance Area in Landlord's reasonable business judgment and the numerator of which shall be 8,500 square feet, and/or (ii) with respect to any CAM Charge Item as may be designated by Landlord in its reasonable business judgment, Tenant's pro rata share for any such CAM Charge Item shall be stated as a fraction, the denominator of which shall be the floor area of all constructed buildings located within the Shopping Center Premises or such smaller portion thereof comprising the Maintenance Area for which the CAM Charge Item applies and the numerator of which shall be 8,500 square feet (collectively the foregoing options or any combination thereof are hereinafter referred to as "Tenant's Pro Rata Share"). Notwithstanding the foregoing, upon prior written notice to Tenant, Landlord may adjust Common Area Maintenance Charges and/or Tenant's Pro-Rata Share fraction in accordance with reasonable practices relevant to multi-use commercial developments on a basis consistent with the benefits derived by the tenants of each component of the Shopping Center and having regard to the nature of the particular costs and expenses being allocated.

3.5.5 Statements. Landlord will furnish Tenant a statement at least 45 days prior to the beginning of each Lease Year during the term hereof setting forth the amount allocable to and payable by Tenant under the provisions of this Section 3.5 for each month thereof as

estimated by Landlord upon the basis of Landlord's reasonably anticipated costs of maintaining and operating for such Lease Year, the Shopping Center and the Common Areas that Landlord is at that time actually maintaining. Such monthly charges shall be paid by Tenant on or before the first day of the month for which said charges are due together with the payment of Minimum Rent. Within 90 days after the end of each Lease Year Landlord shall furnish Tenant a statement, certified as correct by Landlord's controller, setting forth the amount of Tenant's Pro Rata Share of such costs for such Lease Year as finally determined in accordance with the provisions of this Section 3.5. Such statement shall itemize in reasonable detail the expenses taken into consideration in determining such amount and shall indicate the amount by which the sum of Tenant's monthly payments for such Lease Year based on Landlord's aforesaid estimate of such costs is less or more than the amount due for such Lease Year. Failure to send a statement with respect to any Lease Year during the aforementioned time period shall not be regarded as a default by Landlord nor a waiver of Landlord's right to receive Tenant's Pro Rata Share of the Common Area Maintenance Charges with respect to that Lease Year or any other Lease Year. Tenant may defer paying its Tenant's Pro-Rata Share of the Common Area Maintenance Charges until it receives such statement. The amount of any underpayment or overpayment so indicated shall be paid by Tenant to Landlord or applied to Tenant's next upcoming Common Area Maintenance Charges payment, or if applicable to the last month of the then applicable term, refunded by Landlord to Tenant, as the case may be, promptly following the rendition of such statement.

3.5.6 (a) Landlord's Books and Records. So long as no event of default by Tenant has occurred (beyond all applicable notice and cure periods), nor any other event with which the passage of time or the giving of notice, or both, would constitute an event of default by Tenant, under this Lease, Tenant, shall have the right, at Tenant's own expense, to inspect Landlord's books and records relating to any Common Area Maintenance Charges statement for the purpose of verifying the information contained therein (the "**Tenant Audit**"), provided that:

(i) Tenant shall have sent notice, in writing, no later than 60 days after receipt of such statement to be verified, of its desire to conduct the Tenant Audit (the "**Audit Notice**");

(ii) The Audit Notice identifies with specificity the particular item(s) in the statement that the Tenant believes is/are incorrect; and

(iii) Tenant has paid the statement in full.

(b) Procedures for Review

(i) The Tenant Audit shall be conducted only:

(A) by an independent firm of certified public accountants that is not being compensated by Tenant on a contingency fee basis; and

(B) during regular business hours at the office where Landlord maintains its books and records.

(ii) The Tenant Audit shall commence by no later than 30 days after Landlord's receipt of the Audit Notice, and shall be completed within 15 business days after such commencement.

(iii) A copy of the results of the Tenant Audit shall be delivered to Landlord with 30 days after the completion of the Tenant Audit.

(c) Waiver. If Tenant fails to timely request the Tenant Audit as required by Paragraph 3.5.6.a. hereof, or the results of the Tenant Audit are not timely delivered to Landlord as required by Paragraph 3.5.6.b. hereof, or Tenant fails to follow any of the procedures set forth in Paragraph b hereof, then such Common Area Maintenance Charges statement shall be deemed to have been approved and accepted by Tenant as correct.

(d) Limitations on Tenant Audit.

(i) The Tenant Audit shall be limited strictly to those items in the statement that Tenant has specifically identified in writing as being allegedly incorrect.

(ii) Tenant shall not be entitled to inspect any of Landlord's books and records that apply to any prior statements or to any calendar year other than the 2 prior calendar years covered by the most recent statement delivered to Tenant unless Tenant was due a credit for an overpayment (pursuant to Paragraph 3.5.6.f. hereof) in a Tenant Audit of a statement, and then solely;

(A) in connection with the same specific item that was the subject of the previous Tenant Audit in which Tenant was due a credit; and

(B) for two (2) years immediately preceding the calendar year for which Tenant was due a credit in such inspection.

(C) In no event shall Tenant be entitled to conduct an inspection for a period earlier than two (2) years prior to the year in which Landlord delivers the most recent statement.

(iii) Tenant shall be entitled to no more than one (1) Tenant Audit per calendar year.

(iv) No subtenant has any right to conduct a Tenant Audit and no assignee shall conduct a Tenant Audit for any period during which such assignee was not in possession of the Leased Premises.

(v) Once having conducted a Tenant Audit with respect to a specific item of a statement in any year, Tenant shall have no right to conduct another Tenant Audit of the same specific item for such year.

(vi) If Tenant comes into default under this Lease beyond all applicable notice and cure periods at any time during the Tenant Audit, the Tenant Audit shall

immediately cease and the matters originally set forth in the statement shall be deemed to be correct.

(e) Confidential Information. Tenant acknowledges and agrees that any records reviewed under this Section 3.5.6 constitute confidential information of Landlord, which shall not be disclosed to anyone other than:

(i) The auditor performing the Tenant Audit; the principals of Tenant who receive the results of the Tenant Audit; Tenant's attorneys and accountants; and as required by law.

(ii) Tenant further acknowledges and agrees that the disclosure of information to any other person, whether by Tenant or anyone acting on behalf of Tenant, shall constitute a material breach of this Lease. Accordingly, Tenant and its auditor shall execute and deliver to Landlord a confidentiality agreement prepared by Landlord and in form reasonably acceptable to Tenant, in favor of Landlord prior to any Tenant Audit.

(iii) Overpayment. In the event that the results of the Tenant Audit reveal that Tenant has overpaid its obligations and is due a credit for a preceding period, Landlord shall credit the amount due against Tenant's next installment(s) of its obligations of estimated Common Area Maintenance Charges, or if applicable, to the last month of the then applicable term, as the case may be. Tenant will not have the right to terminate the Lease on account of an overpayment.

(f) Under billing. In the event that, as a result of the Tenant Audit, it is ascertained that Tenant has been under billed for a preceding period, the amount of such under billing shall be paid by Tenant to Landlord with the next installment obligation of estimated Common Area Maintenance Charges.

3.5.7 No Assumption of Landlord Obligations. Tenant does not assume nor will Tenant be under any obligation to pay, perform or discharge any obligation, debt or liability of Landlord, contingent or otherwise, including, without limitation, any obligations or liability of Landlord for any mortgage payments or ground rents.

3.6 Late Charges. Tenant acknowledges that late payment (the 10th day of each month or anytime thereafter) by Tenant to Landlord of Minimum Rent, Tenant's Pro Rata Share of the Common Area Maintenance Charges, Tax Expenses or other sums due hereunder, will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any note secured by any encumbrance against the Shopping Center Premises, and late charges and penalties due to the late payment of real property taxes on the Leased Premises. Therefore, if any installment of Rent or any other sum due from Tenant is not received by Landlord when due, and Tenant has failed to cure such default within 5 days of its receipt of written notice of the default, Tenant shall promptly pay to Landlord an additional sum as a late charge (the "**Late Charge**") in an amount equal to \$500 plus interest on such delinquent amount at the rate equal to the Interest Rate for the time period such payments are delinquent for every

month or portion thereof that such sums remain unpaid. The parties agree that such Late Charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of such late payment. For each Tenant payment check to Landlord that is returned by a bank for any reason, Tenant shall pay both a late charge (if applicable) and a returned check charge of \$150.00 (the **"Returned Check Charge"**). All Late Charges and any Returned Check Charge shall then become Additional Rent and shall be due and payable immediately along with such other Rent, Additional Rent, or other Lease costs due under the Lease. Money paid by Tenant to Landlord shall be applied to Tenant's account in the following order: (i) to any unpaid Additional Rent, including, without limitation, Late Charges, Returned Check Charges, legal fees, and/or court costs legally chargeable to Tenant, and Common Area Maintenance Charges; and then (ii) to unpaid Minimum Rent. Nothing herein contained shall be construed so as to compel Landlord to accept any payment of Rent, Additional Rent, or other Lease costs due under the Lease or Late Charge or Returned Check Charge should Landlord elect to apply its rights and remedies available under this Lease or at law or in equity in the event of default hereunder by Tenant. Landlord's acceptance of Rent, Additional Rent, or other Lease costs due under the Lease or Late Charge or Returned Check Charge pursuant to this clause shall not constitute a waiver of Landlord's rights and remedies available under this Lease or at law or in equity.

3.7 Utility Charges. Tenant will pay any and all charges for utility services provided to Tenant and/or Tenant's Building, including sewer use, sewer discharge fees and sewer connection fees, gas, heat, electricity, refuse pickup, storm drain, water, telephone service and other utilities furnished to Tenant's Building or used in or on the Leased Premises during the term of this Lease. If any such charges are not paid when due, Landlord may pay the same, and any amounts so paid by Landlord shall thereupon become due to Landlord from Tenant as Additional Rent. If Landlord shall elect to furnish any utility services to the Leased Premises, Tenant shall purchase its requirements thereof from Landlord so long as the rates charged therefore by Landlord do not exceed those that Tenant would be required to pay if such services were furnished it directly by a public utility. Unless caused by the gross negligence or intentional misconduct of Landlord or its agents, contractors or employees, Landlord shall in no way be liable for any loss, expense, or damage (whether direct or indirect) that Tenant may sustain or incur by reason of any change, failure, interference, disruption, interruption, or defect in the supply or character of any utility service furnished to the Leased Premises, regardless of its duration, or if the quantity or character of the utility supplied by the service provider or any is no longer available or suitable for Tenant's requirements. Additionally, any such change, failure, interference, disruption, interruption, defect, unavailability, or unsuitability mentioned above shall not: (i) constitute an actual or constructive eviction of Tenant, in whole or in part; (ii) entitle Tenant to any abatement or diminution of Rent, Additional Rent, or any other costs due from Tenant under this Lease except as set forth below; (iii) relieve or release Tenant from any of its obligations under this Lease; or (iv) entitle Tenant to terminate this Lease. Tenant hereby waives all benefits of any applicable existing or future law permitting the termination of this Lease due to any such change, failure, interference, disruption, interruption, defect, unavailability, or unsuitability as mentioned above. If any such utility services are interrupted as a result of Landlord's gross negligence or willful misconduct, and such interruption prevents Tenant from operating its business in the Leased Premises (or materially impairs Tenant in operating such that Tenant is prevented from operating its business within the Premises), then Minimum Rent will equitably abate during such period to the extent and only for such time period Tenant is actually prevented from operating its business within the Leased Premises.

ARTICLE IV TAXES

4.1 Payment of Tax Expenses. Tenant shall pay to Landlord as Additional Rent all Real Estate Taxes (as hereinafter defined) applicable to the Leased Premises (collectively, the "Tax Expenses"). If the Leased Premises are separately assessed, Landlord shall within 15 calendar days of its receipt of the tax bill, provide a copy to Tenant (or request the taxing authority to send such tax bill directly to Tenant) and Tenant shall pay same within the time periods set forth below in this Section 4.1 directly to the tax authority. Tenant shall continue to have the right to pay the tax bill directly to the taxing authority so long as it is and has not been late or in default of the payment of the tax bill to the taxing authority more than twice during the term of the Lease. Otherwise, Tenant shall pay such taxes directly to Landlord by their due date. Tenant shall provide Landlord proof of the payment of the tax bill within 15 days of Tenant's payment to the taxing authority. To the extent Tenant's Parcel is not separately assessed, Landlord may request that said parcel be separately assessed by the county tax assessor. Except as set forth in Section 4.2 below, Tenant shall pay to Landlord the Tax Expenses no later than 10 business days prior to the delinquency date thereof provided that Tenant received the tax bill at least 30 days prior to the due date.

4.2 Alternative Payment of Tax Expenses. Notwithstanding the provisions of Section 4.1 to the contrary, if Landlord is required by any Mortgagee to impound with such Mortgagee the Real Estate Taxes with respect to the Shopping Center or any portion thereof, then Landlord shall estimate the amount of the Tax Expenses for the Lease Year in which this Lease commences. If Landlord's Mortgagee requires such impounding, then commencing on the Rent Commencement Date, 1/12th of this estimated amount shall be paid by Tenant to Landlord, as Additional Rent, on the 1st day of each month and throughout the remaining months of such Lease Year. Thereafter, Landlord may estimate such Tax Expenses as of the beginning of each Lease Year and Tenant shall pay 1/12th of such estimated amount as Additional Rent hereunder on the first day of each month during such Lease Year and for each ensuing calendar year throughout the term of this Lease (including any extensions of the term). Landlord shall then pay such Tax Expenses prior to delinquency. As part of the statement prepared by Landlord with respect to the Common Area Maintenance Charges pursuant to Section 3.5 above, Landlord shall indicate therein an itemization of the Tax Expenses, including (i) a copy of the bill that includes the Taxes, (ii) Landlord's calculation of the Real Estate Taxes owed by Tenant, and (iii) the gross leaseable square footage of each space, and each parcel of land, contained within the property included in the tax bill, certified as accurate by a Landlord architect, engineer or surveyor acceptable to Landlord (individually and collectively, "Tax Information"). The provisions of Section 3.5 with respect to maintenance of Landlord's records, Tenant's audit rights, and the reconciliation of such expenses shall also apply to Tax Expenses.

4.3 Definition. The term "Real Estate Taxes" shall include all taxes, excess levies, assessments and other charges by any public authority whether special, ordinary, extraordinary, foreseen and/or unforeseen or of any kind and nature whatsoever (including any in lieu fees or taxes and rent taxes) that shall or may be assessed, levied, charged, confirmed or imposed upon or with respect to the real property and improvements (and/or the appurtenances used in connection therewith) within the Shopping Center Premises, including, without limitation, any tax or excise on rents or any other tax, however described, levied against Landlord (including,

without limitation, any and all costs, expenses and liabilities incurred or suffered by Landlord, as an owner, under the OEA with respect to Real Estate Taxes) on account of the Rent reserved hereunder or on the business of renting space in the Shopping Center Premises. The term "Real Estate Taxes" shall also include all expenses reasonably incurred by Landlord in seeking reduction by the taxing authorities of Real Estate Taxes applicable to the Shopping Center but only to the extent of any actual tax reduction received and/or accruing to the benefit of Tenant with respect to the Leased Premises. The term "Real Estate Taxes" shall not include any franchise, estate, inheritance, succession, gift, or net income taxes imposed upon Landlord. In the event that Real Estate Taxes are withdrawn in whole or in part and any substitute tax is made therefore, such tax shall for the purpose of this Lease be considered a Real Estate Tax regardless of how it is denominated or the source from which it is collected. The amount of Tenant's Tax Expenses will be calculated using the full benefit of all discounts and credits that are made available by the taxing authority.

4.4 No Separate Assessment of the Leased Premises. If the Leased Premises are not separately assessed, (i) Tenant's share of Real Estate Taxes with respect to the land shall be stated as a fraction the denominator of which shall be the land area of the parcel of which the Leased Premises is a part and the numerator of which shall be the land area of the Leased Premises and (ii) Tenant's share of Real Estate Taxes with respect to the buildings and Common Area improvements shall be stated as a fraction the denominator of which shall be the Floor Area of all buildings actually constructed on the parcel of which the Leased Premises is a part and the numerator of which shall be the actual Floor Area of Tenant's Building as certified under Section 5.8 herein.

4.5 Contests of Real Estate Taxes. Notwithstanding anything to the contrary contained herein, if either party hereto in good faith shall desire to contest the validity or amount of any Real Estate Taxes herein agreed to be paid by such party on its parcel(s) and shall notify the other party hereto in writing of such party's intention to contest the same, such party shall not (unless applicable law shall require payment as a condition precedent to the contest) be required to pay, discharge or remove such Real Estate Taxes so long as such party shall, at such party's own expense, provide a bond and then contest the same or the validity thereof by appropriate proceedings. If Tenant initiates any such contest, in addition to the foregoing, Tenant shall defend, indemnify and hold Landlord and Landlord's partners, Mortgagees, representatives, successors and assigns harmless from and against any and all damages, claims, liabilities, penalties, losses and expenses (including attorneys' fees and costs) arising from, directly or indirectly, any such contest. Such proceedings may be brought by Tenant in the name of Landlord if necessary, and except as may be required by Landlord's Mortgagee during the pendency of such proceedings and provided that Tenant has posted a bond, Landlord shall not have the right to pay, remove or discharge any such Real Estate Taxes thereby contested, and such delay by Tenant in paying the same until final determination of such disputed matter shall not be deemed a default of the provisions of this Lease, provided Tenant shall at all times effectually and completely stay or prevent any official or judicial sale of said property for such non-payment under execution or otherwise and pay any final judgment enforcing the Real Estate Taxes so contested and thereafter promptly furnish Landlord evidence of satisfaction of such judgment.

4.6 Other Taxes. Tenant shall be responsible for, and shall pay before delinquency, all local, municipal, county, state and federal taxes, levies and fees of every kind and nature, including, but not limited to, general or special assessments, assessed during the term of this Lease against any leasehold interest, fixtures, Tenant's Equipment and personal property of any kind, in, upon or about the Leased Premises. In the event any or all of Tenant's fixtures, merchandise, rents, Tenant's Equipment or other personal property shall be assessed and taxed as part of tax bill for the Shopping Center, Tenant shall pay to Landlord Tenant's Pro Rata Share of such taxes within 15 business days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to such property of Tenant.

ARTICLE V CONSTRUCTION OF IMPROVEMENTS

5.1 Plans for Construction.

5.1.1 Tenant has previously submitted to Landlord, and Landlord has approved, Tenant's proposed floor plan, elevations, and signage for its initial construction of Tenant's Building attached hereto as Exhibit J, as well as Tenant's preliminary set of civil and architectural drawings and specifications (including paving, grading, utility, drainage and landscaping plans) prepared by Kimley-Horn and Associates, Inc. and issued on April 18, 2011 under Project No. 095800008 (collectively, the "**Prototypical Plans**"). Provided Tenant's final plans for the Tenant Improvements ("**Tenant's Final Plans**") are consistent with the Prototypical Plans, Tenant shall not be obligated or required to submit Tenant's Final Plans to Landlord for review and approval. Notwithstanding anything contained herein, Tenant's Final Plans shall conform to the architectural design theme established for the Shopping Center pursuant to the OEA. Additionally, Tenant shall properly screen its trash enclosures, mechanical and communication equipment from view from the Common Areas or public streets.

5.1.2 Promptly after the Effective Date, Tenant shall submit all necessary applications, plans and other information to the city in order to obtain site plan review and architectural review approval from the appropriate governmental agencies having jurisdiction thereof for the Leased Premises.

5.1.3 Within the later of (i) 60 days after the Effective Date or (ii) 30 days after Tenant has secured all governmental agency approvals for Tenant's site plan review and architectural review from the appropriate governmental agency, Tenant shall cause the final drawings and specifications to be prepared for the Tenant Improvements and shall submit the completed working drawings to all appropriate governmental agencies for comments and, ultimately, the approval by such agencies of the working drawings as same may be revised.

5.1.4 Tenant shall promptly, effectively and completely respond to any governmental agencies' comments or requests for additional information, documentation and/or revisions with respect to all applications, plans and drawings, but in all events Tenant shall respond to such comments and/or requests within 15 business days of Tenant's receipt of same, unless the scope of such comments makes such response time unreasonable (in which case Tenant shall use reasonable best efforts and due diligence to complete work as quickly as reasonably possible).

5.1.5 Tenant shall promptly deliver to Landlord true and complete copies of all such applications, plans, drawings and responses described above. Tenant shall use all diligent efforts to expeditiously obtain all permits and approvals necessary for the construction of the Tenant Improvements and the use thereof by Tenant and Tenant shall act reasonably and in good faith with respect thereto.

5.1.6 Tenant will engage, and pay the fees of, the architect, general contractor and engineer selected by Tenant in connection with improvement of Tenant's Parcel. Each of Tenant's architect, general contractor and engineer shall be licensed and insured.

5.2 Improvements to be Constructed by Landlord. Except as set forth below, Landlord's Property is being delivered to Tenant in an "As Is" condition.

Landlord has stubbed utilities within five feet (5') of Tenant's Parcel in a location per Landlord's improvement plans as described in Exhibit C.

Tenant shall be solely responsible for all utility extensions and final connections to its building and storm drain improvements in its parking area.

5.3 Feasibility Period / Conditions Precedent. Tenant shall have a due diligence, permitting, licensing and investigation period (the "**Feasibility Period**") which will last until the earlier of (i) Tenant's receipt of all final building permits and other permits and approvals from governmental or regulatory bodies for the construction of the Tenant Improvements on Tenant's Parcel, or (ii) one hundred eighty (180) days from the Effective Date, or (iii) Tenant commences construction of the Tenant Improvements on the Leased Premises in which event Tenant shall be deemed to have waived all of its approval rights set forth in Sections 5.3.1 – 5.3.6. Notwithstanding the foregoing, in no event shall the Feasibility Period expire before the end of the sixtieth (60th) day after the Effective Date, unless Tenant commences construction of the Tenant Improvements, in which case Tenant shall automatically be deemed to have waived the Feasibility Period.

5.3.1 Corporate Approval. During the first 30 days of the Feasibility Period, Tenant will seek corporate approval of this Lease. Tenant will have the right to cancel this Lease upon written notice to Landlord if corporate approval is not obtained. Unless Tenant affirmatively notifies Landlord that it waives its cancellation right pursuant to this section, the Lease will automatically terminate as of the end of the foregoing 30 day period.

5.3.2 Permits and Licenses. Throughout the Feasibility Period, Tenant will pursue licenses, permits, and governmental approvals for the Contemplated Use. These may include, among others, liquor licenses, signage, approvals required under the OEA, and building permits. If all licenses, permits, and approvals are not obtained before the end of the Feasibility Period, Tenant may cancel the Lease by written notice to Landlord. Unless Tenant affirmatively notifies Landlord that it waives its cancellation rights pursuant to this section, the Lease will automatically terminate as of the end of the Feasibility Period. In the event Tenant elects to terminate the Lease before the initial 180 days of the Feasibility Period pursuant to this section, Landlord shall have a period of 60 days to obtain such licenses, permits and governmental approvals on Tenant's behalf or work with Tenant to obtain such licenses, permits and

governmental approvals and Tenant agrees to work in good faith with Landlord to obtain such licenses, permits and governmental approvals. If Landlord is successful in obtaining such licenses, permits and governmental approvals, subject to terms and conditions reasonably acceptable to Tenant, Tenant's termination shall be nullified and the Lease shall remain in full force and effect.

5.3.3 Title. During the first 60 days of the Feasibility Period, Tenant will order the Title Commitment. If the Title Commitment, the survey or a visual inspection of the Leased Premises or the easement area(s) reveals exceptions, matters of record, conditions or other matters making the title unacceptable to Tenant in Tenant's reasonable discretion, Tenant will notify Landlord in writing. If Landlord does not cure all objections within the 30 days, Tenant may cancel the Lease by written notice to Landlord or waive uncured objections or give Landlord additional time in which case Tenant's options to cancel or waive uncured objections will be preserved. Unless Tenant affirmatively notifies Landlord that it waives its cancellation right pursuant to this section, the Lease will automatically terminate at the end of the 60 day period, unless otherwise mutually extended by Landlord and Tenant.

5.3.4 Survey. During the first 60 days of the Feasibility Period, Tenant may have the Leased Premises and the easement areas surveyed. If the legal description of the Leased Premises and the easement areas as stated on the survey differ from those initially attached to the Lease, the legal descriptions from the survey will be substituted by amendment to the Lease. Unless Tenant affirmatively notifies Landlord that it waives its cancellation right pursuant to this section, the Lease will automatically terminate at the end of the 60 day period.

5.3.5 Tests. During the first 60 days of the Feasibility Period, Tenant may conduct such tests, studies, and investigations as Tenant deems appropriate to determine if the Leased Premises is suitable, in Tenant's sole and absolute discretion, for the Contemplated Use. Unless Tenant affirmatively notifies Landlord that it waives its cancellation right pursuant to this section, the Lease will automatically terminate as of the end of the 60-day period.

5.3.6 Landlord Documents. INTENTIONALLY DELETED.

5.4 Improvements to be Constructed by Tenant. Tenant will construct, make and complete, or cause to be constructed, made and completed, in accordance with its Final Plans (based from the Prototypical Plans) and all Laws, including, without limitation, the ADA (defined below), as the same may be in effect on the Effective Date and may be hereafter modified, modified or supplemented as required by law, without expense to Landlord except as otherwise expressly provided herein, all improvements on Tenant's Parcel, including, but not limited to the following (hereinafter referred to collectively as the "**Tenant Improvements**"): (i) the grading, paving, striping, parking lot lights, irrigation, landscaping, all utility extensions, over-excavation and re-compaction at its pad, sidewalk and curbs surrounding Tenant's Building, transformer, transformer pad, and the construction of a restaurant building not to exceed 8,000 square feet inclusive of enclosed storage area not to exceed 500 square feet, and (ii) all grading, paving, striping, and lighting work (but not landscaping) for the proposed drive aisle and related parking spaces consisting of approximately 10,407 square feet, as shown on Exhibit I attached hereto ("**Driveway Work**"), and (iii) all site work necessary to cap, relocate, and reconnect the existing 12 inch water line, as shown on Exhibit K attached hereto ("**Water Line**").

Relocation Work”), and (iv) the facilities and improvements described in Sections 5.4.1 – 5.4.5 below in the approximate locations shown therefore on Exhibit B-2 hereto (if any) and in accordance with the provisions hereinafter set forth:

5.4.1 As promptly as practicable after satisfaction or waiver of the Conditions Precedent, Tenant will begin construction of Tenant’s Building and diligently prosecute same through completion.

5.4.2 From the location where Landlord has stubbed utility lines as of the Effective Date, Tenant shall complete the installation of all electrical and other utilities to and in Tenant’s Building, including, installation of the transformer and transformer pad for Tenant’s Building, and pulling all wires to Tenant’s Building. In addition, Tenant shall pay all costs associated with fire department connections, detector check valves, utility company hookups, back flow preventers and trash enclosures for the Leased Premises.

5.4.3 Tenant shall construct and install all sidewalks surrounding Tenant’s Building, and landscaping and irrigation systems within the boundaries of the Tenant’s Building Zone.

5.4.4 Tenant will construct any and all other improvements necessary to be made to Tenant’s Parcel in connection with the construction of Tenant’s Building, and/or the Tenant Improvements to the Leased Premises.

5.4.5 Tenant shall construct curbing around the paved parking areas to be constructed by Tenant as shown on Exhibit I attached hereto so as to prevent customers or invitees from driving off such paved parking areas onto other unpaved areas of the Center located adjacent to Tenant’s Parcel.

5.5 Pylon Sign. A pylon sign has been constructed for the Shopping Center, the location of which is shown as “Pylon Sign A” on Exhibit B-1, and as depicted on Exhibit H. Tenant may, but shall not be obligated to, install its identification panels on both sides of such pylon sign in the area shown on the Exhibit H subject to Tenant’s one-time payment of a fee in the amount of \$15,000, plus its pro rata share of the ongoing maintenance of the pylon sign and utilities serving the pylon sign. For purposes of this Section 5.5, Tenant’s pro-rata share shall mean the area of Tenant’s sign panel divided by the total area of pylon sign panels on the pylon sign. Tenant will pay for the design, fabrication and installation of Tenant’s panel at Tenant’s sole cost and expense. Tenant’s failure to install its identification panels within twelve (12) months of Tenant’s opening shall be deemed a final waiver of Tenant’s rights to the pylon sign. The \$15,000 fee shall be due within 15 days after Tenant’s installation of its identification panels.

Subject to the terms and conditions set forth in the OEA, Tenant shall have the right to install all signs which are prototypical of its other restaurants and allowable by local municipal ordinances and the Shopping Center sign criteria attached hereto as Exhibit E. This includes, but is not limited to, building signs. Tenant’s proposed signage have been approved by Landlord and are attached hereto as Exhibit J. Provided Tenant’s final plans for its initial signage are

consistent with Exhibit J, Tenant shall not be obligated or required to submit Tenant's Final Plans to Landlord for review and approval.

5.6 Fees Payable by Tenant. Tenant shall be responsible for, and shall pay, all fees, costs and expenses arising from or related to the approvals and construction of the Tenant Improvements or use of the Leased Premises, including but not limited to, school fees, development impact fees, building permit fees, plan checks, other permit fees, utility hookup, connection or capacity fees, sewer capacity or sewer facility impact fees, affordable or "Very Low Housing" fees, traffic impact fees, storm drain fees, detector check valves, backflow preventers for its building and the fees of Tenant's architect, general contractor and engineer.

5.7 Construction Requirements. Tenant shall ensure that the Tenant Improvements are constructed and installed in compliance with all requirements of this Lease, the OEA, and all Laws (including, without limitation, the ADA). Tenant's Building shall strictly conform to all of the requirements included in the definition of Tenant's Building set forth in Section 1.1.28 above, including all of the following: (i) Tenant's Building shall be constructed within the building limit lines as generally and conceptually depicted on the site plan attached as Exhibit B-2 hereto, (ii) be comprised of only one building, (iii) have a Floor Area of no more than 8,000 square feet inclusive of an enclosed storage area not to exceed 500 square feet, (iv) be fully sprinklered, (v) be a single-story building, and (vi) will not be demised to support more than one single user.

Promptly after the issuance of the permits, approvals and licenses required for construction of the Tenant Improvements, Tenant shall begin construction of the Tenant Improvements and shall prosecute the construction of same diligently to completion in accordance with the provisions of this Lease. The following shall apply during the course of construction: (a) Tenant shall take all reasonable steps to prevent dust, debris and trash from being carried from Tenant's Parcel to the balance of the Shopping Center or the neighborhood in which the Shopping Center is located; (b) no construction or other work or activities performed by Tenant shall materially delay or interfere with the prosecution or completion of any work being performed by Landlord on the balance of the Shopping Center, with the visibility of any of the Shopping Center buildings, or with the use and enjoyment of the balance of the Shopping Center; (c) Tenant shall comply with any reasonable procedures and regulations prescribed by Landlord from time to time for the coordination of Tenant's construction with other activities taking place on the balance of the Shopping Center; (d) Tenant shall do nothing that might create any work stoppage or cause any labor disturbance or dispute at the Shopping Center; and (e) Tenant shall minimize noise or offensive odors arising from the construction work.

5.8 Certification of Floor Area. Upon completion of the Tenant Improvements, Tenant shall deliver to Landlord (i) hard copies (together with electronic files stored in a CD) of the plans and specifications, marked up during construction, of the Tenant Improvements in or on Tenant's Parcel, including any facilities or improvements within the Common Areas on Tenant's Parcel, and (ii) a certificate of Tenant's architect wherein the architect shall certify to Landlord the number of square feet of the Floor Area of Tenant's Building.

5.9 Disclaimer of Representations. Landlord has already delivered to Tenant a Phase I Environmental Site Assessment Report, prepared by Golder Associates, dated July 21, 2008

and Subsurface Exploration and Foundation Recommendations, prepared by DOWL, dated April 17, 2008, with respect to the Shopping Center, Major 1 Final Subsurface Exploration dated May 23, 2007 prepared by DOWL Engineers and Final Subsurface and Foundation Recommendations Regal Cinema – Tikahtnu 16 dated March 20, 2009 prepared by DOWL Engineers. Any and all additional investigations undertaken with respect to the physical condition of Tenant's Parcel shall be performed by Tenant at Tenant's sole cost and expense. Except as specifically set forth in Section 16.23 of this Lease, Landlord has made no representations, covenants or warranties with respect to the physical condition of Tenant's Parcel or its subsurface. Tenant shall be solely and primarily responsible for the design, performance, supervision and inspection of the Tenant Improvements including full compliance with all the requirements of the ADA, and neither the reservation nor granting of such rights nor the giving by Landlord of any approval shall be deemed to relieve Tenant of such responsibility or to constitute a waiver by Landlord of any claim arising out of Tenant's failure to properly discharge such responsibility.

5.10 Cooperation of Parties; Safety. The design and exterior of all of the Tenant Improvements to be constructed within the Shopping Center Premises will be consistent with Tenant's Final Plans. Each party shall perform or cause to be performed the construction work for which it is responsible in a good and workmanlike manner, with first-class materials, and in compliance with all Laws of all governmental agencies and authorities having jurisdiction over such construction. Each party shall at all times take or cause to be taken any and all safety measures reasonably required to protect all other Occupants and Permittees from injury or damage caused by or resulting from the performance of the construction work for which it is responsible. If any construction to be performed within the Shopping Center Premises shall not have been substantially completed (to the extent that the remaining construction to be performed could reasonably be deemed to constitute a hazardous condition for any Occupant or Permittee) then upon written notice and a reasonable period of time to remedy such hazardous condition, the party responsible for such construction shall erect or cause to be erected adequate and attractively painted construction barricades, at least 5 feet in height substantially enclosing the area of such construction, which barricades to remain in place until such construction shall have been substantially completed (to the extent necessary to remove any such hazardous condition).

5.11 Cooperation of Landlord. Landlord will, upon request by Tenant, promptly execute or join in the execution of any application to any governmental authority having appropriate jurisdiction thereover for building and other permits, licenses and approvals as may be needed, or which Tenant deems it advisable to obtain, in connection with any work which Tenant is authorized or permitted to perform under the provisions of this Lease provided the same shall be without any cost or expense to Landlord.

5.12 Landlord's Construction Easements. During any period of construction, alteration, expansion, repair or reconstruction of buildings or improvements on that part of the Shopping Center Premises that lies on or outside Tenant's Parcel, as permitted or required by this Lease, Landlord or its designee shall be entitled to a temporary license allowing the grantee and its architects, contractors, subcontractors, materialmen and others engaged in the project to use such portion or portions of Shopping Center Premises located outside of Tenant's Parcel as may reasonably be needed for the purpose of performing such work, but only (i) at reasonable times, (ii) for the period of performance of the construction, (iii) so as not to unreasonably interfere with the construction or operation of any improvements on Tenant's Parcel (including the

parking spaces within the Protected Area) or the operation of any business being conducted thereon, and (iv) consistent with the terms of the OEA. Each of the parties hereto and anyone else while engaged in constructing any building or other improvement within the Shopping Center Premises permitted or required by the terms of this Lease shall have the right during such construction, and during any total or partial reconstruction of such building or improvement or permitted expansion thereof, to use all necessary or appropriate means of access, ingress and egress to and from the site of said improvement over and across any part of the Shopping Center Premises not occupied by building structures, but such use shall not unreasonably interfere with the Shopping Center Premises, and (b) the operation of any other tenants in the Shopping Center, and (c) with the orderly flow of traffic or access to any building thereon; provided, however, that parking areas (but not roadways) which shall have received a finishing layer of paving shall not be used for such purpose.

5.13 Tenant's Construction Easements. During any period of construction, alteration, expansion, repair or reconstruction of buildings or improvements on that part of the Shopping Center Premises that lies on Tenant's Parcel, as permitted or required by this Lease, Landlord will grant to Tenant or its designee a temporary license allowing the grantee and its architects, contractors, subcontractors, materialmen and others engaged in the project (collectively, "**Tenant's Workers**") to use Pad J (but only so long as such pad is vacant and not occupied or leased by Landlord) and such other portions of Landlord's Property as may reasonably be needed for the purpose of performing such work, but only (i) at reasonable times, (ii) for the period of performance of such construction, (iii) provided Tenant's and Tenant's Workers' actions are consistent with the terms of the OEA, and (iv) Tenant shall repair any damage caused to Pad J, including, without limitation repairing and/or replacing damage to the built up pad or the gravel (including contamination) thereon caused by such use. Additionally, Tenant, Tenant's designee and Tenant's Workers, in the performance of such work, shall not unreasonably and materially interfere with the construction or operation of any improvements or the conduct of business on or about Landlord's Property, the Tenant's Parcel or any other property on which the Occupants of the Shopping Center have improvements or conduct business.

5.14 Landlord's Reimbursement Obligation for Driveway Work and Water Line Relocation Work. Provided that Tenant has completed the Driveway Work and Water Line Relocation Work in accordance with the requirements set forth herein, on or before the date that is 30 days after the date Tenant opens for business within the Leased Premise, Landlord will reimburse Tenant for (i) one-half of the actual costs and expenses incurred by Tenant in connection with the performance of the Water Line Relocation Work up to (but not to exceed) \$5,000, and (ii) the actual costs and expenses incurred by Tenant in connection with the performance of the Driveway Work up to (but not to exceed) \$38,220. If any amount spent under this subsection is not paid by Landlord to Tenant upon demand, that amount shall bear interest at the highest rate allowed by law until paid and Tenant may offset the amount owed, including interest, against all Rent due hereunder; provided, however, with respect to any offset of Rent under this Section, Tenant shall be subject to the Offset Limitations and other related provisions and conditions contained in Section 15.6 of this Lease.

ARTICLE VI
OPENING, AND USE OF LEASED PREMISES AND COMMON AREAS

6.1 Tenant Restaurant's Opening. Subject to Unavoidable Delays, Tenant will complete construction of Tenant's Building and open Tenant's Building to the public for business by April 15, 2012, which may be extended to May 15, 2012 by Tenant delivering written notice stating that despite using good faith efforts to complete and/or open Tenant's Building it will not be able to do so by April 15, 2012.

6.1.1 Operating Covenant. For a period of two (2) years after Tenant opens Tenant's Building to the public for business, Tenant shall continuously and without interruption conduct its business activity specifically set forth hereinbelow in the Leased Premises during all business hours usual for Tenant's type of business, but in any event during those hours, if any, reasonably established by Landlord for the operation of the Shopping Center, unless Tenant is prevented from doing so by strike, fire or other cause beyond Tenant's reasonable control, and except during reasonable periods for repairing, cleaning and decorating the Leased Premises.

6.2 Use of Leased Premises. The Leased Premises shall be used only for purposes of the Contemplated Use. Tenant shall have the right to change the use to any lawful retail or restaurant use consistent with uses within first class shopping centers in Alaska provided (i) Tenant's Building shall not be demised and (ii) such use is not in conflict with other exclusives in the Shopping Center (including, as set forth in the OEA) which are in effect at the time Tenant desires to change its existing use to an alternative use permitted herein, and (iii) those limitations as further set forth below. The Leased Premises and the Common Areas shall not be used for any unlawful purpose nor for any purpose that would violate any of the restrictions or provisions set forth in or referred to in this Lease, the OEA as same exists of as the Effective Date of this Lease (subject to the provisions set forth below), the provisions of Exhibit D and Article VII below. Use of the Leased Premises and the Common Areas by Tenant and its Permittees shall be subject to, and at all times in compliance with: (i) any and all applicable laws, ordinances, statutes, orders and regulations as same exist from time to time, including, all requirements of the ADA and all laws, statutes, regulations, rules, codes, orders and administrative and court decisions with respect to any and all Tenant's Environmental Obligations as set forth in Section 7.4 of this Lease, or any other contaminants (collectively, the "Laws"); (ii) any and all declarations of covenants, conditions and restrictions and any supplement(s) thereto which has been recorded in any official or public records with respect to the Shopping Center or any portion thereof; and (iii) those restrictions or limitations set forth in the attached Exhibit D. Tenant agrees to abide by any amendments to the covenants, conditions and restrictions and other existing recorded instruments, and any additional instruments recorded or effective after the Effective Date hereof, provided that if such amendment and/or additional instruments shall directly and adversely affect Tenant, the Contemplated Use or the Leased Premises, then Tenant's approval (which approval shall not be unreasonably withheld, conditioned or delayed) of such amendment or additional instrument shall be required before it shall become effective against Tenant or the Leased Premises. Notwithstanding the foregoing, if Tenant withholds its consent because the proposed amendment and/or additional instrument will have any of the impacts described in clauses (a), (b) or (c) below, then in such event the applicable section(s) of the amendment and/or additional instrument shall not apply against the Tenant, the Contemplated Use or the Leased Premises: (a) the proposed amendment and/or additional instrument will prevent or unreasonably impair

Tenant's operation of its business within the Leased Premises, or (b) the proposed amendment and/or additional instrument will result in changes to the Tenant Protected Area that will unreasonably interfere with Tenant's access to Muldoon Road, or (c) the proposed amendment and/or additional instrument will unreasonably interfere with any of the parking spaces located within the Tenant's Protected Area. To the extent Tenant fails to respond to Landlord's written request for such approval within 15 business days of Tenant's receipt of such request, such instrument shall be conclusively deemed to have been approved by Tenant. To the extent the Tenant withholds its approval, Tenant must specify in writing and in sufficient detail the reasons it is withholding its approval. Tenant shall take, or cause to be taken, any and all actions that may be reasonably required to cause Tenant's Building, the Leased Premises and the uses being made thereof by Tenant and Tenant's Permittees to be, at all times, in full compliance with all Laws as same may be subsequently amended or modified after the Effective Date, including making any and all changes to Tenant's Building and the Common Areas within Tenant's Parcel. Tenant shall not use the Leased Premises and the Common Areas nor permit anything to be done in or about the Leased Premises and the Common Areas nor keep or bring anything therein which will in any way conflict with any of the requirements of the Board of Fire Underwriters, or any similar body now or hereafter constituted, or in any way increase the existing rate of or affect any policy of fire or other insurance upon Landlord's Buildings or any of their contents, or cause a cancellation of any insurance policy. No auctions, fire sales or "going out of business" sales may be held or otherwise conducted in, on or about the Leased Premises, the Common Areas or the Shopping Center without Landlord's written consent thereto, which consent may be given or withheld in Landlord's sole discretion. Tenant shall not do or permit anything to be done in or about the Leased Premises and the Common Areas that will in any way obstruct, impair or interfere with the ability of all Occupants and Permittees to use or otherwise have access to and through the Common Areas, or which will in any way obstruct or interfere with the rights of Landlord, other tenants or Occupants or other buildings in the Shopping Center, or other persons or businesses in the area, or injure or annoy other tenants, nor shall Tenant cause, maintain or permit any private or public nuisance in, on or about the Leased Premises, the Common Areas or Tenant's Parcel, including, but not limited to, any offensive odors (excluding normal cooking odors), noises, fumes or vibrations. Tenant shall not damage or deface or otherwise commit or suffer to be committed any waste in, upon or about the Leased Premises and the Common Areas. Tenant shall not place any harmful liquids in the drainage systems; nor dump or store waste materials, refuse, hazardous materials or wastes, toxic substances or wastes or any other pollutant or contaminant or other such materials, (except for the storage of Hazardous Materials to the extent expressly permitted pursuant to the provisions of Article VII of the Lease), or allow such to remain outside Tenant's Building area, except Tenant may store such materials which are not Hazardous Materials in refuse dumpsters or in any enclosed trash areas provided.

6.3 Recapture. After Tenant has opened and operated for two (2) years from the date Tenant opens for business with the public, nothing in this Lease shall be construed to thereafter require a business to be continuously operated in the Leased Premises or to require the Leased Premises to be continuously occupied. However, in the event that following such initial opening, Tenant ceases to operate from the Leased Premises for a period in excess of twelve (12) consecutive months (other than as a result of a successful assignment or subletting, or remodeling, in which case Tenant may remain dark for up to eighteen (18) months) after the initial two (2) years of the Lease Term, Landlord shall thereafter have the right to terminate this

Lease effective upon thirty (30) days prior written notice to Tenant; provided, however, that in the event Tenant or an approved assignee commences operation for business with the general public from the Leased Premises prior to Landlord's notice to terminate, then Landlord's election to terminate shall be nullified as to the particular closure (but will remain in effect for future closures) and this Lease shall continue in full force and effect. In the event the Lease is terminated after the initial two (2) years of the Lease term pursuant to the provisions contained in this Section, (i) Landlord shall pay Tenant in cash Tenant's unamortized Building shell and sitework costs not to exceed Three Million Dollars (\$3,000,000.00), which costs shall be amortized on a straight-line basis over the initial term of the Lease (10 years); and (ii) all obligations of Landlord and Tenant under this Lease shall terminate and the Lease shall be of no further force and effect, except for those obligations that arose prior to the effective date of termination. For example, if the Lease is terminated at the end of the fifth year, Landlord shall be required to pay Tenant \$1,500,000 ($5/10 \times 3,000,000$) under this Section 6.3 of the Lease.

ARTICLE VII ENVIRONMENTAL MATTERS

7.1 Definition of Hazardous Materials. As used in this Lease, the term "**Hazardous Materials**" shall mean and include (a) any hazardous or toxic wastes, materials or substances, and other pollutants or contaminants, which are or become regulated by any Environmental Laws; (b) petroleum, petroleum by products, crude oil or any fraction thereof; (c) asbestos; (d) polychlorinated biphenyls; (e) radioactive materials; (f) any other material or substance displaying toxic, reactive, ignitable or corrosive characteristics, as all such terms are used in their broadest sense, and are defined or become defined by any Environmental Law; or (g) any materials that cause a nuisance upon or waste to the Leased Premises or any portion thereof; provided that Hazardous Materials shall not include reasonable quantities of products commonly used in the normal course of operations of a restaurant business in compliance with the law.

7.2 Prohibition; Environmental Laws. Subject to the remaining provisions of this Article VII, Tenant shall be entitled to use and store only those Hazardous Materials that are customary for Tenant's business and to the extent disclosed in the HazMat Certificate, and provided further that such usage and storage is in full compliance with any and all local, state and federal environmental, health and/or safety-related laws, statutes, orders, standards, courts' decisions, ordinances, rules and regulations (as interpreted by judicial and administrative decisions), decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future that are or become applicable to Tenant or all or any portion of the Leased Premises (collectively, the "**Environmental Laws**"); provided however, Tenant is hereby granted the right to use limited quantities of Hazardous Materials upon the Leased Premises without the necessity of including such Hazardous Materials in the HazMat Certificate so long as (a) such use is ordinary and customary for Tenant's business and in accordance with the intended use of such substance, (b) the amounts being stored and used and the manner in which they are stored, used, and disposed of complies with all applicable Environmental Laws; and (c) Tenant indemnifies Landlord against any and all costs or expenses that Landlord may incur as a result of limited quantities of Hazardous Materials. Tenant agrees that any changes to the type and/or quantities of Hazardous Materials specified in the most recent HazMat Certificate may be implemented only with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall not be entitled nor permitted to install

any tanks under, on or about the Leased Premises for the storage of Hazardous Materials without the express written consent of Landlord, which may be given or withheld in Landlord's sole discretion. Landlord shall have the right at all times during the term of this Lease to (i) inspect the Leased Premises, and (ii) conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Article VII (but only if Landlord has a good faith concern that a violation of an Environmental Law exists). The cost of all such inspections, tests and investigations shall be borne solely by Landlord, unless Landlord's investigation reflects that a violation of an Environmental Law exists on Tenant's Parcel, which violation would cost more than \$5,000 in the aggregate to define the scope, remediate and/or clean and obtain all required governmental clearances including but not limited to all testing, consulting, disposal or other charges associated with such violation(s) of Environmental Law, in which case such reasonable investigatory costs shall be borne by Tenant. In undertaking its investigatory rights in subparagraph (i) and (ii) above, Landlord shall use reasonable efforts to minimize the amount of disruption caused to Tenant's business from Landlord's investigations. Furthermore, to the extent Landlord's investigation determines that there has not been or is not an Environmental Law violation on Tenant's Parcel, Landlord shall promptly restore any damage to the Leased Premises caused by Landlord's environmental investigations.

7.3 Tenant's Environmental Obligations. Tenant shall give to Landlord immediate written notice of any spills, releases, discharges, disposals, emissions, migrations, removals or transportation of Hazardous Materials on, under or about the Leased Premises upon Tenant obtaining knowledge of such facts or at such time that Tenant should reasonably have obtained knowledge of such facts. Tenant covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration or transportation of Hazardous Materials arising from or related to the intentional or negligent acts or omissions of Tenant or Tenant's Permittees at Tenant's sole cost and expense. Any such investigation, clean up, removal, restoration and other remediation shall only be performed after Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld so long as such actions would not potentially have a material adverse long-term effect on the Leased Premises or any portion thereof. Notwithstanding the foregoing, Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's prior written consent. Tenant, at its sole cost and expense, shall conduct and perform, or cause to be conducted and performed, all closures as required by any Environmental Laws or any agencies or other governmental authorities having jurisdiction thereof except to the extent caused solely by the active gross negligence or willful misconduct of Landlord. If Tenant fails to so promptly investigate, clean up, remove, restore, provide closure or otherwise so remediate, Landlord may, but without obligation to do so, take any and all steps necessary to rectify the same and Tenant shall promptly reimburse Landlord, upon demand and written invoice therefore, for all reasonable costs and expenses to Landlord of performing investigation, clean up, removal, restoration, closure and remediation work. All such work undertaken by Tenant, as required herein, shall be performed in such a manner so as to enable Landlord to make full economic use of the Leased Premises after the satisfactory completion of such work. All actions required to be taken by Tenant hereunder shall be "**Tenant's Environmental Obligations**".

7.4 Tenant's Environmental Indemnification. In connection with Tenant's obligations as set forth hereinabove, Tenant agrees to, and shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord and Landlord's Mortgagees, partners, property management company (if other than Landlord), agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns, and other Occupants of the Shopping Center and each of their respective partners, directors, employees, representatives, agents, contractors, shareholders, successors and assigns harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses (including, without limitation, diminution in value of the Shopping Center or any portion thereof, damages for the loss of or restriction on the use of rentable or usable space, and from any adverse impact of Landlord's marketing of any space within the Shopping Center), suits, administrative proceedings and costs (including, but not limited to, reasonable attorneys' and consultant fees and court costs) arising at any time during or after the term of this Lease in connection with or related to, directly or indirectly, the use, presence, transportation, storage, disposal, migration, removal, spill, release or discharge of Hazardous Materials on, in or about the Leased Premises as a result (directly or indirectly) of the intentional or negligent acts or omissions of Tenant or Tenant's Permittees. Neither the written consent of Landlord to the presence of Hazardous Materials on, under or about the Leased Premises nor the strict compliance by Tenant with all Environmental Laws shall excuse Tenant from its obligations of indemnification pursuant hereto. The provisions of this Section 7.4 shall survive the expiration or earlier termination of this Lease.

7.5 Landlord's Environmental Obligations. Landlord shall give to Tenant immediate written notice of any spills, releases, discharges, disposals, emissions, migrations, removals or transportation of Hazardous Materials on, or under all or a part of the Landlord's Property that is located within 50 feet of Tenant's Parcel, upon Landlord obtaining knowledge or receiving written notice of such facts. Landlord will indemnify and defend Tenant (with counsel reasonably acceptable to Tenant) and its agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns, of any spill, release, discharge, disposal, emission, migration or transportation of Hazardous Materials resulting from the Landlord's negligence or willful misconduct, and shall indemnify and hold Tenant and its agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings and costs (including, but not limited to, reasonable attorneys' and consultant fees and court costs) arising at any time during or after the term of this Lease in connection with or related to, directly or indirectly, the use, presence, transportation, storage, disposal, migration, removal, spill, release or discharge of Hazardous Materials on, in or about the Leased Premises as a result of the intentional or negligent acts or omissions of Landlord or Landlord's employees, contractors or agents.

ARTICLE VIII

SUBLEASES AND ASSIGNMENTS

8.1 No Right to Assign or Sublet. Tenant shall not, either voluntarily or by operation of law, sublet, assign, sell, encumber, pledge or otherwise transfer all or any part of Tenant's leasehold estate hereunder, or permit the Leased Premises to be occupied by anyone other than Tenant, or Tenant's Permittees, or sublet the Leased Premises or any portion thereof, without Landlord's prior written consent in each instance, which consent shall not be unreasonably

withheld or delayed. If Landlord has not responded within 20 days from Tenant's request for Landlord's consent (the timing of which shall not commence until Tenant has delivered all information requested in writing by Landlord that was requested during such 20-day period), Tenant shall deliver to Landlord a second notice and if such second notice is not responded to within 10 days from receipt, Landlord shall be deemed to have consented to such assignment, subletting, or other transaction. Any denial of Landlord's consent must include specificity as to the reasons for Landlord's denial.

8.2 Merger. Tenant shall have the unrestricted right to assign or sublet its interest hereunder, without Landlord's consent being required to (i) any corporation into which Tenant merges or consolidates, and (ii) any entity controlled by, controlling, or under the common control with Tenant. In the event of any assignment or sublease Tenant shall not be relieved of any obligation under the Lease and Tenant its subleases or assignee, as the case may be, shall remain jointly and severally liable under the Lease.

8.3 Conditions to Approval of Assignment or Subletting. If Landlord approves any assignment or subletting, each of the following conditions shall apply, and Landlord shall not be deemed to have unreasonably withheld consent if the following conditions are not met:

8.3.1 Such approval shall be valid only if in writing and signed by Landlord, Tenant and such assignee and/or subtenant in form reasonably satisfactory to Landlord;

8.3.2 The occupancy resulting therefrom shall not violate any rights theretofore given any other tenant of the Shopping Center;

8.3.3 Substantially the same class and quality of business and services sold or offered for sale, and financial soundness of ownership and management, shall be maintained and furnished in a manner compatible with a first class Shopping Center in the Anchorage Area. Each and every covenant, condition or obligation imposed upon Tenant by this Lease and each and every right, remedy or benefit afforded Landlord by this Lease, shall not be impaired or diminished and shall apply to any assignee or sublessee as the case may be;

8.3.4 Intentionally Deleted.

8.3.5 Tenant hereby agrees that Landlord may withhold its consent to any proposed sublease or assignment if the proposed sublessee or assignee or its business is subject to compliance with additional requirements of the ADA beyond those requirements that are applicable to Tenant, unless the proposed sublessee or assignee shall (i) first deliver plans and specifications for complying with such additional requirements and obtain Landlord's written consent thereto, and (ii) comply with all Landlord's conditions for or contained in such consent, including without limitation, requirements for security to assure the lien-free completion of such improvements.

8.3.6 Intentionally deleted.

8.4 Miscellaneous.

8.4.1 Consent by Landlord to one or more assignments of this Lease or to one or more sublettings of the Leased Premises shall not be deemed to be a consent to any subsequent assignment or subletting.

8.4.2 Except as provided in Paragraph 8.2, any assignment or subletting without Landlord's consent shall be void and shall, at the option of Landlord, constitute a default under the terms of this Lease.

8.4.3 The voluntary or other surrender of this Lease by Tenant or a mutual cancellation hereof shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies or shall operate as an assignment to Landlord of such subleases or subtenancies.

8.4.4 If Tenant is a corporation that is not traded on a national stock exchange or an unincorporated association or partnership, the transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 49% (except to the extent such transfer or hypothecation results from a public offering of stock or ownership interests) shall be deemed an assignment within the meaning and provision of this Article VIII, unless such transfer, assignment or hypothecation is made to any entity described in Section 8.2 herein, in which case it shall not be deemed an assignment.

8.4.5 Neither this Lease nor any interest in the Lease shall be assignable or transferable by operation of law, and in the event any proceedings under the Bankruptcy Act, or any amendment thereto or chapter thereunder, shall be commenced by or against Tenant (or any partner of Tenant) and Tenant be adjudged insolvent, or make an assignment for the benefit of creditors, or if a writ of attachment or execution be levied on the leasehold estate created by this Lease, or if a receiver is appointed in any proceeding or action to which Tenant is a party, with authority to take possession or control of the Leased Premises or the business conducted on the Leased Premises by Tenant, to the extent permitted by applicable law, this Lease at the option of Landlord shall immediately terminate and shall in no way be treated as an asset of Tenant or Tenant's estate after the exercise of Landlord's option, and Tenant shall have no further rights under this Lease, and Landlord shall have the right, after the exercise of its option to terminate as provided in this subparagraph, to forthwith re-enter and repossess the Leased Premises.

8.5 No Release of Tenant. No subletting or assignment, even with the consent of Landlord, shall relieve Tenant, or any guarantor of Tenant during the Initial Term, of its obligation to pay the Rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any assignment or subletting. If this Lease is assigned or the whole or any part of the Leased Premises is sublet, Tenant herein named, shall remain primarily and jointly and severally liable and responsible under this Lease, with any such assignee and/or sublessee.

ARTICLE IX MORTGAGES AND MORTGAGEE PROTECTIONS

9.1 Tenant's Mortgage on Leasehold. Tenant may from time to time during the term of this Lease mortgage Tenant's leasehold estate and rights hereunder to a Mortgagee as security for payment of an indebtedness provided any such mortgage is subordinate to (i) Landlord's fee interest in Tenant's Parcel, (ii) Landlord's reversionary interest in the Leased Premises, (iii) Landlord's interests in this Lease, and (iv) any of Landlord's Mortgagee's rights, title and interest in any of the foregoing interests of Landlord. Any such Mortgage shall be a lien only upon Tenant's leasehold estate hereunder and Tenant's interest in the Tenant Improvements, but shall not be a lien upon the fee title to Tenant's Parcel, upon Landlord's interests in this Lease, or upon Landlord's reversionary interest in the Leased Premises. Tenant's Mortgagee or its assigns may enforce such Mortgage and acquire title to the leasehold estate in any lawful way and, pending foreclosure of such Mortgage, may take possession of and rent the Leased Premises, and, upon foreclosure of such Mortgage, may, with the reasonable consent of Landlord, sell and assign the leasehold estate hereby created.

9.1.1 Cooperation with Tenant's Mortgagee. Landlord and Tenant agree that, so long as any Leasehold Mortgage is a lien on the leasehold estate created hereby and does not in any way encumber Landlord's fee interest in Tenant's Parcel, Landlord's reversionary interest in the Leased Premises, Landlord's interests in this Lease or leasehold interest herein, then notwithstanding anything to the contrary contained in this Lease:

(a) Notice. If Tenant or any beneficiary or mortgagee under a Leasehold Mortgage (the "Leasehold Mortgagee") shall have delivered to Landlord prior written notice of the address of any Leasehold Mortgagee, Landlord shall use reasonable efforts to mail to such Leasehold Mortgagee a copy of any notice to Tenant given under this Lease, concurrently with giving such notice to Tenant.

(b) Right to Cure. In the event of any default by Tenant under the provisions of this Lease, any Leasehold Mortgagee shall have the same periods as are given Tenant for remedying such default, plus, in each case, an additional period of 15 days and, in such event, any Leasehold Mortgagee, without prejudice to its rights against Tenant, shall have the right to cure such default within the applicable grace periods provided for herein whether such default consists of the failure to pay Rent or the failure to perform any other obligation of Tenant hereunder. Landlord shall accept such performance by any Leasehold Mortgagee as though the same had been done or performed by Tenant.

(c) No Termination During Foreclosure or Cure. In the event of any default by Tenant, and if prior to the expiration of the applicable grace period specified in Section 9.1.1.b. above, a Leasehold Mortgagee shall give Landlord written notice that it intends to undertake the curing of such default, or to cause the same to be cured, or to exercise its rights to acquire the leasehold interest of Tenant by foreclosure or otherwise, and shall immediately commence and then proceed with all due diligence to do so, whether by performance on behalf of Tenant of its obligations under this Lease, or by entry on the Leased Premises by foreclosure or otherwise, then Landlord shall not terminate or take any action to effect a termination of this Lease or reenter, take possession of or relet the Leased Premises or similarly enforce

performance of this Lease so long as such Leasehold Mortgagee is with all due diligence and in good faith engaged in the curing of such default, provided, no extension beyond expiration of the 30 day grace period specified in Section 9.1.1.b. shall be granted where default consists of failure to make timely payment of Rent or other monetary sums due hereunder. Leasehold Mortgagee shall not be required to continue such possession or foreclosure proceedings if the default that was the reason therefore has been cured.

(d) New Lease. In the event of the termination of this Lease as a result of Tenant's default under this Lease, Landlord shall provide Leasehold Mortgagee with written notice that the Lease has been terminated, together with a statement of all sums that would at that time be due under this Lease but for such termination, and of all other defaults, if any, then known to Landlord. Landlord agrees to enter into a new lease ("New Lease") of the Leased Premises with such Leasehold Mortgagee or its nominee (provided such nominee is reasonably financially capable of carrying out Tenant's obligations under the Lease as determined by Landlord in its sole discretion) effective as of the date of termination, at the Minimum Rent, and Additional Rent, and upon the terms, covenants and conditions (but excluding requirements which are not applicable or which have already been fulfilled) of this Lease, provided:

(i) Such Leasehold Mortgagee or its nominee (provided such Nominee is reasonably financially capable of carrying out Tenant's obligations under the Lease as determined by Landlord in its sole discretion) shall pay or cause to be paid to Landlord at the time of the execution and delivery of such New Lease, any and all sums that are and/or would have at the time of execution and delivery thereof been due pursuant to this Lease but for such termination;

(ii) Such Leasehold Mortgagee or its nominee shall agree to remedy any of Tenant's defaults of which said Leasehold Mortgagee was notified by Landlord's notice(s) of termination and/or default which are reasonably susceptible of being so cured by Leasehold Mortgagee or its nominee, and it is hereby agreed that all monetary defaults are susceptible of cure.

(iii) Any New Lease made pursuant to this Section 9.1.1.d. shall be prior to any lien, charge or encumbrance on the Leased Premises, other than the lien of Landlord's Mortgagee, that was junior and subordinate to such Leasehold Mortgage prior to the termination of this Lease and the Tenant under such New Lease shall have the same right, title and interest in and to the Leased Premises as Tenant had under this Lease.

(iv) Notwithstanding anything contained herein to the contrary, prior to Landlord entering into a New Lease with Leasehold Mortgagee or its nominee as set forth in Paragraph 9.1.1.d. above, Leasehold Mortgagee and Landlord shall meet and confer in an attempt to agree upon mutually satisfactory terms upon which Landlord would have the right (but not the obligation) to assume or pay off the existing Mortgage of such Leasehold Mortgagee. Leasehold Mortgagee agrees not to unreasonably withhold or delay its consent to such requested assumption or payoff of by Landlord, and to negotiate in good faith. The Leasehold Mortgagee shall promptly deliver to Landlord any and all information with respect to Tenant's Mortgage as may be requested by Landlord to assist Landlord in making such election. In no event or circumstance shall Landlord be required to assume or payoff Tenant's Mortgage

unless Landlord expressly agrees to the same in writing pursuant to its election to assume such Mortgagee under this paragraph. This Paragraph 9.1.1.d. has been provided solely for the benefit of Landlord, and is not intended to create any right or benefit to Tenant or its Leasehold Mortgagee. If Landlord and Leasehold Mortgagee have not reached an acceptable agreement (after their good faith negotiation) within 21 days of their first discussion, Landlord agrees it shall enter into the New Lease with such reasonably financially capable nominee.

(e) Transfer after Foreclosure. This Lease may be assigned, without the consent of Landlord, to any Leasehold Mortgagee, pursuant to foreclosure or similar proceedings, or pursuant to an assignment or other transfer of this Lease to such Leasehold Mortgagee in lieu thereof, or thereafter by such Leasehold Mortgagee to any third party provided Landlord is first provided the rights identified in subparagraph 9.1.1.d.(iv), and any Leasehold Mortgagee shall be liable to perform the obligations herein imposed on Tenant only for and during the period it is in possession or ownership of the leasehold estate created hereby.

9.1.2 Except as set forth above, no Mortgagee shall become personally liable for the performance or observance of any covenants or conditions to be performed or observed by Tenant unless and until such Mortgagee obtains possession of the Leased Premises or becomes the owner of Tenant's interest hereunder upon the exercise of any remedy provided for in any Mortgage or by law. Thereafter such Mortgagee shall be liable for the performance and observance of such covenants and conditions only so long as such Mortgagee remains in such possession or for the time period it owns such interest including curing of all monetary defaults prior to Mortgagee taking possession thereof.

9.2 Landlord's Mortgage on Tenant's Parcel. Nothing contained in this Lease shall prevent Landlord from encumbering by way of any Mortgage or Mortgages Landlord's fee simple interest in Tenant's Parcel, Landlord's reversionary interest in the Leased Premises and Landlord's interests in this Lease, or from assigning by way of any security assignment or assignments the Landlord's right to collect rentals and other payments under this Lease, upon such terms, conditions and provisions as Landlord may deem necessary or proper. Tenant covenants and agrees, for the benefit of the Mortgagee, that a purchaser at any foreclosure sale conducted by Landlord's Mortgagee shall not be (a) liable for any act or omission of any prior Landlord unless said Mortgagee received a written notice and reasonable period of time and opportunity to effect a cure from Tenant of such act or omission that results in a default by the prior Landlord; (b) subject to any rental offsets or defenses which the Tenant might have had against any prior Landlord; (c) bound by any lease rentals which the Tenant might have paid to any prior Landlord more than 30 days in advance of its due date; or (d) bound by any waiver, amendment or modification of the terms of this Lease made without the Mortgagee's prior written consent, if made subsequent to the giving of written notice to the Tenant of the execution of the Mortgage and Mortgagee's contact information and mailing address; but nothing herein contained shall be construed as a waiver of any rights which the Tenant may have against any prior Landlord or as a waiver of any rights which the Tenant may have to enforce the purchaser's observance and performance, after the date of purchase, of all conditions and covenants on the part of the Landlord to be observed and performed under this Lease.

9.2.1 Cooperation with Landlord's Mortgagee. Tenant further agrees, for the benefit of each Mortgagee of Landlord, written notice of whose Mortgage and mailing address

shall have been given to the Tenant, that the Tenant will deliver to such Mortgagee, at such mailing address, duplicate copies of all notices sent by the Tenant to the Landlord pursuant to this Lease, asserting the occurrence of an act or omission, which, if uncured, may give rise to an event of default by Landlord, and that such Mortgagee shall have the right, within the cure period given to Landlord herein and otherwise as herein provided, to remedy any such default by Landlord, or cause the same to be remedied, and Tenant shall accept such performance by or at the instance of such Mortgagee as if the same had been made by the Landlord. All notices to the Mortgagee shall be given in the same manner as set forth in Section 9.1 of this Lease in favor of Tenant's Mortgagee.

9.2.2 Landlord and Tenant agree that so long as any Landlord Mortgage is a lien on the Landlord's estate created hereby:

(a) Notices. If Landlord or any beneficiary or Mortgagee under a Landlord Mortgage (the "**Landlord Mortgagee**") shall have delivered to Tenant prior written notice to the address of any Landlord Mortgagee, Tenant shall mail to such Landlord Mortgagee a copy of any notice of default to Landlord given under this Lease, concurrently with giving such notice to Landlord.

(b) Right to Cure. In the event of any default by Landlord under the provisions of this Lease, any Landlord Mortgagee shall have the same periods as are given Landlord for remedying such default, plus, in each case, an additional period of 15 days and in such event any Landlord Mortgagee, without prejudice to its rights against Landlord, shall have the right to cure such default within the applicable grace periods provided for herein whether such default consists of the failure to perform any other obligation of Landlord hereunder, and Tenant shall accept such performance by any Landlord Mortgagee as though the same had been done or performed by Landlord.

(c) No Termination During Foreclosure or Cure. In the event of any default by Landlord, and if prior to the expiration of the applicable grace period specified in Section 9.2.2(b) above, a Landlord Mortgagee shall give Tenant written notice that it intends to undertake the curing of such default, or to cause the same to be cured, or to exercise its rights to acquire the Landlord interest of Landlord by foreclosure or otherwise, and shall immediately commence and then proceed with all due diligence to do so, whether by performance on behalf of Landlord of its obligations under this Lease, or by entry on the Leased Premises by foreclosure or otherwise, then Tenant may not terminate or take any action to effect a termination of this Lease or similarly enforce performance of this Lease so long as such Landlord Mortgagee is with all due diligence and in good faith engaged in the curing of such default, provided, no extension beyond expiration of the 30 day grace period specified in Section 9.2.2(b) shall be granted where default consists of failure to make timely payment of any monetary obligation hereunder or other obligation which affects Tenant's business operations on the Leased Premises. Landlord Mortgagee shall not be required to continue such possession or foreclosure proceedings if the default that was the reason therefore has been cured.

(d) Transfer After Foreclosure. Landlord's interest in this Lease may be assigned, without the consent of Tenant, to any Landlord Mortgagee, pursuant to foreclosure or similar proceedings, or pursuant to an assignment or other transfer of this Lease to such

Landlord Mortgagee in lieu thereof, or thereafter by such Landlord Mortgagee, and such Landlord Mortgagee shall be liable to perform the obligations imposed on Landlord only for and during the period it is in possession or ownership of the fee estate created hereby.

(e) Assignment of Rents. Tenant consents to a provision in any Landlord Mortgage or otherwise for an assignment of rents from Tenant of the Leased Premises to the holder thereof, effective upon any default under such Landlord Mortgage, or as otherwise requested by Landlord Mortgagee.

(f) Amendments of Lease. In connection with any financing of Landlord's interest in this Lease, Tenant agrees to execute any and all amendments or modifications of this Lease reasonably requested by such lender, provided that no such amendment or modification shall increase any rent or other monetary sums due from or payable by Tenant hereunder or otherwise have an adverse effect on Tenant's rights, benefits and privileges under this Lease, or create additional obligations or burdens on Tenant (other than non-material obligations or burdens) not called for in this Lease.

ARTICLE X MAINTENANCE AND OPERATION OF COMMON AREAS

10.1 Maintenance of Common Areas. Except as otherwise expressly provided in Section 3.5.3 of this Lease and subject to the provisions of Articles XIII and XIV hereof, Landlord will throughout the term of this Lease keep and maintain, or cause to be maintained, Landlord's Property (including the Common Areas on Tenant's Parcel) (to the extent owned by Landlord at that time), in a good and safe state of repair, in a clean and orderly condition, and in a manner and quality similar to that employed by other first class shopping centers in the Municipality of Anchorage, consistent with the requirements of the OEA, including repairing, restoring and replacing those improvements which in Landlord's reasonable judgment need to be repaired, restored and/or replaced.

To the extent another party to the OEA fails to undertake its maintenance obligations set forth in the OEA, and such failure hinders Tenant's ability to reasonably conduct its business from the Leased Premises and/or Tenant's or Tenant's Permittees use of the Leased Premises, Tenant shall notify Landlord in writing and in detail of such problem. To the extent Landlord fails or elects not to enforce the maintenance obligation set forth in OEA of such other party to the OEA, and such failure continues for 15 or more days from Landlord's receipt of written notice from Tenant of such failure to maintain, then Landlord agrees to assign to Tenant (to the extent allowed in the OEA and for the limited purpose and duration of this noticed failure to maintain) its right to enforce the maintenance requirements under the OEA. In such case, Landlord (without incurring any expense on its part) shall cooperate with Tenant in its pursuit of the maintenance remedy provided for in the OEA.

10.2 Operation of Common Areas. The services to be rendered by Landlord in operating and maintaining the Landlord's Property (to the extent owned by Landlord at that time or required as provided in Paragraph 10.1 above) shall be furnished in as economical a manner as is reasonably possible consistent with the proper performance of Landlord's obligations hereunder. Any goods or services provided by Landlord or its affiliates shall be provided at rates

and levels of quality comparable to those that would otherwise be available if Landlord sought those goods and services in the open market consistent with good shopping center management.

ARTICLE XI REPAIRS, ALTERATIONS AND ADDITIONS

11.1 Repairs. Subject to the provisions of Articles XIII and XIV hereof, Tenant shall without expense to Landlord keep the interior and exterior of any building located on Tenant's Parcel in good order, condition and repair, and in compliance with all laws, and sightly in appearance.

11.2 Alterations; Installation and Removal of Tenant's Equipment.

11.2.1 Subject to the provisions of Section 11.2.2 below, Tenant shall have the right and privilege at all times during the term of this Lease to make, at its own expense, such alterations, changes, improvements and additions to the interior of Tenant's Building as Tenant may desire provided that Tenant's Building shall be one structure, shall not exceed one story nor be larger than 8,000 square feet of Floor Area inclusive of enclosed storage area not to exceed 500 square feet, and all building improvements shall be within the building limit lines as depicted on the site plan attached hereto as Exhibit B-2. If Tenant elects to undertake any such interior alteration or addition, Tenant shall deliver notice to Landlord, at least 20 days prior to the date Tenant intends to commence construction, sufficient to enable Landlord to post a Notice of Non-Responsibility. In all events, Tenant shall obtain all permits or other governmental approvals prior to commencing any of such work and deliver a copy of same to Landlord. All alterations and additions shall be installed by a licensed contractor, at Tenant's sole expense, in compliance with all applicable Laws (including, but not limited to, the ADA), the OEA, and all other matters of record which are of record as of the Effective Date of this Lease or as subsequently recorded after the Effective Date of this Lease in accordance with the provision of Section 6.2 hereof. Notwithstanding the above, Tenant shall not in any case obstruct or block the Common Areas of the Shopping Center Premises in carrying out any of its rights under this Section 11.2. Tenant shall keep the Leased Premises and Tenant's Parcel free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. Upon termination of this Lease and subject to the provisions of Section 2.7 above, Tenant shall remove Tenant's Equipment, and personal property to the extent required by Landlord under Section 2.7 hereof, and repair any damage caused by the installation or removal of such fixtures, furniture, furnishings and improvements and leave the Leased Premises in a clean and good condition, excepting for reasonable wear and tear. As soon as practicable after completion of any such alterations, improvements and additions which may be permitted hereunder, upon Landlord's written request, Tenant shall deliver to Landlord a copy of all plans and specifications related thereto "marked up" during construction.

11.2.2 Notwithstanding anything to the contrary contained herein, without in each instance first obtaining Landlord's consent thereto (such consent not to be unreasonably withheld, conditioned or delayed), Tenant shall not make any alterations, changes, additions or improvements (i) to the exterior of Tenant's Building, or (ii) to the interior of Tenant's Building that would impair the safety or structural integrity of Tenant's Building, (iii) to Tenant's Building that would materially diminish the value of Tenant's Building (for purposes of this section being

defined as \$20,000 or more), or (iv) which cost in excess of \$20,000 for each alteration. After the initial improvements are constructed by Tenant on Tenant's Parcel, Tenant shall not change the grade of Tenant's Parcel nor the height of Tenant's Building without Landlord's prior written consent. Landlord shall not unreasonably withhold or delay its consent to any proposed interior improvements of the Tenant's Building. If Landlord has not responded within 30 days from Landlord's receipt of Tenant's written request for Landlord's consent (after the delivery of all information requested in writing by Landlord during such 30-day period), Tenant shall deliver to Landlord a second notice and if such second notice is not responded to within 15 days from Landlord's receipt, Landlord shall be deemed to have consented to such proposed alterations, changes, additions or improvements.

11.3 Signs. Tenant may affix signs to the windows and exterior of Tenant's Building per Tenant's standard signage package which is attached hereto as Exhibit J and is hereby approved by Landlord. Notwithstanding the foregoing, Tenant may install said signage provided such signage (i) complies with all applicable Laws and Municipality of Anchorage requirements, (ii) complies with the OEA and Landlord's Sign Criteria attached hereto as Exhibit E, (iii) does not interfere with the visibility of any sign, awning, or decoration of any other Occupants of the Shopping Center, (iv) is done in a manner and quality similar to that employed of other first class shopping centers in the Municipality of Anchorage, (v) notwithstanding anything contained herein to the contrary, with respect to Tenant's use of banners in the parking lot or on the exterior walls of its building, Tenant shall comply with the OEA, and (vi) Tenant acknowledges that the OEA prohibits certain signage from being used by Tenant and Tenant shall indemnify Landlord against any and all costs, liabilities or expenses that Landlord may suffer as a result of Tenant's use of such signage in violation of the OEA or failure to stop its usage of such signage once given notice by Landlord to stop such signage. Tenant, at its sole cost and expense, shall obtain all permits and licenses required in connection with all signage. In no event shall any exposed neon, flashing or moving sign be permitted on the exterior of Tenant's Building. Upon the expiration or earlier termination of this Lease, Tenant shall remove all such signage. Such installation and removal of said signage shall be made in a manner so as to avoid damage or defacement of Tenant's Building; and Tenant shall repair any damage or defacement, including discoloration caused by such installation or removal. Tenant shall maintain, repair and replace such signage as may be necessary to cause such signage to be in good condition and repair at all times.

11.4 Mechanics' Liens. If any mechanic's, materialman's, or other similar lien shall at any time be filed against the Leased Premises or Tenant's Parcel on account of any work, labor or services performed or claimed to have been performed, or on account of any materials furnished or claimed to have been furnished, for or at the direction of Tenant or anyone holding or occupying the Leased Premises through or under Tenant, Tenant shall, without cost or expense to Landlord, forthwith cause the same to be either (i) discharged of record immediately by payment, bond, order of a court of competent jurisdiction, or otherwise, or (ii) contest it, once it has been bonded. Tenant hereby agrees to defend, indemnify and hold Landlord and Landlord's partners, Mortgagees, representatives, successors, and assigns harmless from and against any and all damages, liabilities, judgments, liens, penalties, actions, costs and expenses (including attorneys' fees and court costs) arising from or relating to any such mechanic's, materialman's or other similar lien.

11.5 Tenant's Repair and Maintenance Obligations. Tenant shall, at Tenant's sole cost and expense, keep, repair and maintain in a first-class manner (i) the exterior and interior of Tenant's Building, including but not limited to any drive-thru facilities and lanes, (ii) the areas and improvements within Tenant's Parcel, and (iii) if Tenant is responsible for maintaining the Common Areas within Tenant's Parcel pursuant to the provisions of Section 3.5.3 above, all improvements and facilities in or on the Common Areas within Tenant's Parcel in a good, clean and safe condition and repair and compatible with the quality of appearance and maintenance of the remainder of the Shopping Center Premises including repairing any damage caused by Tenant or Tenant's Permittees and replacing any property so damaged anywhere within the Shopping Center Premises and Common Areas. Tenant shall throughout the term of this Lease, as it may be extended, maintain all of the aforementioned improvements and areas in a manner that shall not impair nor affect the fire rating or insurance requirements applicable to buildings adjacent to Tenant's Parcel. Tenant agrees to install, operate and maintain a monitored fire sprinkler system for Tenant's Building and other improvements in good operating condition and working order, including all required inspections and testing, and monitoring of the sprinkler system throughout the term of this Lease and any Extended Terms. Tenant's fire sprinkler system shall be a complete automatic wet fire sprinkler system per N.F.P.A., Section 13 and have the approval of all local governing agencies. Further, in no way shall Tenant's Building construction type or fire sprinkler design affect the Insurance Bureau Fire Protection Rating of adjacent buildings. Tenant's building construction shall be a minimum of Type V-N-Construction, which shall be confirmed with Landlord's Architect with a fully automatic wet sprinkler system. Without limiting the generality of the foregoing, Tenant shall be solely responsible for maintaining, repairing and replacing the roof of Tenant's Building, all plumbing and mechanical systems, heating, ventilation and air conditioning systems, electrical wiring and equipment, lighting (including, without limitation, light bulbs and/or ballasts), all glass, window casements, partitions, tenant signage, door and door closers, entrances, loading docks, sprinkler systems, fire protection systems, security systems, fixtures, equipment, painting, underground utility and sewer pipes outside the exterior walls of Tenant's Building but within Tenant's Parcel, and walls, floors, foundations, roof membranes, and exterior walls of Tenant's Building.

11.5.1 Preventative Maintenance and Testing. Tenant shall maintain preventative maintenance contracts in accordance with Tenant's standard practices and shall conduct such testing of its equipment including, but not limited to, the sprinkler system in accordance with the requirements of the Law and/or Tenant's insurance underwriters.

11.5.2 Tenant's Failure to Perform Repairs and Maintenance Obligations. If Tenant refuses or neglects to repair and maintain the (i) interior and exterior of Tenant's Building, (ii) the area and improvements within Tenant's Parcel, and (iii) if Tenant is responsible for maintaining the Common Areas within Tenant's Parcel pursuant to the provisions of Section 3.5.3 above, all improvements and facilities in or on the Common Areas within Tenant's Parcel, properly as required herein and consistent with the requirements set forth in the OEA, and in a first class manner, Landlord shall have the right, but without any obligation to do so, after delivery of 30 days' written notice to Tenant of its failure to repair and/or maintain Tenant's Building and/or Tenant's Parcel in accordance with the requirements of this Lease and provided Tenant fails to cure or commence such cure and diligently pursue such cure to completion within such 30-day period (subject to Unavoidable Delays), to make such repairs and/or maintenance without Landlord having any liability to Tenant for any loss or damage that may accrue to

Tenant's Equipment or Tenant's Building, or to Tenant's business by reason thereof. In the event Landlord makes such repairs and/or maintenance, upon completion thereof Tenant shall pay to Landlord, as additional rent, the Landlord's reasonable costs for making such repairs and/or maintenance, plus an administrative fee equal to the lesser of 10% of the total out of pocket costs incurred by Landlord, or \$500, upon presentation of a bill therefore. The obligations of Tenant hereunder shall survive the expiration of the term of this Lease or the earlier termination thereof.

ARTICLE XII INSURANCE AND INDEMNIFICATION

12.1 Types of Insurance. Tenant shall maintain in full force and effect at all times during the term of this Lease, at Tenant's sole cost and expense, for the protection of Tenant and Landlord, as their interests may appear, policies of insurance issued by a carrier or carriers acceptable to Landlord and its Mortgagees in their reasonable discretion, which afford the following coverages: (i) worker's compensation: statutory limits; (ii) employer's liability, as required by law, with a minimum limit of \$500,000 per employee and occurrence; (iii) commercial general liability insurance (occurrence form) providing coverage against any and all claims for bodily injury and property damage occurring in, on or about the Leased Premises arising out of Tenant's and Tenant's Permittees' use and/or occupancy of the Leased Premises. Such insurance shall include coverage for blanket contractual liability, fire damage, premises, personal injury, completed operations, products liability, personal and advertising. Such insurance shall have a combined single limit of not less than \$5,000,000 per occurrence with a \$5,000,000 aggregate limit and excess umbrella insurance in the amount of \$5,000,000, an aggregate limit per location endorsement in the amount of \$5,000,000; (iv) comprehensive automobile liability insurance: a combined single limit of not less than \$1,000,000 per occurrence and insuring Tenant against liability for claims arising out of the ownership, maintenance, or use of any owned, hired or non owned automobiles; (v) "all risk" property insurance, including without limitation, sprinkler leakage, boiler and machinery comprehensive form, if applicable, covering damage to or loss of Tenant's Building, any personal property, trade fixtures, inventory, fixtures and equipment located in, on or about the Leased Premises, and in addition, coverage for flood, earthquake and business income coverage for a period of 12 months to cover loss of rents, business revenue and extra expense. Such insurance shall be written on a replacement cost basis (without deduction for depreciation) in an amount equal to the full replacement value of the aggregate of the items referred to in this subparagraph (v); and (vi) during construction of the Tenant Improvements, builder's risk insurance with extended coverage. In addition to the foregoing, if Tenant is maintaining the Common Areas within Tenant's Parcel pursuant to the provisions of Section 3.5.3 above, Tenant shall also obtain and maintain throughout the period of time Tenant is responsible for such maintenance of the Common Areas, commercial general liability insurance (occurrence form) providing coverage against any and all claims for bodily injury and property damage occurring in, on or about the Shopping Center in connection with Tenant's obligations set forth in Section 3.5.3. Such insurance shall include coverage for blanket contractual liability, fire damage, premises, personal injury, completed operations, products liability, personal and advertising. Such insurance shall have a combined single limit of not less than \$5,000,000 per occurrence with a \$5,000,000 aggregate limit and excess umbrella insurance in the amount of \$5,000,000. If Tenant has other locations which it owns or leases, the policy shall include an aggregate limit per location endorsement in the amount of \$5,000,000. With respect to the insurance required to be maintained for the Common Areas within Tenant's Parcel,

Landlord and Landlord's Mortgagees shall be named additional insured under such policy, as their interests may appear.

12.2 Insurance Policies. Insurance required to be maintained by Tenant shall be written by companies licensed to do business in the State of Alaska and having a "General Policyholders Rating" of at least A-VII as set forth in the most current issue of "Best's Insurance Guide." Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant and annually thereafter. Tenant shall, prior to expiration of each policy, furnish Landlord with certificates of renewal thereof. Each certificate shall expressly provide that such policy shall not be cancelable or otherwise subject to modification except after 15 days prior written notice to the parties named as additional insureds as required in this Lease. If Tenant fails to maintain any insurance required in this Lease, Tenant shall be liable for all losses, damages and costs resulting from such failure. In lieu of maintaining the above coverages with a third party insurer meeting the qualifications set forth above, Tenant shall have the right to self-insure so long as it meets the self-insurance requirements contained in Section 5.4.4 of the OEA.

12.3 Additional Insureds and Coverage. Provided that the names or identities of the following persons or entities have been provided in writing to Tenant, Landlord, the Maintenance Director, any property management company and/or agent of Landlord for the Leased Premises or the Shopping Center, any Mortgagee of Landlord and any joint venture partners of Landlord shall each be named as additional insureds under all of the policies required in Sections 12.1(iii), (v) and (vi) above but only to the extent that the above referenced party has an insurable interest in the Leased Premises, the Shopping Center and/or under the OEA. Additionally, such policies shall provide for severability of interest. All insurance to be maintained by Tenant shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance maintained by Landlord. Any umbrella liability policy or excess liability policy (which shall be in "following form") shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance. The limits of insurance maintained by Tenant shall not limit Tenant's liability under this Lease. It is the parties' intention that the insurance to be procured and maintained by Tenant as required herein shall provide coverage for any and all damage or injury arising from or related to Tenant's operations of its business and/or Tenant's or Tenant's Permittees use of the Leased Premises. It is not contemplated or anticipated by the parties that the aforementioned risks of loss be borne by Landlord's insurance carriers (except to the extent the loss is occasioned solely as a result of the gross negligence or willful misconduct of Landlord), rather it is contemplated and anticipated by Landlord and Tenant that such risks of loss be borne by Tenant's insurance carriers pursuant to the insurance policies procured and maintained by Tenant as required herein except to the extent the loss is caused solely by the gross negligence and/or willful misconduct of Landlord. Any deductible under any of the aforementioned policies shall not exceed the amount of \$50,000 unless Tenant (individually or in combination with its parent company) complies with the requirements regarding self-insurance pursuant to Sections 5.4.4 and 5.4.5 of the OEA.

12.4 Landlord's Insurance. Subject to the provisions of Sections 3.5.3 and 12.1 above and the OEA, Landlord shall during the term of this Lease keep, or cause to be kept, the

Common Areas within the Landlord's Property, for the protection of Tenant and Landlord, as their interests may appear, insured by responsible insurance companies licensed to do business in the State of Alaska and having a "General Policyholders Rating" of at least A-VIII as set forth in the most current issue of "Best's Insurance Guide", against public liability covered under a commercial general liability policy with combined limits of not less than \$5,000,000 per occurrence, and against damage or destruction and the perils commonly covered under an "all-risk" policy with an extended coverage endorsement including, coverage for earthquakes and flood (to the extent Landlord elects to provide such endorsements), in an amount sufficient to prevent any of the insureds from being or becoming a co-insurer within the terms of the policy or policies providing such insurance and in no event for less than 90% of the full replacement value of such improvements, with deduction being made for depreciation, and such other insurance as Landlord deems appropriate to be kept. All such insurance shall be maintained or caused to be maintained by Landlord or such other party as Landlord may designate. Notwithstanding the foregoing, Tenant hereby acknowledges and agrees that Landlord may need to obtain, or cause to be obtained, additional or different insurance than that described above under the requirements of the OEA, and in such event, Tenant hereby agrees and consents to the substitution of such insurance in lieu of the insurance described above in this Section 12.4 so long as such substituted insurance does not constitute or reflect a lower amount or "Best's Insurance Guide" rating. Tenant shall pay to Landlord Tenant's Pro Rata Share of the costs of all such insurance (including, without limitation, any and all costs, expenses and liabilities incurred or suffered by Landlord, as an owner, under the OEA, covered by such insurance) maintained by Landlord hereunder pursuant to Section 3.5.4 above. However, to the extent Landlord's casualty insurance (including without limitation earthquake and flood coverage) includes both Landlord's Buildings and the Common Areas on Landlord's Property, Landlord shall make a reasonable allocation of the insurance costs between the buildings and Common Areas, and Tenant shall only participate in the insurance premium for the Common Areas, provided Tenant shall separately maintain all other insurance required under the Lease.

12.5 Waiver of Subrogation. Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss of, or damage to, either party's property to the extent that such loss or damage is insured by an insurance policy required to be in effect at the time of such loss or damage. Each party shall obtain any special endorsements, if required by its insurer whereby the insurer waives its rights of subrogation against the other party. This provision is intended to waive fully, and for the benefit of the parties hereto, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Tenant pursuant to this Section 12 of this Lease shall include, without limitation, a waiver of subrogation. The provisions of this Section 12 shall not apply in those instances in which such waiver of subrogation would invalidate such insurance coverage or would cause either party's insurance coverage to be voided or otherwise uncollectible.

12.6 Payment and Disposition of Insurance Proceeds.

12.6.1 Anything herein to the contrary notwithstanding, it is understood and agreed that the policy or policies providing property and casualty insurance that each party is obligated to maintain, or cause to be maintained, may be made payable to the holder of any first Mortgage which is a lien upon the insured property, as its interest may appear, under a standard mortgagee clause.

12.6.2 Any loss covered by the insurance required to be maintained under the foregoing provisions of this Article shall be adjusted with the owner of the insured property or any insured designated by such owner to adjust such loss.

12.6.3 Subject to Section 12.6.1, Article XIII and Article XIV, all insurance proceeds paid to Tenant or Tenant's Mortgagee shall only be used for reconstruction, repair and restoration of the damaged property or for payment to the claimant for bodily injury or death, as the case may be. Any excess proceeds go to Tenant, and Landlord shall not have any claim in or to such insurance proceeds.

12.6.4 All insurance proceeds paid under policies maintained by Landlord hereunder shall be delivered to Landlord or Landlord's Mortgagee, as applicable, and Tenant shall not have any claim in or to such insurance proceeds.

12.7 Blanket Insurance. Any insurance required to be maintained under the provisions of this Article may be carried in whole or in part under a "blanket" policy or policies covering other properties of such party or of such party and any Related Corporation thereof, provided such blanket policy expressly affords coverage for the Leased Premises and for Landlord as required by this Lease. Notwithstanding anything to the contrary contained herein, if any insurance proceeds are paid for the occurrence of an event for which either party is obligated to rebuild and/or restore, then such party shall only use the insurance proceeds for purposes of restoration and rebuilding until all of the costs and expenses related thereto have been fully paid.

12.8 Limitation of Liability and Indemnity.

12.8.1 Except for damage resulting from the gross negligence or willful misconduct of Landlord, Tenant agrees to hold Landlord and Landlord's Mortgagees, Related Corporations, partners, employees, representatives, legal representatives, successors and assigns (collectively, the "Indemnitees") harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, (i) Tenant's or Tenant's Permittees use of the Leased Premises, Tenant's Building and/or the Shopping Center, or (ii) the conduct of Tenant's business, or from any activity, work or thing done, permitted or suffered by Tenant in or about the Leased Premises, or (iii) in any way connected with the Leased Premises or with the improvements or personal property therein, including, but not limited to, any liability for injury to person or property of Tenant, Tenant's Permittees, or third party persons. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease for the applicable statute of limitation period related to such claim or loss.

12.8.2 Except for damage resulting from the gross negligence or willful misconduct of Landlord, Landlord shall not be liable to Tenant for any loss or damage to Tenant or Tenant's property, for any injury to or loss of Tenant's business or for any damage or injury to any person from any cause whatsoever, including, but not limited to, any acts, errors or omissions by or on behalf of any other tenants or occupants of the Shopping Center. Unless otherwise specifically set forth herein to the contrary, Tenant shall not, in any event or

circumstance, be permitted to offset or otherwise credit against any payments of Rent required herein for matters for which Landlord may be liable hereunder. To the fullest extent permitted by law and except as expressly set forth in this Lease, Tenant agrees that neither Landlord nor any of the Indemnitees shall at any time or to any extent whatsoever be liable, responsible or in any way accountable for any loss, liability, injury, death or damage to persons or property that at any time may be suffered or sustained by Tenant or by any person(s) whomsoever who may at any time be using, occupying or visiting the Leased Premises, Tenant's Building or the Shopping Center, except for damage resulting from the gross negligence or willful misconduct of Landlord or its agents, employees or authorized representatives.

12.9 Tenant Indemnity. Except for damage resulting from the gross negligence or willful misconduct of Tenant, Landlord agrees to indemnify, save and hold harmless Tenant and its agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from Landlord's negligent or intentional acts or omissions within the Shopping Center, including, but not limited to, any liability for injury to person or property of Tenant or third party persons. Landlord agrees that the obligations of Landlord herein shall survive the expiration or earlier termination of this Lease for the applicable statute of limitation period related to such claim or loss.

ARTICLE XIII DAMAGE AND RESTORATION

13.1 Damage to Tenant's Building and Other Improvements on Tenant's Parcel.

13.1.1 Except as set forth otherwise in this Article XIII, if the whole or any part of Tenant's Building shall, during the term hereof, be damaged or destroyed by any casualty, then Tenant shall, subject to Unavoidable Delays, forthwith remove any resulting debris and repair, restore or rebuild the damaged or destroyed improvements substantially in accordance with the plan or plans pursuant to which they were constructed and to a condition whereby they will have a value not less than their value just prior to said loss. During the pendency of such rebuilding or restoration, this Lease shall continue in full force and effect and Tenant shall continue to make all payments required hereunder to be made by Tenant without any abatement, offset or reduction thereof, and to perform all of its obligations hereunder. All of such restoration and/or rebuilding obligations shall apply irrespective of whether or not such damage or destruction is covered by insurance.

13.1.2 If the whole or any part of Tenant's Building shall, during the last eighteen (18) months of the Initial Term, or at any point during any Extended Term hereof, be damaged or destroyed by any casualty and the extent of the damage thereby done to Tenant's Building is such that the cost to restore or rebuild will exceed \$1,000,000 (in "Constant Dollars" as such term is defined in the OEA) of the amount it would have cost to replace said building and site improvements on the Leased Premises in its entirety at the time such damage or destruction occurred, then in such event, each of the following provisions shall apply: (i) Tenant shall not be required to restore or rebuild such building or structure; (ii) Tenant, at Landlord's election, shall

raze the damaged or destroyed building or structure, remove all debris, and take all other actions required by good construction practice in order to give the area previously occupied by such razed improvements an attractive appearance and so as to enable such to be maintained in a good, clean, and orderly condition; (iii) Tenant shall be entitled to receive all insurance proceeds received by Tenant in connection with such casualty; (iv) to the extent Tenant has insurance on Tenant's Equipment and for business interruption for lost rental, all such insurance proceeds shall belong solely to Tenant to the extent Landlord receives rent from Tenant and/or insurance proceeds for lost rental; (v) this Lease shall continue in full force and effect UNLESS Tenant notifies Landlord of its intention to terminate this Lease within 120 days of the occurrence of such damage or casualty, in which case Tenant shall make a lump sum payment to Landlord in the amount of all remaining payments of Rent due hereunder (in "Constant Dollars" as such term is defined in the OEA), and after making such payment all rights and obligations of Landlord and Tenant hereunder shall cease and this Lease shall terminate. Notwithstanding anything to the contrary contained in this Lease, and in addition to the foregoing obligations of Tenant relating to the rebuilding of Tenant's Building, Tenant shall be obligated to immediately and fully repair, restore and/or rebuild any damage or destruction to the improvements within the Common Areas within Tenant's Parcel. All of such restoration and/or rebuilding obligations shall apply irrespective of whether or not such damage or destruction is covered by insurance.

13.2 Damage to Common Areas located within Landlord's Property. So long as this Lease has not been terminated by Landlord or Tenant, if during the term hereof any of the improvements within the Common Areas located within Tenant's Parcel as cross-hatched and labeled on Exhibit B-2 as the "Center Landscape Area" shall be damaged or destroyed, either in whole or in part, by fire or other casualty, then Landlord shall, subject to Unavoidable Delays, forthwith remove, or cause to be removed, any resulting debris and repair, restore or rebuild, or cause to be repaired, restored or rebuilt, the damaged or destroyed improvements substantially in accordance with the plan or plans pursuant to which they were constructed and to a condition whereby they will have a value not less than their value just prior to said loss; provided, it being agreed that Landlord shall not be obligated to restore or rebuild, or cause to be restored or rebuilt, any building or other improvement located upon the Center Landscape Area.

ARTICLE XIV CONDEMNATION

14.1 Permanent Condemnation.

14.1.1 If all or any portion of the Leased Premises is taken by exercise of the power of eminent domain (or conveyed by landlord in lieu of that exercise), this Lease will terminate as to the Leased Premises, or portion taken, as of the day before the date of such taking. If such condemnation is not of all the Leased Premises, but a portion of Tenant's Building and in Tenant's judgment, reasonably exercised, it shall not be feasible to restore or replace Tenant's Building to a complete architectural unit capable of being operated in an economical manner as the Contemplated Use, then, subject to the provisions of this Section 14.1, Tenant shall have the right and option to terminate the term of this Lease, by giving Landlord notice of such election within 4 months after Tenant shall have been deprived of possession of the property so taken and title to such property has vested in the condemning authority, and if such notice is given the term of this Lease shall terminate as of the date 15 days after the giving of such notice.

Unless Tenant elects to terminate this Lease or if less than a portion of Tenant's Building is Condemned, Tenant shall restore said building to a complete architectural unit, which may contain the same or less Floor Area than said Tenant's Building contained when originally constructed and have the same or a greater value than the value of said Tenant's Building immediately prior to such taking. Tenant shall use commercially reasonable efforts to maximize the size of Tenant's Building (consistent with efficient and economical operation of Tenant's business) after such rebuilding and restoration to cause said building to contain as much Floor Area as it contained prior to such Condemnation, subject to government approvals and required permits. To the extent the Tenant does not terminate this Lease and rebuilds the Leased Premises, Tenant shall be entitled to a portion of Landlord's award relating to the condemnation of the physical building improvements but in no case more than Tenant's construction costs of rebuilding such improvements.

14.1.2 If this Lease is terminated in accordance with the terms of Section 14.1.1 above, any unearned Rent shall be refunded to Tenant. If the taking be partial, the Rent payable hereunder for any period subsequent to such Condemnation shall be proportionately reduced based on the rentable square footage of the Leased Premises taken and not otherwise reasonably replaced by Landlord. Notwithstanding the preceding sentence, the adjustment in Rent will be reduced to the extent Tenant has made a recovery from the condemning authority.

14.1.3 In any Condemnation proceeding the award separately made, or specific award attributable to the taking of any substantial portion of Tenant's Building or the taking of Tenant's Equipment or leasehold interest hereunder, shall belong to Tenant except for Landlord's reversionary interest therein, and any award or so much of any award as is granted as compensation for the taking of the land within Tenant's Parcel and the Common Areas within Tenant's Parcel (including all improvements and facilities in such Common Areas) shall be paid to Landlord. In any such proceeding whereby all or a substantial part of Tenant's Building is taken, whether or not Tenant elects to terminate the term of this Lease, Tenant shall continue to make all payments required under this Lease without offset, abatement or reduction of such payments until the effective date of such termination.

14.2 Permanent Condemnation of the Common Areas located on Landlord's Property (including Tenant's Parcel). If all or any portion of the improvements within the Common Areas located within the Tenant Protected Area shall be taken by Condemnation and as a consequence thereof, in the reasonable judgment of Tenant, the means of access to the Leased Premises from any public street abutting the Shopping Center Premises within Tenant's Protected Area shall be materially and adversely affected such that Tenant cannot reasonably conduct its business therein or more than ten (10) parking stalls shall be taken by Condemnation within the Leased Premises and Driveway Work as shown on Exhibit I, adjacent to the Lease Premises, and if Landlord has not elected within 60 days of the taking by Condemnation to diligently (i) rebuild or restore such improvements, and/or (ii) replace such parking, then Tenant may terminate this Lease by delivering written notice to Landlord of its intent to terminate within 120 days thereafter. If Tenant shall timely and properly exercise its rights under this Section 14.2, this Lease shall terminate 60 days after Landlord's receipt of Tenant's written notice of its intent to terminate. If Landlord elects to rebuild or restore such improvements or is able to provide to Tenant and its Permittees reasonable access to Tenant's Parcel (or otherwise reasonably address the adverse impact), then this Lease shall continue in full force and effect and Tenant may not terminate this

Lease. Notwithstanding anything contained herein to the contrary, Landlord shall be entitled to all proceeds awarded for a partial or total Condemnation of all or any portion of the Common Areas and Tenant shall not have any interest in nor right to any portion to such award.

14.3 Other Provisions Relating to a Permanent Condemnation.

14.3.1 If all or any part of Tenant's Parcel located within the Condemnation Area or Center Landscape Area is Condemned, such areas being more particularly depicted as the cross hatched area on Exhibit G and Exhibit B-2 respectively, then notwithstanding anything to the contrary contained herein, Tenant shall not be entitled to any condemnation proceeds relating to the property within such area, so long as the property so condemned does not contain a portion of Tenant's Building or materially and adversely affect Tenant's operations, and no claim may be made by Tenant to any condemning authority or Landlord, and this Lease shall continue in full force and effect without any abatement, offset, or reduction of any payments required to be made by Tenant under this Lease. In addition, Tenant shall have no right to terminate this Lease.

14.3.2 If there shall be a Condemnation of any part of the Shopping Center that shall not result in a termination of this Lease, the parties hereto shall enter into an amendment to this Lease in recordable form (i) substituting for the description of each parcel of property described in Exhibit A hereto which shall have been reduced in size because of such condemnation and/or added to by reason of the creation of a substitute building or substitute improvement in the Common Area, a revised description of such parcel as so changed, and (ii) substituting for the description of the Shopping Center Premises set forth in Exhibit A hereto a revised description thereof taking into account the changes in the descriptions of the individual parcels that comprise the Shopping Center Premises.

14.3.3 If the term of this Lease shall be terminated under the provisions of this Article, Rent payable hereunder for the period during which such termination occurs shall be pro-rated and any unearned rent shall be refunded to Tenant.

14.4 Temporary Condemnation. If, by reason of any proceeding involving an exercise of the power of Condemnation, Tenant shall be temporarily deprived in whole or in part of the use of any portion of the Leased Premises for a period of no longer than 12 months, the entire award made as compensation therefor shall be paid over to Tenant, and there shall be no abatement, offset or reduction of Rent or other charges payable hereunder. Tenant shall continue to comply and perform all of its obligations under this Lease, except that Tenant's obligations relating to use and maintenance of the Leased Premises and adjacent areas shall be suspended to the extent that performance is impossible or impractical as a result of the temporary Condemnation.

14.5 Intentionally Deleted.

14.6 Condemnation Arbitration. In any case where Tenant desires to exercise its termination right for a Condemnation as set forth in Sections 14.1 and 14.2, Tenant must first specify in detail to Landlord, in writing, why it reasonably believes that it can no longer reasonably conduct its business from the Leased Premises after such Condemnation. To the extent Landlord disagrees with Tenant's discussion and/or explanation, Landlord and Tenant

shall meet and confer within 30 days after delivery of written notice from Landlord and both parties shall use good faith efforts to resolve such disagreement.

ARTICLE XV DEFAULT AND REMEDIES

15.1 Tenant's Default. The occurrence of any one or more of the following events shall constitute a default hereunder by Tenant:

15.1.1 The failure by Tenant to make any payment of Rent, Additional Rent, or other payment required to be made by Tenant hereunder within 10 days from the due date; provided however, Landlord shall not undertake any of the remedies set forth in Section 15.2 of this Lease until Tenant has received written notice of such default and has failed to cure such default within 10 days after Landlord delivers written notice of the default to Tenant.

15.1.2 The failure by Tenant to observe, perform or comply with any of the conditions, covenants or provisions of this Lease (except failure to make any payment of Rent and/or Additional Rent) and such failure is not cured within 30 days of the date on which such failure first occurred. If such failure is susceptible of cure but cannot reasonably be cured within the aforementioned 30-day time period, as determined reasonably by Landlord, Tenant shall promptly commence the cure of such failure and thereafter diligently, continuously and in good faith prosecute such cure to completion. Landlord shall not undertake any of the remedies set forth in Section 15.2 of this Lease, until Tenant has received written notice of such default and has failed to cure such default (or commence such cure if not reasonably susceptible to being cured in such 30 days and thereafter diligently pursue such cure to completion) within 30 days of Tenant's receipt of such notice from Landlord of such default.

15.1.3 The making of a general assignment by Tenant for the benefit of creditors, the filing of a voluntary petition by Tenant or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation, or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the same within 60 days of such filing, the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold, Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due, any court entering a decree or order directing the winding up or liquidation of Tenant or of substantially all of Tenant's assets, Tenant taking any action toward the dissolution or winding up of Tenant's affairs, the cessation or suspension of Tenant's use of the Leased Premises beyond the time limits set forth in Section 6.3, or the attachment, execution or their judicial seizure of substantially all of Tenant's assets or this leasehold shall constitute a default by Tenant of the provisions of this Lease.

15.1.4 Tenant's use or storage of Hazardous Materials in, on or about the Leased Premises other than as expressly permitted by the provisions of Article VII.

15.1.5 The making of any material misrepresentation or omission by Tenant in any materials delivered by or on behalf of Tenant to Landlord pursuant to this Lease.

15.1.6 The discovery by Landlord that any financial information called for by this Lease given to Landlord by Tenant, any assignee of Tenant, any subtenant of Tenant, any successor in interest of Tenant or any guarantor of Tenant's obligations hereunder, or any of them, is materially false.

15.1.7 For a period of two (2) years from the date Tenant opens for business with the public as set forth in Section 6.1.1, Tenant's failure to conduct the business within the Leased Premises for a period of 120 consecutive days, excluding holidays or any periods during which the Leased Premises are being repaired or remodeled or as required by governmental authorities.

15.2 Remedies. In the event of any default by Tenant as defined herein Landlord may exercise one or more of the following remedies:

15.2.1 Landlord shall have the option to continue this Lease in full force and not terminate Tenant's right to possession of the Leased Premises, in which event Landlord shall have the right to collect rental and additional charges when due, and Landlord shall have such other rights as are provided for in this Lease and such rights as are permitted by law.

15.2.2 Landlord may terminate this Lease by express written notice to Landlord of its election to do so. In the event of such termination, Landlord shall be entitled to recover from Tenant:

(a) The worth at the time of the award of any obligation which has accrued prior to the date of termination; and

(b) The worth at the time of the award of the amount by which the unpaid rent and additional charges which would have been earned after termination until the time of award exceed the amount of such rental loss that the Tenant proves could have been reasonably avoided; and

(c) The worth at the time of the award of the amount by which the unpaid rent and additional charges for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided.

As used in Subsections 15.2.2 (a)-(b) above, the "worth at the time of award" is computed by allowing interest at the rate of 10% per annum. As used in Subsection 15.2.2 (c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

15.2.3 Landlord may recover from Tenant, and Tenant shall pay to Landlord upon demand, such expenses as Landlord may incur in recovering possession of the Leased Premises, placing the same in good order and condition and altering or repairing the same for reletting, all other expenses, commission and charges incurred by Landlord in reletting same or exercising any remedy provided herein or as a result of any default by Tenant hereunder, and any other amount necessary to compensate Landlord for all the detriment proximately caused by the Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

15.2.4 Landlord may exercise any other remedy or right in law or equity now or hereafter available to a landlord against a defaulting tenant under the laws of the governing jurisdiction and not otherwise specifically reserved herein, excluding punitive damages or consequential damages.

15.3 Miscellaneous. The foregoing rights and remedies of Landlord are not exclusive; they are cumulative in addition to any rights and remedies now or hereafter existing at law, in equity, by statute or otherwise, or to any equitable remedies Landlord may have, and to any remedies Landlord may have under bankruptcy laws or laws affecting creditor's rights generally. Landlord may pursue any or all of such rights and remedies, whether at the same time or otherwise.

15.4 Waiver. One or more waivers by Landlord of any breach or default shall not be a waiver of any other breach or default of the same or any other provisions. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant. The receipt by Landlord of any payment with or without knowledge of the breach of any other provision hereof shall not be deemed a waiver of any such breach, provided, however, the receipt and acceptance by Landlord of any delinquent rental and/or other sum which may be due hereunder shall constitute a waiver of said breach of timely payment for the particular payment involved (but not as to any other breach), and no waiver by Landlord of any sum due hereunder or any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

15.5 Delay. No delay or omission in the exercise of any right or remedy accruing to Landlord or Tenant upon any breach by the other under this Lease shall impair such right or remedy or be construed as a waiver of any such breach theretofore or hereafter occurring.

15.6 Landlord's Default. Landlord shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation for a period of 30 days following written notice from Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than 30 days are required for its performance, then Landlord shall not be deemed to be in default if it shall commence such performance within such 30-day period and thereafter diligently prosecute the same to completion. This Lease may not be terminated and/or canceled for any default by Landlord. Tenant's remedy for any default by Landlord shall be equitable relief (including the right to seek injunction or specific performance) or such damages as may be afforded by law. Copies of notices of default on the part of Landlord shall be concurrently sent to any Mortgagee who directly or through Landlord so requests such in writing.

Should Landlord fail to maintain or repair the Common Areas within Tenant's Protected Area in accordance with the requirements set forth in the OEA, Tenant may give Landlord thirty (30) days written notice thereof, setting forth with particularity the deficiencies, and if such deficiencies are not corrected within said thirty (30) day period, or in the event that such correction requires more than thirty (30) days and is not commenced within such thirty (30) day period and performed diligently or continues beyond the time reasonably needed to correct the

deficiency, then Tenant, upon five (5) days written notice to Landlord shall have the right thereafter to correct such deficiencies, or cause such deficiencies to be corrected by an independent contractor. Within thirty (30) days after receipt of Tenant's notice that Tenant has exercised its self-help rights pursuant to this Section (together with an invoice and backup information relating thereto), Landlord shall either (a) pay Tenant an amount equal to all reasonable out-of-pocket costs, fees and expenses paid or incurred by Tenant for such operation, maintenance, repairs or replacements (net of any amount that Tenant would be obligated to pay as part of its obligation to pay its pro rata share of Common Area Charges), or (b) give notice to Tenant that Landlord, in good faith, disputes Tenant's right to exercise self-help pursuant to this Section. If Landlord fails to pay to Tenant such total amount or give such notice of dispute within the thirty (30) day period, Tenant may elect to deduct the amount owed from the next payments of Minimum Rent due to Landlord hereunder until recovered in full; provided, however, Tenant may not deduct more than fifty percent (50%) from any single monthly installment of Minimum Rent, and such monthly deductions from successive monthly installments of Minimum Rent may continue until all amounts due to Tenant hereunder are fully recovered, provided, however, that Tenant shall be entitled to offset against larger percentages of successive installments of Minimum Rent if the fifty percent (50%) offset is insufficient to reimburse Tenant in full before the expiration of the Term (the foregoing limitations on the amount of the offset are herein referred to as the "Offset Limitations"). If Landlord gives such notice of dispute within the thirty (30) day period, Tenant shall not exercise its offset rights. If Landlord and Tenant cannot agree to a mutually acceptable resolution, at either Tenant's or Landlord's option, the dispute may be determined under the Expedited Arbitration Procedures provisions of the Commercial Arbitration Rules of the American Arbitration Association (or another arbitration company mutually acceptable to Landlord and Tenant), such arbitration to occur in Contra Costa County, California. If the arbitrator rules that Tenant had the right to exercise such self-help remedy pursuant to this Section, Tenant may elect to deduct the amount owed (as well as reasonable attorneys' fees incurred by Tenant in connection with the dispute) from the next payments of Minimum Rent due to Landlord hereunder until recovered in full without regard to the Offset Limitations. If the arbitrator rules that Tenant did not have the right to exercise such self-help remedy pursuant to this Section, Tenant may not deduct any amounts incurred in exercising its self-help remedy pursuant to this Section and, within thirty (30) days after demand, Tenant shall reimburse Landlord for reasonable attorneys' fees incurred by Landlord in connection with the dispute.

15.7 Unperformed Covenants of Tenant May be Performed by Landlord. Subject to the rights of both parties' Mortgagees to cure any of such failures, if Tenant shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, if the failure of Tenant relates to a matter which in Landlord's judgment reasonably exercised is of an emergency nature and such failure shall remain uncured for a period of time commensurate with such emergency after Landlord shall have in good faith served upon Tenant notice of such failure (either orally, by telegram, or in writing as the circumstances warrant); then Landlord may, at Landlord's option, and in its sole discretion as to the necessity therefore, perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under Tenant unless in the event Landlord acts with gross negligence or intentional misconduct. If Landlord so performs any of Tenant's obligations hereunder, or if Landlord shall sustain any damage by reason of the fact that

any representations made by Tenant in this Lease are untrue, the reasonable amount of the cost and expense entailed or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall repay to Landlord, upon demand and written invoice itemizing the applicable costs and expenses incurred, the reasonable amount thereof with interest thereon from the date of payment at the Interest Rate.

ARTICLE XVI MISCELLANEOUS PROVISIONS

16.1 Notices. Any notice, demand, consent, approval, request, statement, document or other communication required or permitted to be given to or served upon either party hereto pursuant to this Lease or applicable law shall be in writing and shall be sent by registered or certified mail, postage prepaid, or by electronic mail/facsimile capable of confirming receipt (provided the original is sent by a reputable overnight courier for next day delivery), or by reputable overnight courier service with receipted delivery, addressed:

if to Landlord, at:

North Anchorage Real Estate Investors, LLC
c/o Browman Development Company, Inc.
1556 Parkside Drive
Walnut Creek, California 94596
Attention: Darryl Browman, President
FACSIMILE NO.: (925) 588-2230
PHONE NO.: (925) 588-2210

with a copy to:

Browman Development Company, Inc.
1556 Parkside Drive
Walnut Creek, California 94596
Attention: Mario Albert, General Counsel
FACSIMILE NO.: (925) 588-2230
PHONE NO.: (925) 588-2229

if to Tenant (until Tenant's opening for business in the Leased Premises), at:

GMRI, INC.
c/o Darden Restaurants, Inc.
ATTN: Bill DeMuth
1000 Darden Center Drive
Orlando, FL 32837
FACSIMILE NO.: 407-241-5853
PHONE NO.: 407-245-5558
EMAIL: WDemuth@darden.com

GMRI, INC.
c/o Darden Restaurants, Inc.
ATTN: Joe Tavormina
1000 Darden Center Drive
Orlando, FL 32837
FACSIMILE NO.: (407) 245-5627
PHONE NO.: (707) 824-0972
joephtavormina@comcast.net

with a copy to:

Jonathan D. Simpson, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed,
P.A.
215 N. Eola Drive
Orlando, FL 32801
FACSIMILE NO.: (407) 843-4444
PHONE NO.: (407) 418-6396
jonathan.simpson@lowndes-law.com

if to Tenant (from and after Tenant's opening for business in the Leased Premises), at:

GMRI, INC.
c/o Darden Restaurants, Inc.
ATTN: Property Law Administration
1000 Darden Center Drive
Orlando, FL 32837
FACSIMILE NO.: (407) 245-6415
PHONE NO.: (407) 245-4000

with a copy to:

GMRI, INC.
c/o Darden Restaurants, Inc.
ATTN: General Counsel
1000 Darden Center Drive
Orlando, FL 32837
FACSIMILE NO.: (407) 245-6415
PHONE NO.: (407) 245-4000

All such communications shall be deemed to have been given or served as following: (i) if by electronic mail or facsimile, on the day such electronic mail or facsimile is sent to such other party; (ii) if by reputable overnight courier, on the next business day after such communication is properly given to such overnight courier; and (iii) if by registered or certified mail, on the second business day after such communication is properly mailed. Either Landlord or Tenant may, by 10 days' prior notice to the other as aforesaid, designate a different address or different addresses to which communications intended for it are to be sent.

16.2 Transfer of Landlord's Interest. Landlord shall promptly notify Tenant in the event of any transfer or conveyance of title to Tenant's Parcel, giving the name and address of the transferee (or of each transferee if more than one) and instructions regarding the manner in which Rent is to be paid and notices are to be served on the transferee(s). In such event Landlord herein named (or the then grantor if Landlord herein named shall have previously made such a transfer or conveyance) shall be automatically released of all liability accruing on or after the date of the transfer including without limitation the performance of any and all obligations on the part of Landlord thereafter to be performed hereunder provided such transferee agrees in writing to assume Landlord's obligations under the Lease arising from the date of the transfer forward. Tenant agrees to attorn to such transferee(s) provided such transferee(s) does not disturb Tenant's use, occupancy or quiet enjoyment of the Leased Premises so long as Tenant is not in default of any of the provisions of this Lease beyond any applicable notice and curative periods provided herein. Landlord agrees to promptly provide Tenant with a copy of the assignment agreement, if any, entered into between Landlord and any transferees.

16.3 Estoppel Certificate. Each of the parties hereto agrees, at any time and from time to time within 30 days of receipt of a request by the other party (but not more frequently than once every 9 months), to execute and deliver to the party making such request a written certificate stating (i) whether this Lease is in full force and effect; (ii) whether this Lease has been modified or amended and, if so, identifying and describing any such modification or amendment; (iii) whether Rent and other charges have been paid more than 30 days in advance of the date when due and if so the date to which they have been paid in advance; (iv) whether to the best knowledge of the party to whom such request is directed any uncured default exists on the part of the other party hereunder, and, if so, specifying the nature of such default; and (v) such other matters as may be reasonably requested by such party.

16.4 Attorneys Fees. In the event of any litigation or other legal proceedings between Landlord and Tenant arising out of or otherwise relating to this Lease or the Leased Premises, the prevailing party shall be allowed all costs, including, without limitation, reasonable attorney's fees and experts' fees.

16.5 Remedies Cumulative. Except as otherwise expressly provided herein, all rights, privileges and remedies afforded either of the parties hereto by this Lease or by law shall be deemed cumulative and the exercise of any one of such rights, privileges and remedies shall not be deemed to be a waiver of any other right, privilege or remedy provided for herein or granted by law.

16.6 No Partnership. Nothing in this Lease shall be construed as making the parties hereto partners or joint venturers or members of a joint enterprise or, except as otherwise specifically provided herein, as rendering either of said parties liable for the debts or obligations of the other party.

16.7 Limitation of Landlord's Liability. The liability of Landlord (which for purposes of this Lease, shall include Landlord and the property management company employed by Landlord, if any) to Tenant for any default by Landlord under the terms of this Lease shall be limited to the actual interest of Landlord and its partners in the Leased Premises at the time Tenant commences any action against Landlord and Tenant agrees to look solely to the actual interest of Landlord, and its partners in the Leased Premises at the time Tenant commences any action against Landlord for satisfaction of any liability and shall not look to other assets of Landlord nor seek any recourse against the assets of the individuals comprising Landlord, or the directors, officers, shareholders, agents or employees of Landlord; it being intended that Landlord and the individuals comprising Landlord, and the directors, officers, shareholders, agents or employees of Landlord shall not be personally liable in any manner whatsoever for any judgment or deficiency. The liability of Landlord under this Lease is limited to its actual period of ownership of title to the Leased Premises, and Landlord and its partners shall be automatically released from further performance under this Lease and from all further liabilities and expenses hereunder (but not from pre-existing obligations which have accrued, as due as of the date of the transfer of Landlord's interest and for which Tenant has filed a written claim against Landlord by no later than 12 months, after the date on which such obligation first arose), upon transfer of Landlord's interest in the Tenant's Parcel, provided any transferee of Landlord's interest in this Lease shall first agree in writing to assume Landlord's obligations under this Lease arising from the date of the transfer forward.

16.8 Partial Invalidity. If any covenant, term, provision or condition of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such covenant, term, provision or condition shall not be affected thereby.

16.9 Governing Law. This Lease shall be construed according to, and be governed by, the laws of the State of Alaska.

16.10 Lease Not To Be Recorded. Prior to the expiration of the Feasibility Period, the parties will have executed and delivered to Tenant in a form reasonably acceptable to Landlord and Tenant and in recordable form a memorandum of this Lease ("Memorandum of Lease") for recording purposes. Upon receipt Landlord will promptly sign, have notarized, and return the Memorandum of Lease to Tenant for recordation. Tenant will not record the Memorandum of Lease until all Conditions Precedent have been satisfied or waived. Landlord agrees that Landlord will not record this Lease unless Tenant shall have consented to Landlord's so doing. All costs of recordation of the Memorandum of Lease will be paid by Tenant.

16.11 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

16.12 Subordination. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and at the election of Landlord or any Mortgagee the rights of Tenant under this Lease and this Lease shall be subject and subordinate at all times to: (i) Landlord's reversionary interest in the Leased Premises, Landlord's fee interest in Tenant's Parcel and Landlord's interests in this Lease, and (ii) the lien of any Mortgage which may now exist or hereafter be executed in any amount for which Tenant's Parcel or Landlord's interest or estate therein or other interest referenced herein is specified as security but Landlord and its Mortgagee shall agree that so long as Tenant is not in default of any provision of this Lease beyond any applicable cure period specified herein, Landlord or any successor to Landlord's interest shall not disturb Tenant's occupancy under this Lease or quiet enjoyment of the Leased Premises as a result of any transfer or Mortgage of Landlord's interest hereunder. If any Mortgage is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor in interest to Landlord, provided such successor in interest will not disturb Tenant's use, occupancy or quiet enjoyment of the Leased Premises so long as Tenant is not in default of the terms and provisions of this Lease beyond any applicable cure period specified herein. The successor in interest to Landlord following foreclosure, sale or deed in lieu thereof shall not be (i) liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (ii) subject to any offsets or defenses which Tenant might have against any prior lessor; or (iii) bound by prepayment of more than 1 month's Rent. Tenant covenants and agrees to execute (and acknowledge if required by Landlord or any Mortgagee of Landlord) and deliver, within 30 days of a demand or request by Landlord and in the form reasonably requested and approved by Tenant, Landlord or any Mortgagee of Landlord, any additional documents evidencing the priority or subordination of this Lease with respect to any lien of any such Mortgage provided such documents provide for reasonably acceptable non-disturbance language. Tenant's failure to timely execute and deliver such additional documents in form mutually approved between Tenant, Landlord or any Mortgagee of Landlord shall, at Landlord's option, constitute a material default hereunder.

Notwithstanding anything contained in the foregoing paragraph to the contrary, within forty-five days from the Effective Date, Landlord shall make reasonable efforts to obtain from the holders of any ground lease, mortgage, deed of trust or other instrument to which the Leased Premises or the Common Area(s) are subject, non-disturbance or recognition agreement, as appropriate, in substantially the form attached to this Lease as Exhibit F.

16.13 Right of Entry. Tenant grants Landlord or its agents the right to enter the Leased Premises during all reasonable business hours (except from 11:00 A.M. - 2:00 P.M. and 5:00 P.M. - 9:00 P.M.) for purposes of inspection, exhibition, posting of notices, repair or alteration provided that Landlord delivers to Tenant 24 hours' prior notice. Landlord's inspection will be limited to once every 6 months. It is further agreed that Landlord shall have the right to use any and all means Landlord deems necessary to enter the Leased Premises in an emergency without the necessity for any prior notice. Landlord shall have no right to place "for rent" and/or "for sale" signs on the outside of the Leased Premises during the term of this Lease. Tenant hereby waives any claim from damages or for any injury or inconvenience to or interference with

Tenant's business, or any other loss occasioned thereby except for any claim for any of the foregoing arising out of the gross negligence or willful misconduct of Landlord or its authorized representatives. Landlord's entry into the Leased Premises (except in an emergency situation) shall be done in a manner reasonably believed by Landlord to minimize the disruption to Tenant's business and damage to Tenant's property.

16.14 Intentionally Deleted.

16.15 Compliance with Americans with Disabilities Act. Landlord and Tenant hereby agree and acknowledge that the Leased Premises, Tenant's Building and/or the Shopping Center may be subject to the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 et seq., including, but not limited to Title III thereof, all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, as the same may be in effect on the Effective Date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "ADA"). Tenant's Building, the Tenant Improvements and any other improvements to be constructed hereunder by Tenant, including the Common Area parking improved by Tenant and the Driveway Work shall be in compliance with the requirements of the ADA as of the date of Tenant's certificate of occupancy for Tenant's Building, and all costs incurred for purposes of compliance therewith shall be Tenant's sole responsibility and included in the costs of such improvements. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of Tenant's Building and all other improvements (including the Common Area improvements Tenant is constructing) strictly comply with all requirements of the ADA. If any barrier removal work or other work is required to the Common Areas maintained by Landlord, excluding the Common Areas within Tenant's Building Zone (which shall be Tenant's responsibility), under the ADA, then such work shall be the responsibility of Landlord (it being agreed that Tenant shall reimburse Landlord for its pro-rata share for ADA maintenance, repairs and/or replacements necessary to the Common Areas as a part of Common Area Maintenance Charges); provided, if such work is required under the ADA as a result of Tenant's use of the Leased Premises or any work or alteration made to the Leased Premises by or on behalf of Tenant, then such work shall be performed by Landlord at the sole cost and expense of Tenant. If the parties are unable to agree the matter shall be submitted to arbitration in accordance with Section 16.26 herein. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA, including without limitation, not discriminating against any disabled persons in the operation of Tenant's business in or about the Leased Premises, and offering or otherwise providing auxiliary aids and services as, and when, required by the ADA. Within 10 days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Leased Premises or Landlord's Buildings; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Leased Premises or Landlord's Buildings; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Leased Premises or Landlord's Buildings. Tenant shall and hereby agrees to hold harmless and indemnify Landlord and its Indemnitees from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including reasonable attorneys' fees, costs of court

and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, any violation or alleged violation of the ADA relating to Tenant's Building, the Tenant Improvements and/or the other improvements (including the Common Area within Tenant's Parcel) constructed by Tenant or on Tenant's behalf on Tenant's Parcel. Landlord shall and hereby agrees to hold harmless and indemnify Tenant from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from any violation or alleged violation of the ADA that results from changes in the law (from and after the date of Tenant's certificate of occupancy for the Tenant's Building) and that relate to the Common Areas within Tenant's Parcel. The obligations of the parties herein shall survive the expiration or earlier termination of this Lease for a period of 1 year.

16.16 Brokerage Commission. Landlord and Tenant each represents and warrants for the benefit of the other that it has had no dealings with or made any payments to any real estate broker, agent or finder or employee or agent of tenant in connection with the Leased Premises and/or the negotiation of this Lease, except for Coldwell Banker Commercial NRT (Jim Wood, agent representing Tenant) (the "**Brokers**"), and that it knows of no other real estate broker, agent or finder who is or might be entitled to a real estate brokerage commission or finder's fee in connection with this Lease or otherwise based upon contacts between the claimant and Tenant. Landlord agrees that it shall be solely responsible for paying the brokerage commission to the Broker in such amounts and at such times as set forth in separate agreements between Landlord and the Brokers. Each party shall indemnify and hold harmless the other from and against any and all liabilities or expenses arising out of claims made for a fee or commission by any real estate broker, agent or finder in connection with the Leased Premises and this Lease other than the Brokers, resulting from the actions of the indemnifying party. Any real estate brokerage commission or finder's fee payable to the Broker in connection with this Lease shall only be payable and applicable to the extent of the Initial Term of the Lease and to the extent of the Leased Premises as same exist as of the Effective Date.

16.17 Quiet Enjoyment. Landlord covenants with Tenant, upon the paying of Rent and observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept and during the periods that Tenant is not otherwise in default of any of the terms or provisions of this Lease, that Tenant shall and may peaceably and quietly hold, occupy and enjoy the Leased Premises and the Common Areas during the term of this Lease.

16.18 Entire Agreement. This Lease supersedes any prior agreements, representations, negotiations or correspondence between the parties, and contains the entire agreement of the parties on matters covered. No other agreement, amendment to this Lease, statement or promise made by any party that is not in writing and signed by all parties to this Lease shall be binding.

16.19 Warranty of Authority. On the Effective Date, Tenant shall deliver to Landlord an original certificate of status for Tenant issued by the Alaska Secretary of State, and such other documents as Landlord may reasonably request with regard to the lawful existence of Tenant. Each person executing this Lease on behalf of a party represents and warrants that (i) such person is duly and validly authorized to do so on behalf of the entity it purports to so bind, and

(ii) if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Lease and perform all of its obligations hereunder.

16.20 Covenants and Conditions. Each provision to be performed by Tenant hereunder shall be deemed to be both a covenant and a condition.

16.21 Quitclaim. Upon any termination of this Lease, Tenant shall, at Landlord's request, execute, have acknowledged and deliver to Landlord a quitclaim deed of Tenant's interest in and to the Leased Premises. If Tenant fails to so deliver to Landlord such a quitclaim deed, Tenant hereby agrees that Landlord shall have the full authority and right to record such a quitclaim deed signed only by Landlord and, to the extent permitted by law, such quitclaim deed shall be deemed conclusive and binding upon Tenant.

16.22 Warranties of Tenant. Tenant hereby warrants and represents to Landlord, for the express benefit of Landlord, that Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for the use permitted hereby, and that, based upon said independent evaluation, Tenant has elected to enter into this Lease and hereby assumes all risks with respect thereto. Tenant hereby further warrants and represents to Landlord, for the express benefit of Landlord, that in entering into this Lease, Tenant has not relied upon any statement, fact, promise or representation (whether express or implied, written or oral) not specifically set forth herein in writing and that any statement, fact, promise or representation (whether express or implied, written or oral) made at any time to Tenant, which is not expressly incorporated herein in writing, is hereby waived by Tenant.

16.23 Warranties of Landlord. Landlord makes the following representations and warranties, each of which is material and is being relied upon by Tenant in entering into this Lease.

(i) Landlord owns the real property described as the Tenant's Parcel.

(ii) Landlord has not received written notice of any existing, proposed or contemplated Condemnation proceeding regarding the Tenant's Parcel.

(iii) Landlord has not received any written notice of any pending or threatened governmental or legal proceeding regarding the Tenant's Parcel.

(iv) Landlord has not entered into any unrecorded lease or agreement with respect to Tenant's Parcel that shall prohibit Tenant's Contemplated Use.

(v) Landlord has not received written notice of any violation of any Hazardous Materials Laws with respect to Tenant's Parcel.

16.24 Exclusive. After the Effective Date and for so long as Tenant is not in default under this Lease and Tenant or its successors "continuously operate" (as described in greater detail below) an Italian restaurant business in the Leased Premises, Landlord shall not sell or

lease any parcel, premises or space, as the case may be, within the Shopping Center to an Occupant who operates a Sitdown Restaurant or Fast Casual Restaurant (defined below) featuring pasta as a Primary Use (defined below), without Tenant's consent, in Tenant's sole discretion (the "Restriction"). "Primary Use" shall be defined as a use in which 33% or more of all the menu items from such Occupant's restaurant that feature Italian pasta, it being agreed that side dishes shall constitute one (1) menu item. "Sitdown Restaurant" shall be defined as a restaurant in which customers place their food order with wait staff while sitting at their table. "Fast Casual Restaurant" shall be defined as a restaurant without a drive-through or drive-in in which customers place their food order at the register and the food is made to order. Notwithstanding anything contained herein to the contrary, the Restriction shall not in any way or manner limit, restrict, encumber, prohibit, or apply to: (i) Chili's, Applebee's, Roadhouse Grill, Original Roadhouse Grill, Island's, Ruby Tuesday's, Texas Roadhouse, IHOP, The Village Inn, Bob's Big Boy, Shoney's, Denny's, Perkins', Waffle House, Baker's Square, Coco's, JB's, Allie's, Cracker Barrel, Marie Callender's, Friendly's, Bob Evan's Farms, Red Lobster, California Pizza Kitchen, PF Changs, Buffalo Wild Wings, Moose's Tooth or T.G.I. Friday's, Red Robin, Firetap Alehouse; (ii) drive in, drive through or fast food restaurants, including but not limited to McDonalds, Burger King, In N Out, Wendy's, Farmer Boys, Checkers, Carls Jr., Sonic Burger, Taco Bell and Arby's; (iii) the following buffet style restaurants: Home Town Buffet, Sweet Tomatoes, Golden Corral, and Fresh Choice, and their successor restaurants (iv) pizza restaurants; (v) any Occupant pursuant to either a signed lease or fee simple ownership as of the Effective Date of this Lease, so long as the original leases under which they operate (which were entered into prior to the Effective Date) remain in effect and permit those occupants to operate their space for uses that include an Italian restaurant; provided, however, in the event an existing Occupant (or the successors and/or assigns and/or sublessees of the Occupants) within the Shopping Center desires to change its use to a use which violates the Restriction, then Landlord shall not permit or suffer such change in use unless, in Landlord's sole judgment, prohibiting such Occupant from changing such use would violate or cause a default under an agreement, covenant or restriction between Landlord and such Occupant or result in a lawsuit or threat of lawsuit being filed against Landlord by such Occupant; (vi) Target, Kohls, Best Buy, The Sports Authority, Regal Cinemas, Sam's Club, Staples, PetSmart, and Lowes parcels and/or buildings; (vii) any Occupant greater than 20,000 square feet of Floor Area; and (viii) the successors and/or assigns and/or sublessees of the Occupants referenced in the clauses (i) - (vii) above.

Landlord has included this Section 16.24 in this Lease solely at the request of Tenant. This Section 16.24 shall automatically become null and void if: (i) Tenant assigns its rights under this Lease in whole or in part or sublets all or any portion of the Leased Premises to a tenant whose business is not the sale of Italian food, or (ii) Tenant fails to continuously operate the Leased Premises as an Italian restaurant for a continuous period that exceeds twelve (12) months (other than for reasons related to remodeling, repairs, casualty, Condemnation or Unavoidable Delays ("Special Closure")), provided Tenant promptly and diligently completes any remodeling or repairs and diligently reopens for business as soon as reasonably possible, but not longer than eighteen (18) months after such Special Closure. Upon the occurrences of either of the conditions contained in subsections (i) or (ii) of this section, the Restriction shall automatically terminate.

In the event of a violation of the foregoing Primary Use Restriction by Landlord, Tenant shall give written notice thereof to Landlord and Landlord shall have a period of ninety (90) days from the effective date of Tenant's violation notice within which to cure such violation. Notwithstanding anything contained herein to the contrary, Tenant's sole remedy for a violation of the restriction set forth in this sub-paragraph shall be a reduction of fixed Minimum Rent by fifty percent (50%) (the "Reduced Base Rent") for a period ("Reduced Base Rent Period") commencing on the ninetieth (90th) day following the effective date of Tenant's violation notice to Landlord and Landlord's failure to cure and continuing until the earlier of (a) the date on which Landlord cures the violation of Tenant's foregoing exclusive (in which event Tenant shall immediately commence paying full fixed minimum rent), or (b) the date which is three (3) years after the commencement date of the Reduced Base Rent Period. Further, within 30 days prior to the expiration of the Reduced Base Rent Period, Tenant shall have the right and option to (i) terminate the Lease by written notice to Landlord, and following any such termination, neither party shall have any further rights or obligations hereunder, other than accrued obligations; or (ii) continue the Lease for the remainder of the initial Term including any Extension Options, whereupon Tenant shall immediately commence paying full fixed Minimum Rent and this Lease shall continue in full force and effect.

If the foregoing Primary Use restriction is violated by an occupant ("Rogue Tenant") located within a portion of the Shopping Center owned by Landlord as of the date hereof, and Landlord had limited the Primary Use in the (i) purchase and sale agreement that transferred the parcel and/or (ii) lease that leased the premises in which such Rogue Tenant is operating in violation of the Primary Use restriction, then Tenant's sole remedy in such event against Landlord shall be to require Landlord, upon receipt of thirty (30) days written notice, use commercially reasonable efforts to enforce such other tenant's lease. If Landlord fails to promptly commence such proceedings, or shall fail thereafter to diligently prosecute the same, Tenant shall have the right (i) to conduct and prosecute such legal proceedings (including, without limitation, an action for injunctive relief) in its own name, at Tenant's sole cost and expense, or (ii) in the event the right set forth in the preceding clause (i) is not permitted to be exercised under Tenant's name, upon not less than ten (10) days prior notice to Landlord, to conduct and prosecute such legal proceedings in the name of Landlord, at Tenant sole cost and expense, and Landlord shall reasonably cooperate with Tenant with respect to such prosecution.

16.25 Waiver. No covenant, term or condition of this Lease shall be deemed waived by Landlord or Tenant, nor shall the failure of either party to insist on strict performance be a waiver, unless same is waived in writing. No waiver by Landlord or Tenant of any breach of any term, covenant, or condition of this Lease shall be deemed a waiver of any subsequent breach of the same or any other covenant, term or condition.

16.26 Staging / Construction Areas. In accordance with Section 5.13 of this Lease, Landlord agrees that Tenant shall have the right to use (and Landlord hereby grants to Tenant such temporary non-exclusive construction easement for using) Pad J for temporary construction staging purposes, allowing the Tenant during its initial development and construction period for the Tenant Improvements to use such area until November 1, 2011 to locate and use construction trailers, tool storage facilities, trash and debris facilities, staging areas, and for other construction purposes acceptable to Landlord. After November 1, 2011, if Tenant requests additional time to stage on Pad J it shall first obtain the prior approval of Landlord, which approval shall not be

unreasonably withheld, conditioned or delayed. Tenant shall repair any damage caused to the staging area, including, without limitation repairing and/or replacing damage to the built up pad or the gravel (including contamination) thereon caused by such use.

[SIGNATURES ON FOLLOWING PAGE]

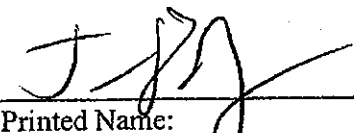
IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be duly executed as of the day and year first above written.

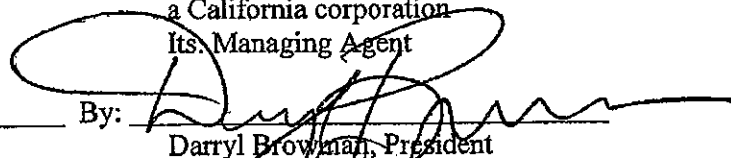
Witnesses:

LANDLORD:

North Anchorage Real Estate Investors, LLC
a Delaware Limited Liability Company

By: Browman Development Company, Inc.
a California corporation
Its Managing Agent


Printed Name:

By: 
Darryl Browman, President

Jim Stephens, Leasing Mgr
Printed Name:

Date: *7/8/11*

~~Witnesses:~~

TENANT:

GMRI, Inc., a Florida corporation

~~Printed Name:~~

~~By:~~

~~Name:~~

~~Its:~~

~~Printed Name:~~

~~Date:~~

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be duly executed as of the day and year first above written.

Witnesses:

LANDLORD:

North Anchorage Real Estate Investors, LLC
a Delaware Limited Liability Company

By: Browman Development Company, Inc.
a California corporation
Its: Managing Agent

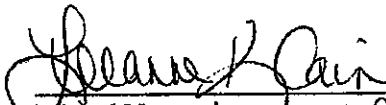
By: _____
Printed Name: Darryl Browman, President

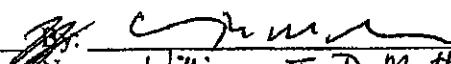
Date: _____
Printed Name: _____


Witnesses:

TENANT:

GMRI, Inc., a Florida corporation


Printed Name: Leeanne Cain


Name: William T. DeMuth
Its: Vice President


Printed Name: Annette Pizadian

Date: July 12, 2011

ACKNOWLEDGMENT

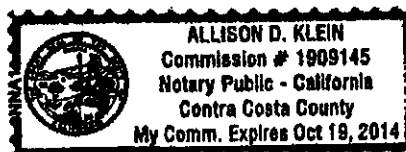
State of California
County of Contra Costa

On JULY 8, 2011 before me, ALLISON D. KLEIN, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared Darryl Browman
who proved to me on the basis of satisfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged to me that he executed the same in
his authorized capacity, and that by his signature on the instrument the
person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature

A handwritten signature in cursive script, appearing to read 'Allison D. Klein', written over a horizontal line.

(Seal)


STATE OF _____
COUNTY OF _____

The foregoing document was acknowledged before me this _____ day of _____, 2011, by Darryl Browman, the President of Browman Development Company, Inc., as the Managing Agent of North Anchorage Real Estate Investors, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

Notary Public, State of _____
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing document was acknowledged before me this 7th day of July, 2011, by William T. DeMuth, the Vice President of GMRI, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.

NOTARY PUBLIC-STATE OF FLORIDA
 Sonia A. Saddler
Commission # DD908879
Expires: AUG. 09, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Sonia A. Saddler
Notary Public, State of Florida
My Commission Expires: 8/9/2013

EXHIBIT A

LEGAL DESCRIPTIONS OF SHOPPING CENTER PREMISES, LANDLORD'S PROPERTY AND TENANT'S PARCEL

I. Shopping Center

REAL PROPERTY IN THE CITY OF ANCHORAGE, BOROUGH OF ANCHORAGE,
STATE OF ALASKA, DESCRIBED AS FOLLOWS:

Parcel No. 1:

Fragment Lots 4A and 14A, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2008-30, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102, Records of the Anchorage Recording District, Third Judicial District, State of Alaska and

Fragment Lot 9, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2007-103, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102, Records of the Anchorage Recording District, Third Judicial District, State of Alaska.

Parcel No. 2:

Fragment Lots 7, 8, and 16, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2007-103, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102, Records of the Anchorage Recording District, Third Judicial District, State of Alaska.

Parcel No. 3:

Fragment Lot 5A, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2008-30, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102, Records of the Anchorage Recording District, Third Judicial District, State of Alaska and

Fragment Lot 15, Plat of Commercial Tract Fragment Lot Site Plan, filed under Plat No. 2007-103, located within Tract A, Gateway Subdivision, according to the official plat thereof, filed under Plat Number 2007-102, Records of the Anchorage Recording District, Third Judicial District, State of Alaska.

II. Landlord's Property

Landlord's Property is defined as those certain portions of the Shopping Center actually owned by Landlord from time to time.

Alaska Entity # 135519

State of Alaska
Department of Commerce, Community, and
Economic Development
Corporations, Business and Professional Licensing

CERTIFICATE
OF
AUTHORITY

THE UNDERSIGNED, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that an Application for Certificate of Authority to transact business in this state, duly signed and verified pursuant to the provisions of Alaska Statutes, has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

GMRI, Inc.

to transact business in this state under the name of

GMRI, Inc.

and attaches hereto the original copy of the application for such Certificate.



IN TESTIMONY WHEREOF, I execute this certificate and affix the Great Seal of the State of Alaska on May 13, 2011.

Susan Bell
Commissioner

5423887

AK Entity #: 136519
 Date Filed: 05/13/2011 02:00 PM
 State of Alaska
 Department of Commerce



State of Alaska
 Division of Corporations, Business and Professional Licensing
 CORPORATIONS SECTION
 PO Box 110606
 Juneau, AK 99811-0606
 Phone: (907) 465-2550
 Fax: (907) 465-2574
 Website: www.commerce.state.ak.us/ccc

DO NOT STAMP ABOVE THIS BOX

RECEIVED CORP
 JUNEAU

MAY 13 2011

Division of Corporations, Business
 and Professional Licensing
 (OFFICE USE ONLY)

CC35022

CERTIFICATE OF AUTHORITY

Foreign Business, Non Profit, or Cooperative Corporation

Pursuant to the provisions of the Alaska Statutes, the undersigned corporation applies for a Certificate of Authority and, for that purpose, submits the following statement:

1. The legal name of the corporation: Must contain the word "corporation", "company", "incorporated", "limited" or an abbreviation of one of these words.

GMRI, Inc.

The entity listed above is a:

☒ Foreign Business Corporation ☐ Foreign Non Profit Corporation ☐ Foreign Cooperative Corporation

☒ This foreign entity is active and in good standing in the state of domicile.

2. The assumed name elected to use in Alaska if the legal name is not available:

3. State of domicile, date of incorporation in the state or country of domicile and the period of duration: Duration is the length of time a corporation expects to exist. It may be a specific future date (mm/dd/yyyy) of less than 100 years or "Perpetual".

State of Domicile: FL	Date of Incorporation: 03/27/1968 (mm/dd/yyyy)	Duration: perpetual
-----------------------	---	---------------------

4. The purpose of the corporation and the 6-digit NAICS industry grouping code that most clearly describe the initial activities of the corporation:

Purpose: own and operate full-service restaurants	NAICS Code: 722110
---	--------------------

5. Address of the principal office of the corporation wherever located:

Mailing Address:	PO Box 693011 Orlando, FL 32869		
Physical Address if Mailing Address is a Post Office Box:	1000 Darden Center Dr		
	City: Orlando	State: FL	ZIP Code: 32837

E-mail address:

DS-410 (Rev. 02/24/10)

AKS14 - 01/05/2010 CT System Update

State of Alaska
 Foreign Corporation Formation 6 Page(s)



T14137A077

6. Registered Agent name and address: Must have a physical and mailing address in Alaska

Name:	Corporate Creations Network, Inc.		
Mailing Address:	310 K Street #200	AK	ZIP Code: 99501
Physical Address if Mailing Address is a Post Office Box:			
	City:	AK	ZIP Code:

7. Name and Address of each alien affiliate. If there are no alien affiliates indicate by "None".

Name:	None			
Mailing Address:				
City:	State:	ZIP Code:	Province:	
Country:				

Attach additional sheet if more than one alien affiliate.

8. Number of Authorized Shares: Required for Business and Cooperative Corporations. Zero (0) is not acceptable.

50,000	<input checked="" type="checkbox"/> Common -or- <input type="checkbox"/> Preferred		\$1.00
# of Authorized Shares	Class	Series	Par Value
	<input type="checkbox"/> Common -or- <input type="checkbox"/> Preferred		
# of Authorized Shares	Class	Series	Par Value

9. Number of Issued Shares: If you have issued shares please complete #11

23,970	Common		\$1.00
# of Issued Shares	Class	Series	Par Value
# of Issued Shares	Class	Series	Par Value

10. The names and mailing addresses of the officers and directors of the corporation:

Title	Name	Mailing Address	City	State	ZIP Code
President	William R. White, III	1000 Darden Center Dr	Orlando	FL	32837
Vice President	Joseph G. Kern	1000 Darden Center Dr	Orlando	FL	32837
Secretary	Joseph G. Kern	1000 Darden Center Dr	Orlando	FL	32837
Treasurer	William R. White, III	1000 Darden Center Dr	Orlando	FL	32837
Director	William R. White, III	1000 Darden Center Dr	Orlando	FL	32837
Director					

If necessary, attach additional pages for continuation. Please do not include confidential information such as Social Security Numbers, driver license numbers or date of birth as this record is public information.

05-410 (Rev. 02/24/10)

AR004 - 02/24/10 C.T. System Online

Page 2 of 4

GMRI, Inc.
Attachment to Certificate of Authority

10.

Assistant Secretary	Douglas E. Wentz	1000 Darden Center Dr, Orlando, FL 32837
Assistant Secretary	Colleen M. Hunter	1000 Darden Center Dr, Orlando, FL 32837

11. Name and address of each person/entity owning 5% or more of the issued shares or 5% of any class of issued shares and the percentage of the issued shares owned by that person. If there are no person/entity owning 5% or more please indicate with "NONE". Attach an additional page if necessary. If you have shareholders please complete it.

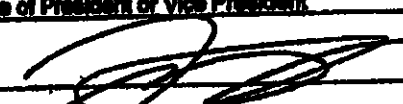
Name	Mailing Address	City	State	ZIP Code	% Issued Shares Held
Darden Restaurants, Inc.	PO Box 693011	Orlando	FL	32869	100%

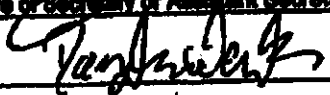
12. If entity is a Cooperative Corporation, list the name and mailing address of at least one member residing in Alaska:

Name:			
Mailing Address:	City:	AK	ZIP Code:

13. The PRINTED name and SIGNATURE of the President or Vice President of the corporation, and its Secretary or an Assistant Secretary, is required. If the same person holds two of these positions, two different people must sign the application unless one person holds all positions.

By signing this application for Certificate of Authority, I attest that the information set forth above is true and correct.

Signature of President or Vice President	Printed Name	Date
	Joseph G. Kern, Vice President	5/3/11

Signature of Secretary or Assistant Secretary	Printed Name	Date
	Douglas E. Wentz, Assistant Secretary	5/3/11

To resolve questions with this filing: Please be aware, this form will become public information.

Contact Name	Contact Phone Number

If you have specific legal questions or concerns about this filing, you are strongly advised to consult an attorney or other professional to assist you.

Mail pages 1-4 and the appropriate filing fee (in U.S. dollars).

- ☒ \$350.00 Foreign Business Corporation
- ☐ \$350.00 Foreign Cooperative Corporation
- ☐ \$50.00 Non-Profit Corporation

Mail to: State of Alaska
Corporations Section
PO Box 110808
Juneau, AK 99811-0808

For additional information or forms please visit our web site at: <http://www.commerce.state.ak.us/ccs>

DISCLOSURE OF CORPORATE PURPOSE USING THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)

A separate Disclosure of Corporate Purpose must be attached to the Application for Certificate of Authority, which most closely describes the activities of the corporation. The NAICS Code must not conflict with the purpose listed in the Articles of Incorporation.

You may view or search the NAICS codes at the website below:

<http://www.commerce.state.ak.us/oon>

The 6 digit NAICS industry grouping code which most clearly describe the initial activities of the corporation is:

7	2	2	1	1	0
---	---	---	---	---	---

State of Florida



Department of State

I certify from the records of this office that GMRI, INC., is a corporation organized under the laws of the State of Florida, filed on March 27, 1968.

The document number of this corporation is 328176.

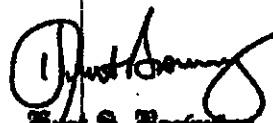
I further certify that said corporation has paid all fees due this office through December 31, 2011, that its most recent annual report/uniform business report was filed on February 22, 2011, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this the
Twenty-ninth day of April, 2011



CR25022 (01-07)


Kurt S. Browning
Secretary of State

Departmental Comments

Zoning and Platting Cases On-line

View Case Comments

[Submit a Comment](#)

**** These comments were submitted by citizens and are part of the public record for the cases ****

Questions? If you have questions regarding a case, please contact Zoning at **907-343-7943** or Platting & Variances at **907-343-7942**.

1. Select a Case:

[View Comments](#)**RECEIVED**

2. View Comments:

OCT 10 2011

Case Num: 2011-127

Assembly conditional use for an alcoholic beverage dispensary use

Site Address: 1148 N MULDOON RD PAD M

Location: An alcoholic beverage dispensary Conditional Use for a restaurant (The Olive Garden Italian Restaurant). Gateway Subdivision, Tract A, Fragment Lot 17B. Generally located north of Glenn Highway, west and south of North Muldoon Road.

[Details](#) | [Staff Report](#) | [submit a comment](#)

**MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION**

Public Comments

10/8/11

Peggy Robinson

1816 Westview Circle

Anchorage AK 99504

I believe the liquor license should be approved without any restrictions that are not also included on other similar licenses. Anchorage has waited years for an Olive Garden and patrons should have the right to have a drink with their pasta.
Peggy

[Zoning & Platting Cases On-line website](#)

MUNICIPALITY OF ANCHORAGE



Planning & Development Services Dept.
Development Services Division

Building Safety

MEMORANDUM

Comments to Miscellaneous Planning and Zoning Applications

DATE: October 25, 2011
TO: Angela Chambers, Manager, Zoning and Platting
FROM: Ron Wilde, P.E.
Building Safety
SUBJECT: Comments for Case 2011-127

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OCT 26 2011

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

No Comment

MUNICIPALITY OF ANCHORAGE



Community Development Department
Development Services Division

Mayor Dan Sullivan

Private Development Section
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OCT 12 2011

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

MEMORANDUM

Comments to Anchorage Assembly Applications/Petitions

DATE: October 12, 2011
TO: Angela Chambers, Current Planning Section Supervisor
FROM: Matthew Hendrick, Plan Review Engineer
SUBJECT: Comments for Assembly Public Hearing date: November 22, 2011

Case No. 2011-127 – A request for concept/final approval of a conditional use to permit an alcohol beverage dispensary use in the B-3SL general business district with special limitations.

Private Development has no objection to the conditional use.

Municipality Of Anchorage
ANCHORAGE WATER & WASTEWATER UTILITY

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OCT 24 2011

MEMORANDUM

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

DATE: October 24, 2011
TO: Angela Chambers, Supervisor, Planning Section, Planning Division
FROM: Paul Hatcher, Engineering Tech III, AWWU *PH*
SUBJECT: **Zoning Case Comments**
Planning & Zoning Commission Hearing November 22, 2011
Agency Comments due October 25, 2011

AWWU has reviewed the materials and has the following comments.

11-127 **GATEWAY TR A FRAGMENT LT 17B, A request concept/final approval of a conditional use to permit an alcoholic beverage dispensary use, Grid SW1140**

1. AWWU water and sanitary sewer are available to this parcel.
2. AWWU has no objection to this conditional use.

If you have any questions pertinent to public water and sanitary sewer, you may call me at 564-2721 or the AWWU planning section at 564-2739, or e-mail paul.hatcher@awwu.biz



MUNICIPALITY OF ANCHORAGE
Traffic Department



MEMORANDUM

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DATE: October 19, 2011

OCT 21 2011

TO: Angela Chambers, Acting Division Manager Zoning and Platting
Division

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

THRU: Stephanie Mormilo, PE, Municipal Traffic Engineer
Leland R. Coop, Traffic Engineer Associate

FROM: Dwayne Ferguson, Assistant Traffic Engineer

SUBJECT: Traffic Engineering comments for the Municipal Assembly Public
hearing to be held on Tuesday, November 22, 2011.

2011-127 A request to approve a conceptual or final approval of a
conditional use to permit an alcoholic beverage dispensary use in
a B-3SL district.

Traffic Engineering has no objections.

Municipality of Anchorage
Treasury Division
Memorandum

RECEIVED

Date: October 20, 2011
To: Angela Chambers
Patty Long
Planning Dept.
From: Diana Flavin, Revenue Officer
Subject: Liquor License Conditional Use Comments

OCT 21 2011
MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

Request for conditional use permit 2011-127 for Olive Garden, Anchorage, AK.

I find no outstanding taxes on this account and have no reason to protest it.

Stewart, Gloria I.

From: Whitfield, David R.
Sent: Thursday, October 20, 2011 7:52 AM
To: Stewart, Gloria I.; Kimmel, Corliss A.
Subject: FW: Revised plat comments

RECEIVED

OCT 20 2011

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

Dave Whitfield

Senior Planner
Community Development Department
Municipality of Anchorage
(907) 343-8329 ph
(907) 249-7919 fx
whitfielddr@muni.org

From: Gray, James D.
Sent: Wednesday, October 19, 2011 2:15 PM
To: Whitfield, David R.
Subject: Revised plat comments

Case 2011-091	Zoning	Fred meyer - Dimond	10/19/2011	JG	1.) Provide "No Parking -
Case 2011-123	Zoning	Fire Station 5	10/19/2011	JG	with D103.6. Show locatio
2011-127	Zoning	1186 N Muldoon Olive			
S-11896-1	Zoning	Garden	10/19/2011	JG	No objection
S-11895-1	Zoning	Mountain Vale Sub	10/19/2011	JG	No objection
	Zoning	Morton Sub	10/19/2011	JG	No objection

James D. Gray, P.E.; EFO
Acting Fire Marshal
Anchorage Fire Department, Fire Prevention Division
267-4970
www.muni.org/prevention; grayjd@muni.org

Posting Affidavit and Historical Information



RECEIVED

OCT 11 2011

PLANNING DIVISION

AFFIDAVIT OF POSTING

Case Number: 2011-127

I, Amanda Shawcross, hereby certify that I have posted a **Notice of Public Hearing** as prescribed by Anchorage Municipal Code 21.15.005 on the property that I have petitioned for Conditional Use. The notice was posted on Oct 10th 2011 which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.

Affirmed and signed this 10 day of October, 2011.

A B Shawcross
Signature

LEGAL DESCRIPTION

Tract or Lot A Fragment Lot 17B
Block _____
Subdivision Gateway Subdivision