



## MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: May 11, 2022

FROM: Kristina Serezhenkov, OLE

RE: #6035 49<sup>th</sup> State Spirits and Gifts @  
The Rail

**Statutory &  
Regulation  
Authority:**

AS 04.11.480(a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license. The procedures for action on a protest of continued operation of a license are the same as the procedures for action on a protest of a renewal application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.

AS 04.11.510(b)(1): "if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial must inform the applicant that the applicant is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, the applicant is then entitled to a formal hearing conducted by the office of administrative hearings (AS 44.64.010); if the applicant requests a formal hearing, the office of administrative hearings shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested"

3 AAC 304.145(h) "The board may uphold a protest of an application or continued operation with a single abeyance period not to exceed 180 days if the local governing body indicates that the protest is subject to rescission and that it will be withdrawn if the applicant meets conditions set by the local governing body. If the local governing body notifies the board within the period of the abeyance that the protest has been removed, the application or continued operation is approved when all other applicable requirements have been met. If the local governing body has not notified the board within the period of the abeyance that it has removed the protest, the application or continued operation is denied. The period of abeyance may not be extended or renewed."

**Background:** This new Package Store license application was deemed complete March 31, 2022. On May 11, 2022 the Municipality of Anchorage protested the new application pending approval by the Assembly of a special land use permit.

**Staff Recommendation:** Consider the Municipality of Anchorage protest and determine if the protest is arbitrary, capricious and unreasonable. If the protest is deemed not to be arbitrary, capricious and unreasonable then deny the application with a 180-day abeyance.

**Attachment:**

Municipality of Anchorage Protest

AB-00

AB-02



# Municipality of Anchorage

P.O. Box 196650 Anchorage, Alaska 99519-6650 Telephone: (907) 343-4316 Fax: (907) 249-7533 [www.muni.org/clerklicensing](http://www.muni.org/clerklicensing)

## Office of the Municipal Clerk Licensing

May 11, 2022

Ms. Carrie Craig  
Alaska Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Ave. Ste. 1600  
Anchorage, Alaska 99501

RE: Anchorage Assembly Action on Liquor Licenses

Dear Ms. Craig:

The Anchorage Municipal Assembly at its regular meeting on **May 10, 2022**, took the following actions:

### **WAIVE OF PROTEST**

#### **New Liquor License**

- **Restaurant/Eating Place**  
Sadie Romo's Restaurant, LL#6025 – AM 242-2022  
Tatlioni Restaurant, LL#5986 – AM 245-2022

#### **Transfer Liquor License**

- **Beverage Dispensary**  
Bernie's Bungalow Lounge, LL#3781 – AM 277-2022
- **Beverage Dispensary-Duplicate**  
Bernie's Bungalow Lounge, LL#5732 – AM 273-2022  
Bernie's Bungalow Lounge, LL#4425 – AM 274-2022  
Bernie's Bungalow Lounge, LL#5731 – AM 276-2022

#### **Renewal Liquor License** – AM 275-2022

- **Beverage Dispensary**  
Panhandle Bar, LL#825;  
Lil' Babes Bar & Grill, LL#1811;  
Los Arcos Restaurant, LL#3953;  
El Dorado, LL#135;  
Sullivan's Steakhouse, LL#3412;
- **Restaurant/Eating Place**  
Varsity Sports Grill, LL#5327;
- **Recreational Site**  
Alaska Airlines Center, LL#5328;
- **Club**  
V.F.W. Post #9978 LL#1203

## PROTEST

### New Liquor License

- **Package Store**  
49<sup>th</sup> State Spirits & Gifts @ The Rail, LL#6035 – AR 2022-149  
Pending approval by the Assembly of a special land use permit.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.
- **Restaurant/Eating Place**  
49<sup>th</sup> State Brewing @ The Rail, LL#6034 – AR 2022-152  
Pending approval by the Assembly of a special land use permit.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.

### Transfer Liquor License

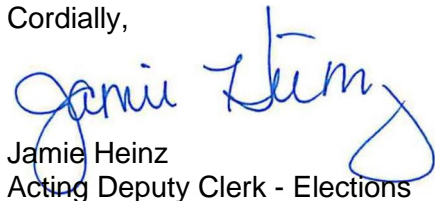
- **Beverage Dispensary**  
Yes International Bistro, LL#1090 – AR 2022-153  
Pending approval by the Assembly of a special land use permit.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.

### Renewal Liquor License

- **Restaurant/Eating Place**  
I Luv Sushi, LL#5705 – AR 2022-150  
Pending certification from the Building Safety Official.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.
- **Beverage Dispensary**  
Burrito King, LL#4109 – AR 2022-154  
Pending certification from Land Use Enforcement.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.
- **Beverage Dispensary-Tourism**  
Sushi on the Fly, LL#5455 – AR 2022-151  
Pending payment in full of taxes owed to the Municipality.  
-Per 3 AAC 304.145(d) the applicant was given the opportunity to defend their application by public hearing at the May 10, 2022 Assembly Meeting.

If you require additional information or if I can be of any assistance, please contact me.

Cordially,



Jamie Heinz  
Acting Deputy Clerk - Elections

CC: Ryan Yelle, Current Planning  
Above listed licensees.



Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

**What is this form?**

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04** of **Alaska Statutes** and **Chapter 304** of the **Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

**This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.**

**Section 1 – Establishment and Contact Information**

Enter information for the business seeking to be licensed.

Licensee:	Northern Hospitality Group, Inc				
License Type:	Package Store License	Statutory Reference:	04.11.150		
Doing Business As:	49th State Spirits and Gifts @ The Rail				
Premises Address:	721 Depot Drive Suite #50				
City:	Anchorage	State:	Ak	ZIP:	99501
Local Governing Body:	Municipality of Anchorage				
Community Council:	Downtown Community Council				

Mailing Address:	645 W 3rd Ave				
City:	Anchorage	State:	Ak	ZIP:	99501

Designated Licensee:	Jason Motyka				
Contact Phone:	907-229-5151	Business Phone:	907-929-2337		
Contact Email:	jmotyka@nhgalaska.com				

Seasonal License?    Yes     No     If "Yes", write your six-month operating period: \_\_\_\_\_

OFFICE USE ONLY					
Complete Date:	3-31-22	License Years:		License #:	4035
Board Meeting Date:	4-12-22	Transaction #:	100348605		
Issue Date:		BRE:	KRS		



Alaska Alcoholic Beverage Control Board  
**Form AB-00: New License Application**

**Section 2 – Premises Information**

Premises to be licensed is:

- an existing facility       a new building       a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

Denali Montessori Elementary School 1.1 Mile

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

The Holy Mass Cathedral 1553 Feet

**Section 3 – Sole Proprietor Ownership Information**

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4.

If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an:  applicant       affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an:  applicant       affiliate

Name:					
Address:					
City:		State:		ZIP:	



Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

**Section 4 – Entity Ownership Information**

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more of the stock in the corporation*, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	David McCarthy				
Title(s):	President	Phone:	907-599-0052	% Owned:	70
Address:	645 W 3rd Ave				
City:	Anchorage	State:	Alaska	ZIP:	99501

Entity Official:	Jason Motyka				
Title(s):	Vice President/Secretary	Phone:	907-229-5151	% Owned:	30
Address:	645 W 3rd Ave				
City:	Anchorage	State:	Alaska	ZIP:	99501

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
 alcohol.licensing@alaska.gov  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350



## Form AB-00: New License Application

Alaska Alcoholic Beverage Control Board

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10033804	AK Formed Date:	12/02/2015	Home State:	Alaska
Registered Agent:	Jason Motyka	Agent's Phone:	907-229-5151		
Agent's Mailing Address:	645 W 3rd Ave				
City:	Anchorage	State:	Alaska	ZIP:	99755

Residency of Agent: Yes  No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

Yes  No

### Section 5 - Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes  No

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

Yes  No

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s): *Jason Motyka and David McCarthy - see Addendum*

4946,671,3370,4938,5297,4058,4059,5554,5555,5556,5557,5558,5744,5745,5648  
 4946,671,3370,4938,5297,4058,4059,5554,5555,5556,5557,5558,5744,5745,5648  
 4946,671,3370,4938,5297,4058,4059,5554,5555,5556,5557,5558,5744,5745,5648  
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 4946,671,3370,4938,5297,4058,4059,5554,5555,5556,5557,5558,5744,5745,5648

*See  
 attached  
 page*

Communication with AMCO staff:

*The Overlock 597, 494 Stake Brewery, 4058, 4059, 5554, 5555, 5556, 5557, 5558, 5648*

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

Yes  No

If "Yes", disclose the name of the individual and the reason for this authorization:

*Daniel J McCarthy, Legal Counsel*



Addendum Section 5

dba's

5744 Brewery - 49th State Brewing Alaska Pacific Beverage Company LLC  
5745 Winery - 49th State Brewing Jason Motyka - 5% Gary Klopfer 85%, David McCarthy 10%

Master  
→  
→  
→

4946 Brewpub Denali Visions 3000 Corporation  
49th State Brewing Company  
3370 BDL-Tourism Seasonal Jason Motyka 50% and David McCarthy 50%  
Denali Park Salmon Bake  
671 BDL  
49th State Brewing Company

4938 REPL- Seasonal Denali Hospitality Group Inc.  
Prospectors Pizza Jason Motyka 50% and David McCarthy 50%

5297 BDL - Seasonal Latitude 63 North Inc.  
Denali Crows nest Cabins  
The Overlook Restaurant Jason Motyka 50% and David McCarthy 50%

4058 BDL Northern Hospitality Group Inc.  
49th State Brewery  
4059 Brewpub Jason Motyka 50% and David McCarthy 50%  
" "  
5554 BDL-Dup "  
" "  
5555 BDL-Dup- Pending Construction "  
" "  
5556 BDL-Dup- Pending Construction "  
" "  
5557 BDL-Dup "  
" "  
5558 BDL-Dup "  
" "  
5648 Package Store  
49th State Spirits and Gifts



Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

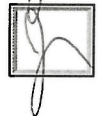
I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.



I certify that all proposed licensees have been listed with the Division of Corporations.



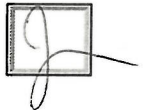
I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.



I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.



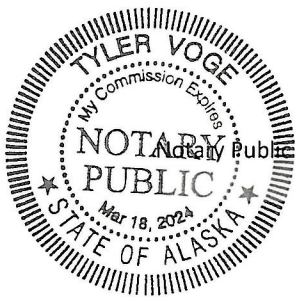
I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.



As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

Printed name of licensee  
Jason Motyka



Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 3/18/2024

Subscribed and sworn to before me this 10<sup>th</sup> day of February, 20 22.



Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350

## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

**The second page of this form is not required.** Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

**This form must be completed and submitted to AMCO's main office before any license application will be considered complete.**

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.



### Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Northern Hospitality Group Inc	License Number:	New		
License Type:	Package Store				
Doing Business As:	49th State Spirits and Gifts @ The Rail				
Premises Address:	721 Depot Drive Suite #50				
City:	Anchorage	State:	AK	ZIP:	99501



Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board  
**Form AB-02: Premises Diagram**

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**Section 2 – Detailed Premises Diagram**

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, consumption, and manufacturing. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.

See Attached

- ① Ladies RM
- ② Men's RM

③ Beer Storage/Wine Storage/Alcohol Stored

④ Kitchen

⑤ Service Area/Alcohol Sold

⑥ Seating Area/  
Dining

⑦ Main Entrance

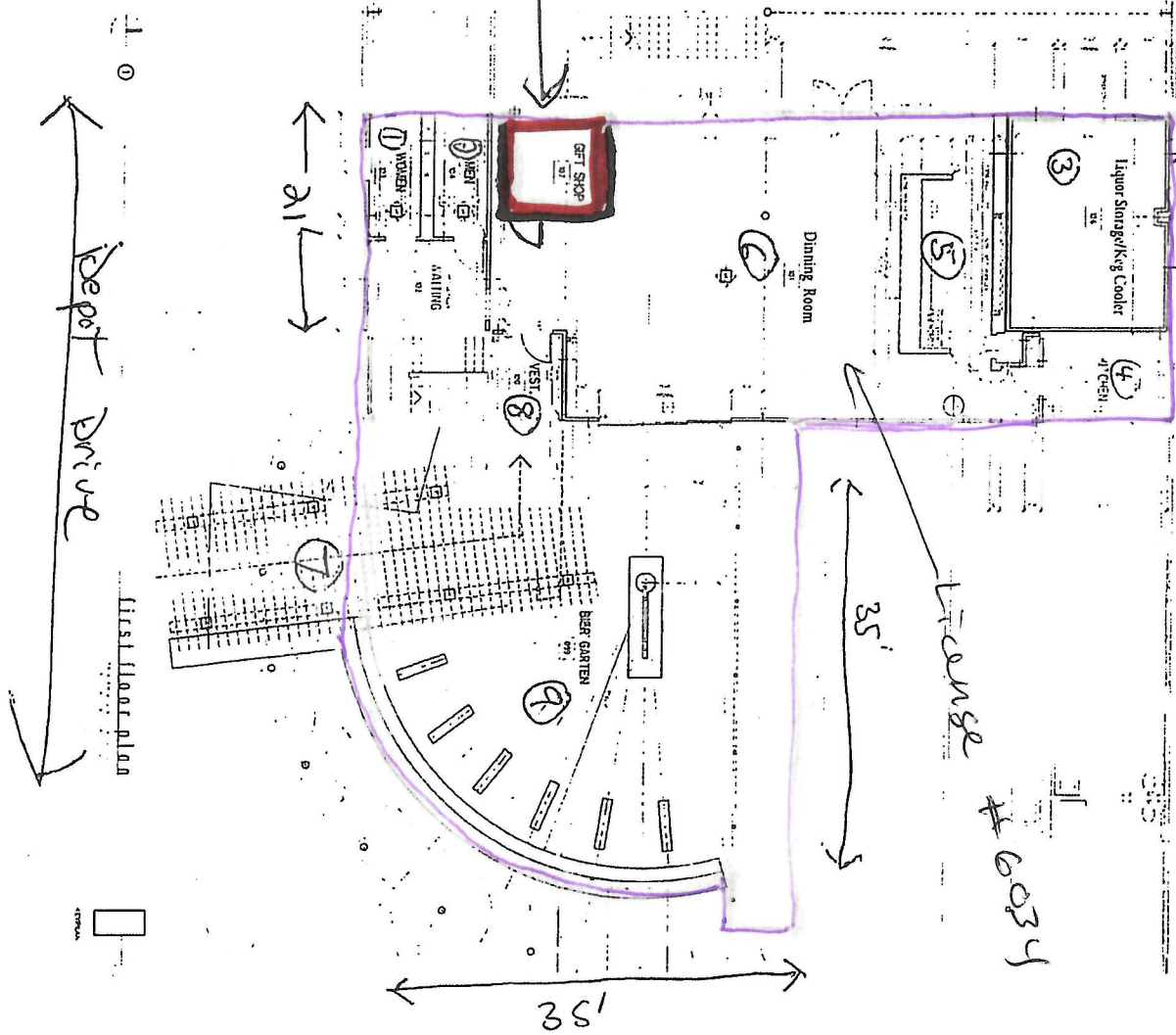
⑧ Restaurant entrance

⑨ Outdoor Seating

49m State Brewing @ The Rail  
721 Depot Drive suite #50

License  
#6035

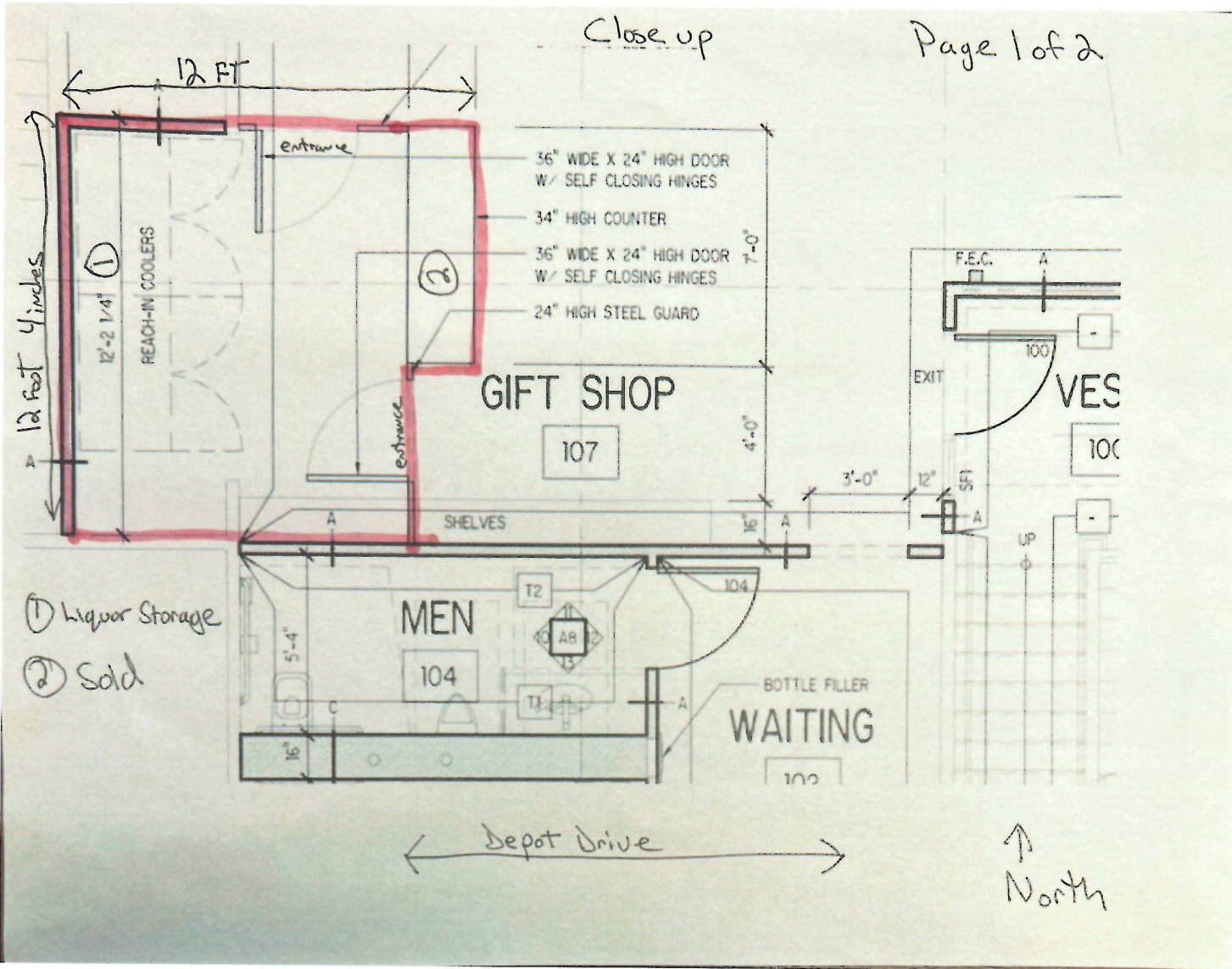
License  
#6034



43rd STATE BREWERY  
TASTING ROOM  
RESTAURANT  
LICENSE # 6035  
300 N. ...  
A3

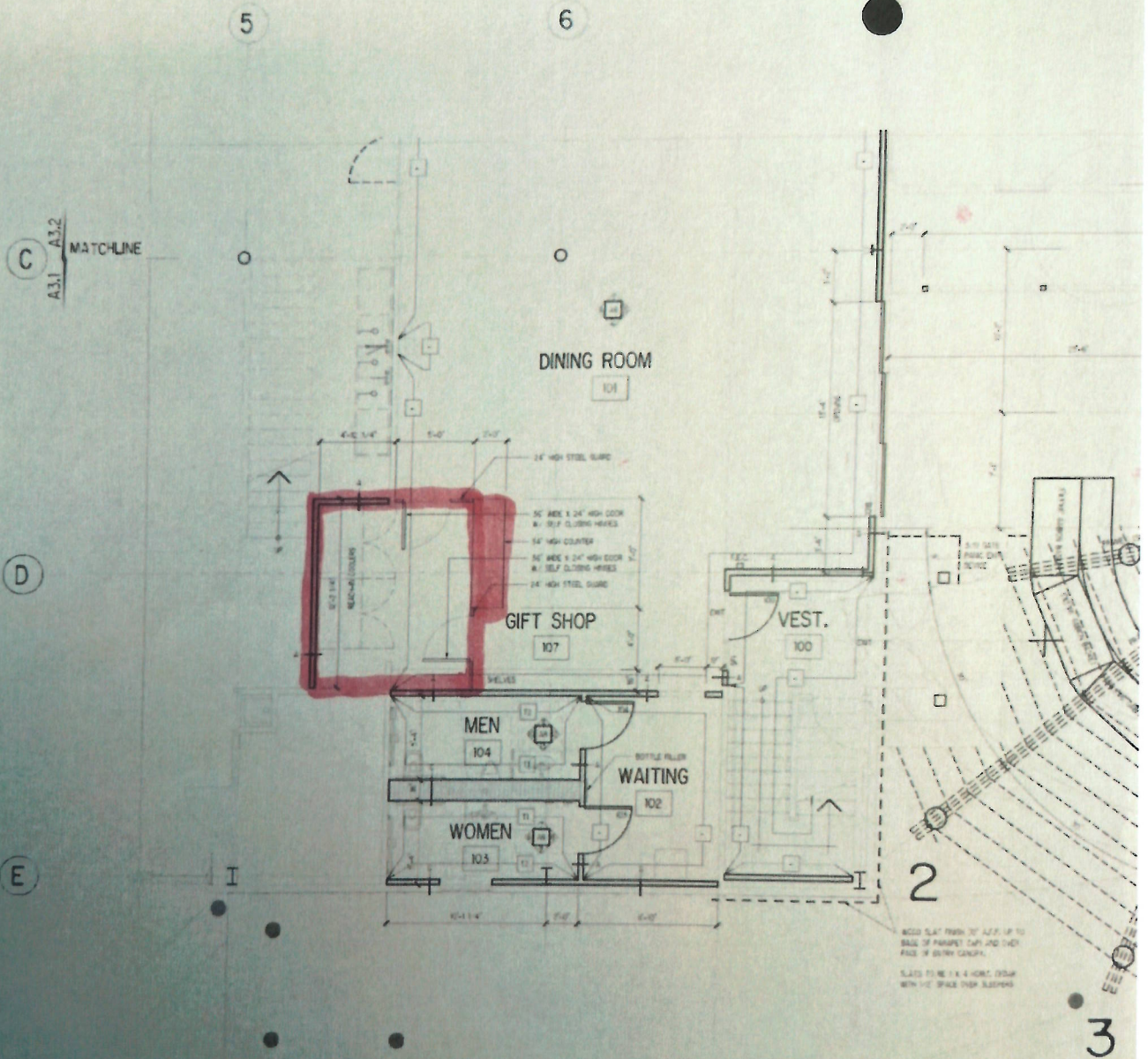
Close up

Page 1 of 2



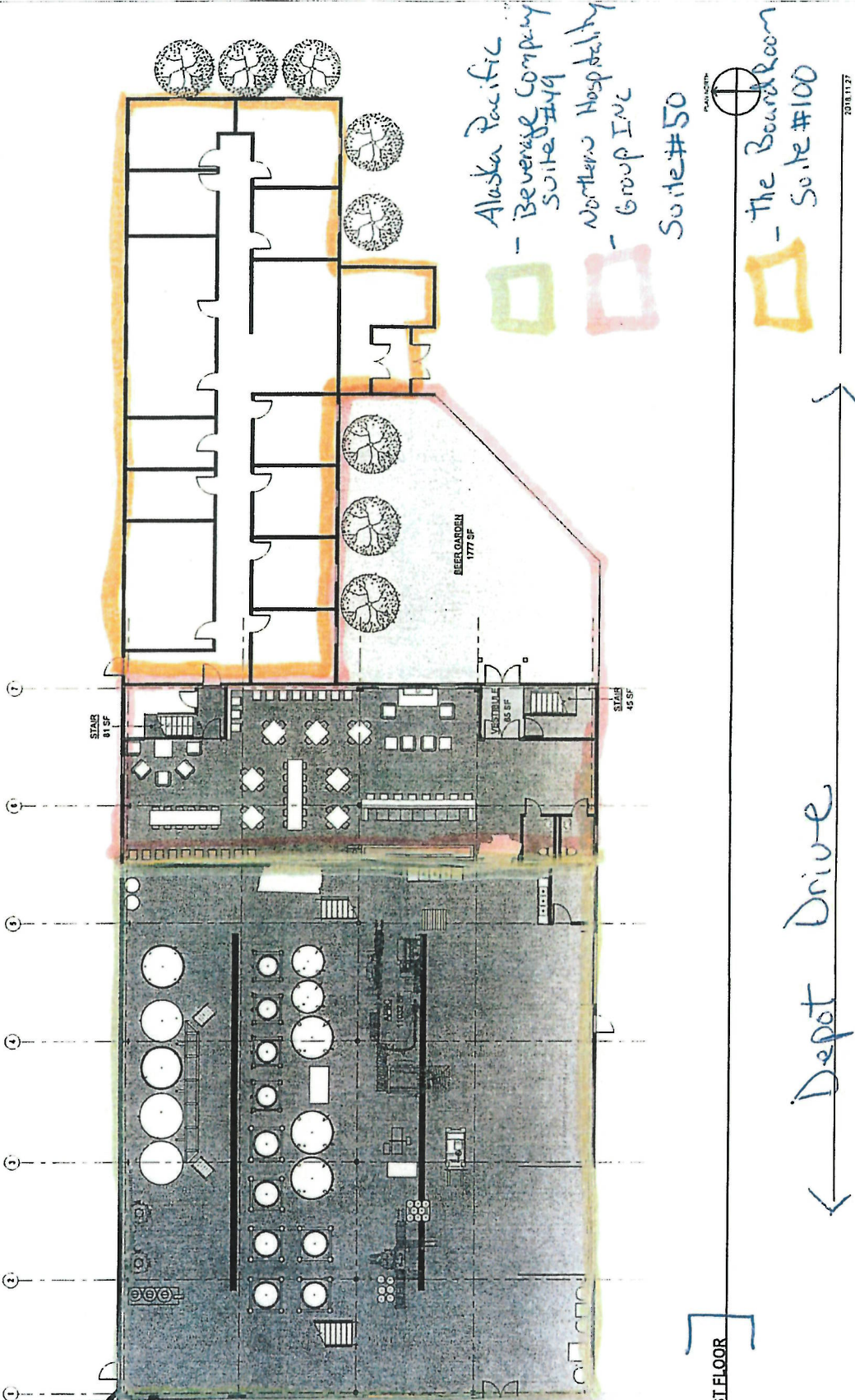
- ① Liquor Storage
- ② Soda

Overview  
Page 2 of 2



↑  
North

← Depot Drive →



Alaska Pacific  
 - Beverage Company  
 Suite #100  
 Northern Hospitality  
 Group INC  
 Suite #50

- The Board Room  
 Suite #100

PLAN NORTH

2018.11.27

RENTABLE PLAN - FIRST FLOOR  
 18" x 11"

RIM

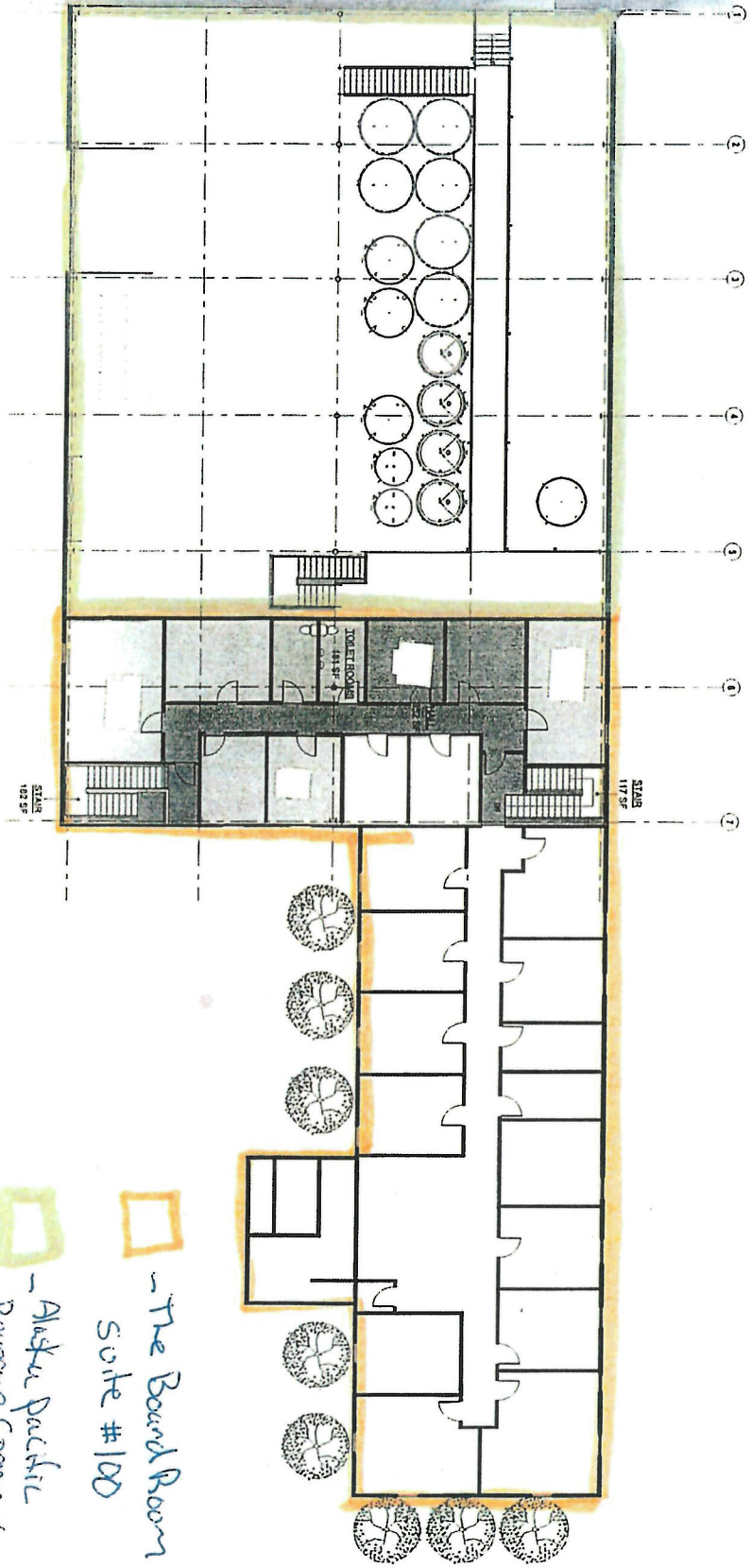
← Depot Drive



RENTABLE PLAN - SECOND FLOOR

RIM

Depot Drive



□ - The Board Room  
 Suite # 100

□ - Alaska Pacific  
 Beverage Company  
 Suite # 50

