



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: April 6, 2022

FROM: Carrie Craig, RLS

RE: #5317 Muse Transfer

Statutory & Regulatory

Authority:

AS 04.11.100(b) Restaurant or Eating Place license

"A license may be issued under this section only if the board determines that the premises to be licensed are a bona fide restaurant or eating place."

AS 04.16.049 Access of persons under the age of 21 to licensed premises

- a) A person under 21 years of age may not knowingly enter or remain in premises licensed under this title unless
 - 1) accompanied by a parent, guardian, or spouse who has attained 21 years of age;
 - 2) the person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining;
 - 3) the person is under 16 years of age, is accompanied by a person over 21 years of age, the parent or guardian of the underaged person consents, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining

3 AAC 304.305 Restaurant or Eating Place License

- a) In AS 04.11.100 and this section, a "bona fide restaurant or eating place" is an establishment, or portion of an establishment, where, during all times that beer or wine is served or consumed,
 - 1) the patron's principal activity is consumption of food; and
 - 2) a variety of types of food items appropriate for meals is available for sale as shown on a menu provided to patrons and filed with the board;
- b) In considering an application for issuance, transfer, or relocation of a restaurant or eating place license, the board will determine the portion of the premises or proposed premises that constitutes a restaurant or eating place, and will license only that portion for the sale and consumption of alcoholic beverages.

3 AAC 304.910 Restaurant Definition

- a) The board will use the following guidelines when determining what qualifies as a bona fide restaurant or eating place:
 - 1) the applicant demonstrates minimum standards for a kitchen to prepare food onsite, in accordance with 18 AAC 31.040(c) or municipal ordinance;
 - 2) the applicant provides a menu of food items, including entrees, that are regularly sold and prepared by the licensee on the licensed premises;
 - 3) the establishment has tables or counters for consuming food in a dining area on the premises; and
 - 4) the applicant includes a detailed plan to
 - A. prevent access to alcohol by minors; and
 - B. ensure that introduction or removal of alcoholic beverages is in compliance with AS 04.16.120.

Background: At the November 2, 2021 meeting the ABC board approved the transfer to Muse Restaurant LLC with delegation. On November 10, 2021 Enforcement Supervisor, Chief Hoelscher, performed the inspection of the premises and did not issue the license due to diagram conflicts.

Previous Background: On August 31st, Director Klinkhart, Rick Helms and Carrie Craig meet with the applicant and Mr. Ernouf to review a proposal to remove the 4th floor from the proposed licensed premises, which staff was agreeable to.

At the August 17, 2021 meeting, the board heard from staff, the applicant and their counsel, Sherman Ernouf and after discussion, the board voted to table the consideration of the transfer application pending more information regarding the proposed premises.

At the July 9, 2019 ABC meeting, the board considered the transfer of a Restaurant/Eating Place license #5317 from NANA Management Services, LLC to Muse with Laura Cole (current transferor). Staff recommendation at that time was to ask the board to reduce the proposed licensed premises only to the restaurant area (in accordance with AS 04.06.090(c)) and approve the transfer.

At the time, Director McConnell had referenced the above statutes and regulations in the board memo and expressed concern that the operation of the license would not be compliant with the requirements for a Restaurant/Eating Place license, as well as the risk of museum patrons under the age of 21 and not accompanied by a parent or guardian entering the premises.

The board listened to testimony from Sherman Ernouf and Dan Coffey, legal counsel for the licensee, and Brian Steele (Deputy Director of Anchorage Museum) in which they said they understood the Director's concerns but the premises had been licensed for years in a similar manner. They were concerned about the time and effort it would take to address statute issues and proposing changes with the legislature, so they asked the board to allow them to keep their previous approved licensed premises. The board unanimously agreed, but there were some concerns from Member Rex Leath with approving a license that did not seem to match the statute.

With this current transfer of ownership application in the Municipality of Anchorage, the applicant and their counsel are requesting a similar, yet slightly reduced licensed premises as the 2019 proposal.

Staff Recommendation:

Staff asks the board to consider the new proposed licensed premises, decide if it is in accordance with AS 04.06.090(c) and approve the transfer with delegation.

Attachments: New Proposal
Inspection Report
Previous Proposal

ANCHORAGE MUSEUM ALTERNATING PREMISES PROPOSAL

- The Museum Atrium shall be approved as a licensed space for alcohol to be served, during all times outside of regular business hours. During closed times, all scheduled events and programs will fall under one of the following categories: a) invite-only, b) through advance registration, or c) ticketed in advance or at door
 - Atrium is defined as the first-floor central area including the food kiosk (as depicted on the approved floor plans).
 - Times that Museum is closed to the public is defined as any time outside of Museum's listed open/operating hours for the general public.
 - There will be occasional special events like weddings where a minor may be on premises after hours. This will be 10% of the time or less. For these mixed-age events, hand-stamps or wrist bracelets would be used to identify those patrons over 21 with TAPS-card holding bartenders also serving as a control point.
 - The Muse Restaurant will be open for alcohol and food service during operating hours.

NOTE:

- For events/rentals such as proms in which ALL, or at least the vast majority, of attendees are under the age of 21, the Museum would email/fax the Alcohol Board in advance of the event to declare that on that specific date, the atrium would NOT be licensed for alcohol. There would be absolutely no alcohol at these events.



Department of Commerce, Community, and Economic Development
 Alcoholic Beverage Control Board
 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501
 Tel. (907) 269-0350

LICENSED PREMISES INSPECTION REPORT

Case No. AM 211239

Premises, DBA Muse	Date: 11/10/21	Time: 10:00 AM
Address (Street No. RR No. etc., City, Zip code) 625 C Street, Anchorage, AK 99501		Type of License Restaurant/Eating Place
License or Permit Number 5317	Type of Inspection: <input checked="" type="checkbox"/> Initial <input type="checkbox"/> Routine <input type="checkbox"/> Requested <input type="checkbox"/> Follow-Up	
Important Notice Any item determined to be unsatisfactory must be corrected or the Alcoholic Beverage Control Board may take action to suspend or revoke the license in accordance with AS 04.11.370(3)		

GENERAL ITEMS

	Yes	No	See Comments
1. Is the DBA the same as what is indicated in the ABC master file? 3 AAC 304.185	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. License posted correctly? 3 AAC 304.185, pg. 101 / AS 04.11.630	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Does the premises have a restaurant designation permit? 3 AAC 304.745	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. Does the licensee employ persons under 21 years of age? AS 23.10.355	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Warning signs posted? AS 04.21.065	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6. Do employees/supervisors have proof of current alcohol server training? AS 04.21.025(c), 3AAC304.465	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7. Do you expect to be closed more than 30 days in the near future? 3AAC304.170 AAC 304.195	<input checked="" type="checkbox"/>	<input type="checkbox"/>	January?
8. Do premises appear safe / neat? AS 04.21.030(2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Is any off-premises storage area approved by the board? AS 04.21.060(1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Not Approved
10. Have there been any physical changes to the licensed premises? 3 AAC 304.185(c)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Is a duplicate license required/appropriately displayed? AS 04.11.090(e)	<input type="checkbox"/>	<input type="checkbox"/>	
12. If new license inspection, will they meet the 240 hour operation requirements by the end of the calendar year? AS 04.11.330 (3) AAC 304.170 (j) (1-7)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. Is the license premise in a Rural area? (50 miles from a statewide road system)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

MISCELLANEOUS

14. Does the facility have the number of rooms required by Statute? AS 04.11.400	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Is there an operating restaurant or are there kitchens in the majority of the rooms? AS 04.11.400	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

off-site storage - send application -
 Not operating kitchen at this time - only snack bar
 04.16.049 - Diagram conflict - recommend reducing
 area in atrium
 Licence not issued - will write memo -

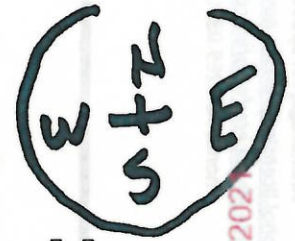
Owner/Manager/Agent Name: Brian Steele	Contact #: 907 727 4892	Investigator Name: James Hoelscher
Driver's License Number / Date of Birth: 11-21-66		Investigators Signature:
Alcohol Server Education Card Number / Expiration Date: NO TAB		Rank or Title: Special Investigator I

ANCHORAGE MUSEUM
625 C Street
ANCH. AK. 99501

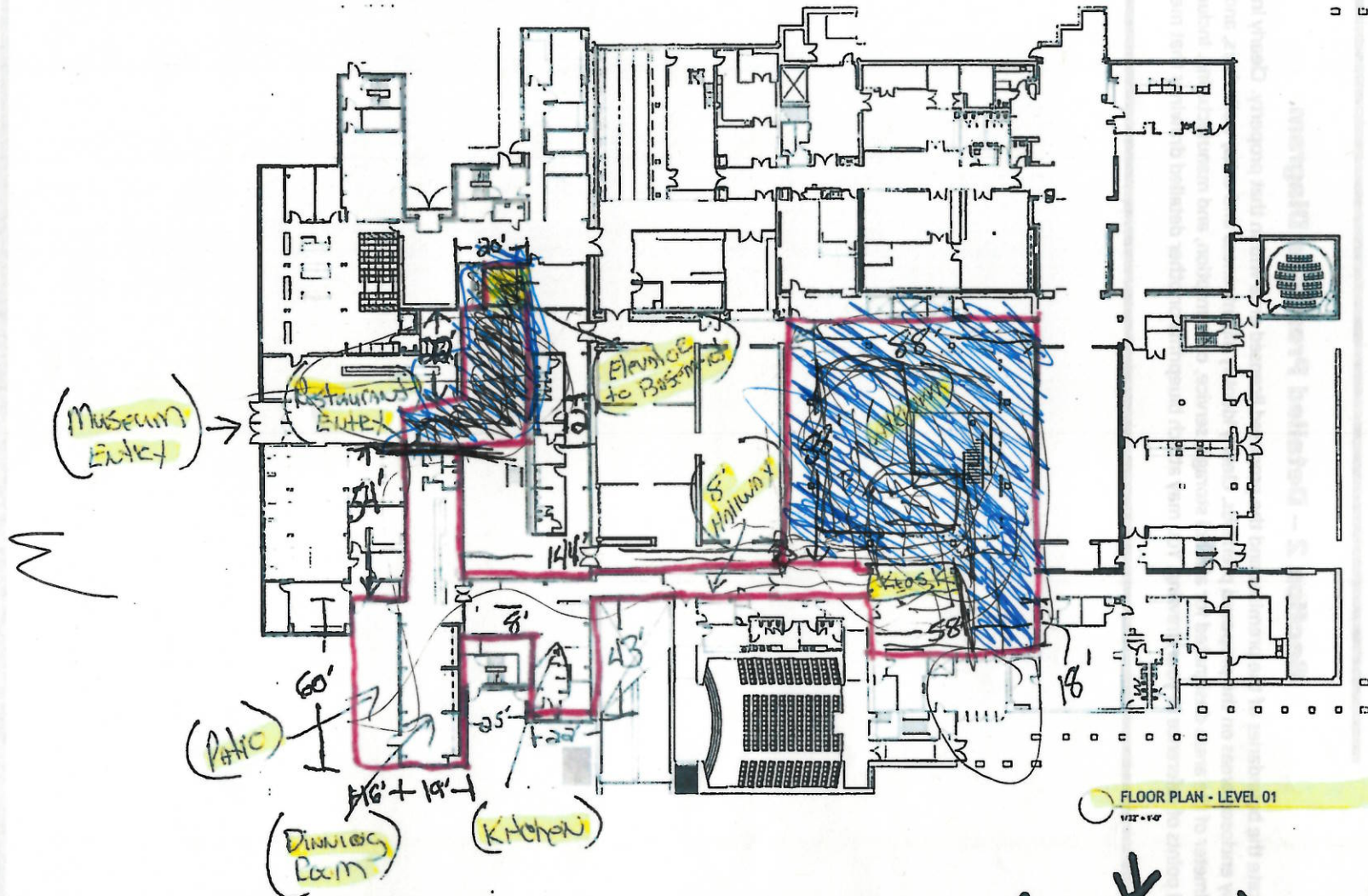
PROPOSED PREMISES

2021

(6th Ave)
↑



AMCO Received 7/8/2021



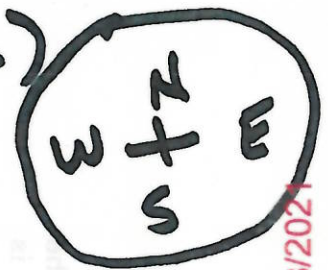
FLOOR PLAN - LEVEL 01
1/2" = 1'-0"

□ = 15,887 sq. ft. (1st floor)

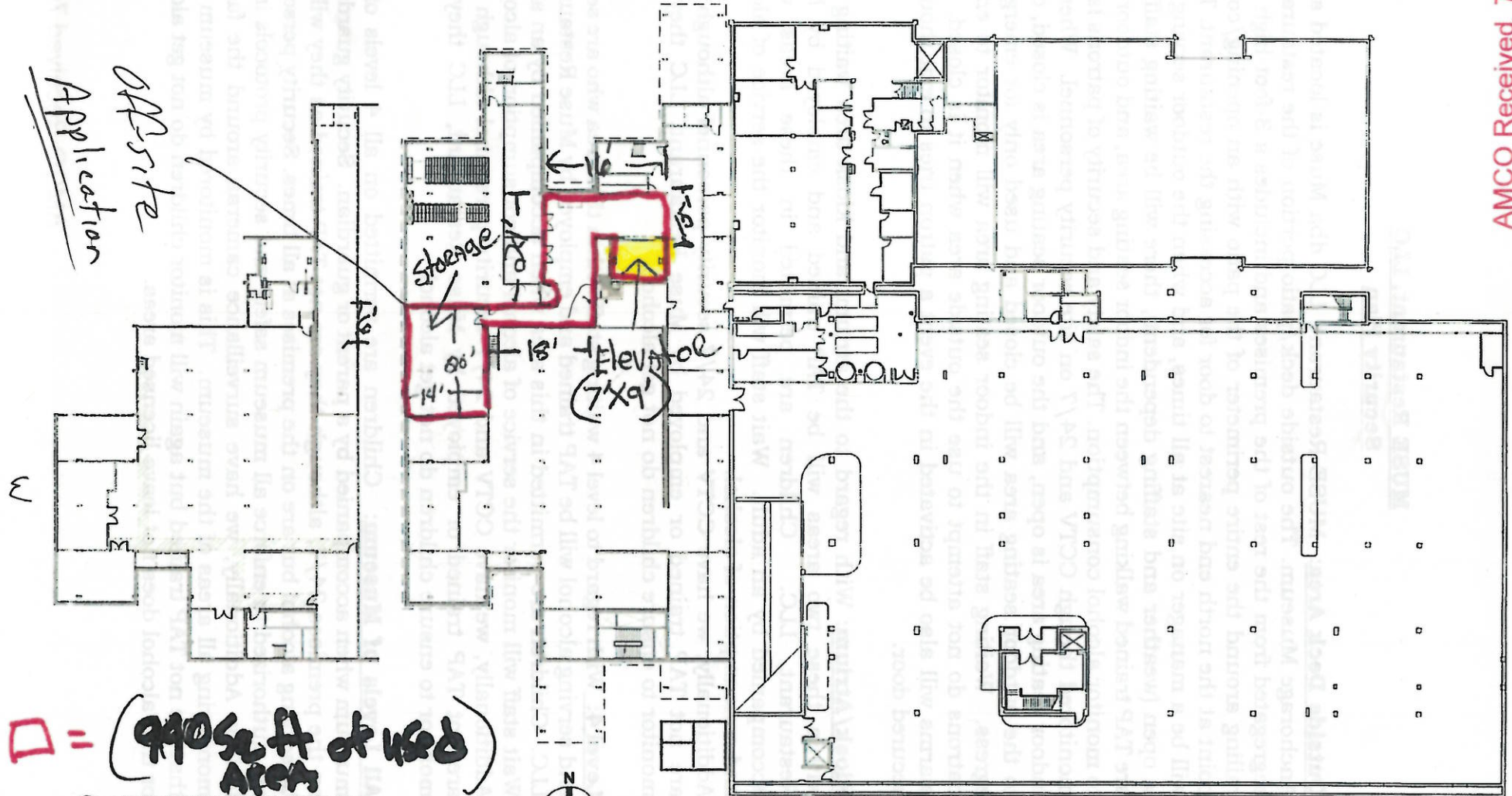
(7th Ave)
↓

Anchorage Museum - "Basement"
 625 C Street
 ANCH AK 99501

(6th AVE.)
 ↑



Application
 OFFSITE



□ = (990 sq ft of USED AREA)

LOWER BASEMENT PLAN - LEVEL 00 B
 1/32" = 1'-0"

BASEMENT PLAN - LEVEL 00 A
 1/32" = 1'-0"

AMCO Received. 7/8/2021

(7th AVE)

LAW OFFICES OF ERNOUF & COFFEY, P.C.

P.O. Box 212314
ANCHORAGE, ALASKA 99521
(907) 274-3385

MEMO TO ALCOHOL BEVERAGE CONTROL BOARD

TO: CHAIRMAN WALUKIEWICZ, MEMBERS OF ALCOHOL
BEVERAGE CONTROL BOARD

FROM: W. SHERMAN ERNOUF

RE: **ANCHORAGE MUSEUM (MUSE) PREMISES REDUCTION**

DATE: October 25, 2021

At the September 2021 ABC Board Meeting, the Board tabled consideration of the transfer of a restaurant eating place liquor license to the Anchorage Museum at the Museum's request and due to concern voiced by the Board over the size of the premises being proposed.

After the Board meeting, we met with the Director and his team to discuss potential solutions to address the Board's concerns. The outcome of the meeting was positive and we believe resulted in a solution that will work for the Museum, this Board, and which is appropriate under Title 4 of Alaska law.

First, the whole fourth floor has now been excluded from the premises diagram. As you will recall, this was one of the main concerns voiced by staff and this Board. This space been eliminated and will be utilized using catering and/or special events permits when needed.

Second, alcohol service will be contained to the Muse Restaurant and the Museum's Kiosk/Atrium area. This area is a confined space which can be monitored and secured by the Museum's roaming security team, food service employees who will be TAP trained, and by their security team monitoring video surveillance.

Lastly, private functions and events will occur in the Muse and in the Atrium and Kiosk areas. These private events would be for adults and no minors would be on the premises.

The Anchorage Museum respectfully requests approval of the transfer with the reduced premises discussed herein.