



MEMORANDUM

TO: Robert Klein, Chair and
Members of the Board

FROM: Cynthia Franklin
Director, ABC Board

DATE: October 18th 2016

RE: Dimitri's #5491

This is an application for a new restaurant/eating place license in the City of Bethel (Bethel). The application was approved with delegation by the board at its meeting on July 20, 2016 pending multiple approvals and waivers.

The City of Bethel (Bethel) has now issued a timely protest because their Conditional Use Permit has not yet been approved per municipal code and the proposed premises is not yet in compliance with Alaska's Fire and Life Safety Regulations. Additionally DEC has filed an objection and the State Fire Marshal has denied approval for the license. Details are as follows:

Date Notification sent to Bethel:	May 23, 2016
Date Protest received:	July 25, 2016
Basis for Protest:	Conditional Use Permit not yet issued per Bethel City Code 5.08.060. Applicant has not complied with Alaska Fire and Life Safety Regulations.
3 AAC 304.145(d) met?	Yes, matter was on agenda for public hearing at Bethel City Council meeting held July 12, 2016.
Response from Fire and Life Safety:	"DENIED- Fire and Life Safety has an open file on Dimitri's Restaurant. We have requested information from the owner with no response dating back to 2015"
Response from DEC:	"I do not recommend approval. The facility does not have a Certified Food Protection Manager on staff. I contacted this facility twice by phone since 5//23/16 when this request was received and the



owner has not demonstrated effort to correct this repeat violation.”

Recommendation:

Uphold protest and objections and deny issuance of license per AS 04.11.320(a)(1), not in the best interests of the public, because the applicant cannot comply with AS 04.21.030(2) requiring compliance of the premises with public health, fire and safety codes and ordinances of the state and municipality having jurisdiction.

Introduced by: Mayor Richard Robb
Date: July 12, 2016
Action: Passed
Vote: 5-0

CITY OF BETHEL, ALASKA

Resolution # 16-24

A RESOLUTION OF THE CITY OF BETHEL, CITY COUNCIL STATING ITS PROTEST REGARDING THE NEW RESTAURANT/EATING PLACE LIQUOR LICENSE #5491 FOR DIMITIRI'S RESTAURANT, LOCATED AT 281 4TH AVE., BETHEL, OWNED BY MARO KARGAS

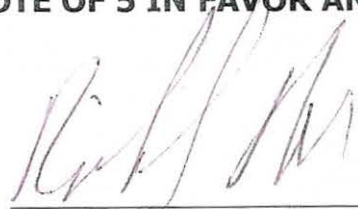
- WHEREAS,** Maro Kargas made an application with the Alaska Alcohol and Marijuana Control Office (AMCO) and has paid the required fee for a new Restaurant/Eating Place Liquor License #5491, to be used for Dimitri's Restaurant, located at 281 Fourth Avenue, Bethel, Alaska 99559;
- WHEREAS,** the City Clerk received a copy of this application on May 23, 2016 and has determined that the last day for the Council to file a protest is July 22, 2016;
- WHEREAS,** City of Bethel Administration was provided notice of the Dimitri's Restaurant Liquor License application on May 23, 2016, Administration submitted a report to the Bethel City Council on June 10, 2016 (Attachment) with the following findings:
1. Dimitri's Restaurant has not complied with Bethel Municipal Code 5.08.060, which requires a Conditional Use Permit, be obtained from the City for retail sales or dispensing of alcoholic beverages.
 2. Dimitri's Restaurant is not in compliant with Alaska's Fire and Life Safety Regulations;
- WHEREAS,** Alaska Statutes 04.11.420 Zoning Limitations, states, in part: "a person may not be issued a license or permit in a municipality if a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages unless a variance of the regulations or ordinance has been approved;"
- WHEREAS,** as of June 30, 2016, Dimitri's Restaurant has not applied for and has not been granted a conditional use permit from the City of Bethel, as required under Bethel Municipal Code 5.08.060, Conditional Use Permit Required;
- WHEREAS,** Dimitri's Restaurant was inspected by the City of Bethel Fire Chief on May 31, 2016; during this inspection thirteen violations of the Alaska's Fire and Life Safety Regulations were identified (Attachment);

Introduced by: Mayor Richard Robb
Date: July 12, 2016
Action: Passed
Vote: 5-0

WHEREAS, the City Council under the authority of Bethel Municipal Code 5.08.030 Subsections 7, Dimitri's does not have adequate parking at the facility; Subsection 9, Dimitri's is not in compliance with state and local fire, health and safety Codes; Subsection 12, with the proximity to a school, 160 feet from the property line of the Lower Kuskokwim School District property, the location detrimentally impacts children due to the exposure to alcohol activities and public safety issues with people departing the area after consuming alcoholic beverages."

NOW, THEREFORE, BE IT RESOLVED the Bethel City Council hereby protests the issuance of Restaurant Eating Place Liquor License for Dimitri's for the reasons listed above.

ENACTED THIS 12th DAY OF JULY, 2016 BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.



Richard Robb, Mayor

ATTEST:

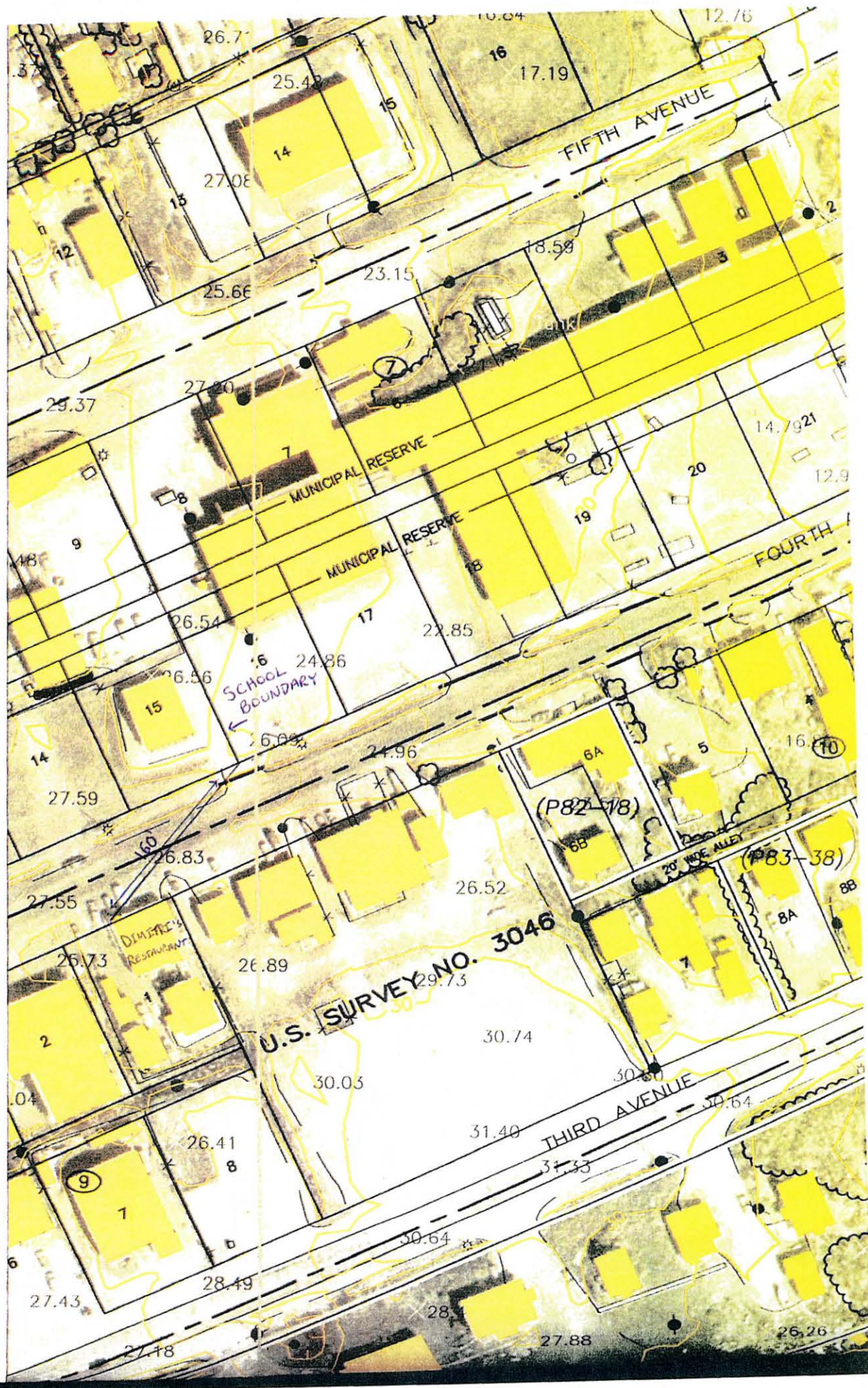


Lori Strickler, City Clerk

Dimitri's Restaurant Location

1" = 100 FEET

DISTANCE FROM
FRONT ENTRANCE
OF DIMITRI'S
RESTAURANT TO
OUTER BOUNDARY
LINE OF SCHOOL
(160 FEET)





Lower
Kuskokwim
School
District

News and Announcements

A Letter to Ayaprun Elitnaurvik and KLA Parents.



LKSD workers are preparing the Kilbuck fire debris for cleanup.

On Tuesday, June 21, 2016 Superintendent Daniel Walker sent the following email message to the parents of Ayaprun Elitnaurvik and Kuskokwim Learning Academy students.

Dear KLA and Ayaprun Parents,
On Friday and Saturday, June 10 and 11, the LKSD Board met in regular session. The Board received an update on the status of the Kilbuck fire and had discussions on next steps for the reconstruction of the Ayaprun and KLA schools. After serious consideration, the Board felt it was in the best interest of the district to pursue rebuilding on the old Kilbuck site.



A new sign will greet Ayaprun Elitnaurvik students when they arrive to their temporary school location at the Kipusvik building.

As a REAA, LKSD does not have the ability to go into debt to make up any difference not paid by the insurance in the replacement of the two schools

on separate locations.

In consideration of our negotiations with the insurance company, the Board determined that the best opportunity to get true replacement value and maximum construction funding was to have both schools reconstructed on the Kilbuck location.

We anticipate opportunities for stakeholders from both schools to provide input in the design process.

The Board and administration are committed to constructing a facility that meets the unique identities of both schools while getting the absolute best possible facility given the insurance funding and long term needs of our students.

In the mean time, LKSD will continue with the cleanup of the Kilbuck site in anticipation of engaging in the design of reconstructed facilities beginning this fall.

The Board wants to thank the parents and stakeholders from both schools for their patience as they have considered all the possibilities for rebuilding.

Sincerely,
Dan Walker
Superintendent

Posted by: jshantz // 2015 Kilbuck Fire, Announcement, Press Releases // June 22, 2016

[<http://sites.lksdonline.org/lksdnews/2016/06/22/a-letter-to-ayaprun-elitnaurvik-and-kla-parents/>]

Dimitri's Restaurant Notice of Opportunity to be Heard-Packet



CITY OF BETHEL

P.O. Box 1388 Bethel, Alaska 99559
907-543-1385
Fax 907-543-2936

June 30, 2016

Maro Kargas
Dimitiri's Restaurant
PO BOX 1528
Bethel, AK 99559

Re: Restaurant Eating Place # 5491

Ms: Kargas:

The Bethel City Council will be considering a protest of the State of Alaska, Restaurant Eating Place Liquor License No. 5491 at their Regularly Scheduled Council Meeting, July 12, 2016. As per Bethel Municipal Code 5.08.040, and in accordance with 3 AAC 304.145, you will be provided a reasonable opportunity to defend your application for a Restaurant Eating Place license before the Bethel City Council at this meeting.

The July 12, 2016 Council Meeting will be held at City Hall, 300 State Highway, Bethel, and will begin at 6:30p. Resolution 16-24, Protesting the Issuance of a State of Alaska, Restaurant Eating Place License for Dimitri's Restaurant, will be considered under New Business Item A. The Agendas will be posted on Wednesday July 6th, and will be available on the City of Bethel website, www.cityofbethel.org.

Attached are documents the Council will use in their consideration of the protest in addition to the regulations provided in Bethel Municipal Code 5.08.

Respectfully,



Lori Strickler,
City Clerk

Enclosures



City Council Meeting Agenda

Regularly Scheduled Meeting

July 12, 2016 – 6:30 pm
City Hall 300 State Highway, Bethel, AK
City of Bethel Council Chambers

Rick Robb
Mayor
Term Expires 2017
543-1879
rrobb@cityofbethel.net

Byron Maczynski
Vice-Mayor
Term Expires 2016
545-0970
bmacynski@cityofbethel.net

Leif Albertson
Council Member
Term Expires 2017
543-2819
labertson@cityofbethel.net

Zach Fansler
Council Member
Term Expires 2016
545-4503
zfansler@cityofbethel.net

Nikki C. Hoffman
Council Member
Term Expires 2017
543-2608
nhoffman@cityofbethel.net

Alisha Welch
Council Member
Term Expires 2017
545-6026
arwelch@cityofbethel.net

Mary Weiss
Council Member
Term Expires 2016
543-3211
mweiss@cityofbethel.net

Ann Capela
City Manager
543-2047
acapela@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney

Mary Sattler
Lobbyist

Agenda posted on July 6, 2016, at City Hall, AC Co., Swanson's, and the Post Office.

Lori Strickler, City Clerk

(Items on the agenda noted with an asterisk (*) are considered the consent agenda.

All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.

Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing July 26, 2016**)

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. PEOPLE TO BE HEARD – Five minutes per person**
- V. APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA**
- VI. APPROVAL OF MEETING MINUTES**
 - a) *6-28-2016 Regular Meeting Minutes **P2**
- VII. REPORTS OF STANDING COMMITTEE**
 - a) Public Safety and Transportation Commission
 - b) Port Commission
 - c) Planning Commission
 - d) Parks, Recreation, Aquatic Health And Safety Center Committee
 - e) Finance Committee
 - f) Energy Committee
 - g) Public Works Committee
 - h) Marijuana Advisory Committee
 - i) Non Standing Committee Reports
- VIII. UNFINISHED BUSINESS**
- IX. NEW BUSINESS**
 - a) *Resolution 16-24: Protest Regarding The New Restaurant/Eating Place Liquor License #5491 For Dimitri's Restaurant, Located At 281 4th Avenue, Bethel, Alaska, Owned By Maro Kargas **P26**
 1. Dimitri's Restaurant Opportunity To Defend Per 3 AAC 304.145 (Mayor Robb)
 - b) *Introduction Ordinance 16-20: Amending Bethel Municipal Code 4.16.040 Sales And Use Tax, Exemptions (Council Member Fansler) **P49**
 - c) *Introduction Of Ordinance 16-21: Submitting To The Qualified Voters Of The City Of Bethel, Alaska, At The City Of Bethel Regular Election, October 4, 2016, Ballot Proposition One Local Options On Marijuana (Council Member Fansler) **P54**
 - d) AM 16-47: Directing Administration To Issue A Purchase Order For The Purchase Of The Equipment With A Joint Purchase Authorized Under Bethel Municipal Code 4.20.210 (City Manager Capela) **P56**
 - e) Update On Wetlands Permit Process (Mayor Robb)
- X. MAYOR'S REPORT**
- XI. MANAGER'S REPORTS**
- XII. CLERK'S REPORT**
- XIII. COUNCIL MEMBER COMMENTS**
- XIV. ADJOURNMENT**



TO: Mayor, Vice Mayor, and City Council
CC: City Clerk
Maro Kargas, DBA Dimitri's Restaurant
FROM: Ann K. Capela, City Manager
DATE: 6/10/2016
RE: City Manager's Report on Dimitri's Restaurant Application for Restaurant Designation Permit from the Alcoholic Beverage Control Board Pursuant to AS 4.16.049 and 3AAC 304.715-794

BACKGROUND

On or about May 4, 2016, Maro Kargas, the owner of Dimitri's Restaurant located at 281 4th Avenue, Bethel, Alaska 99559 filed an application for a liquor license for a restaurant and eating place. The application notes that Dimitri's is a bona fide restaurant pursuant to 3AAC 304.305 and 3AAC 304.715-794. That persons sixteen (16) to twenty (20) years of age may dine unaccompanied, that persons under sixteen (16) may dine accompanied by a person twenty-one (21) years of age or older and persons between sixteen (16) to twenty (20) years of age may be employed to take orders, serve food, and delivery. There will be no video-games, live entertainment and food will be served through table service or delivered. The application, further states that a person twenty-one (21) years of age or older will always be present during business hours. The application includes a diagram of the premises and a menu describing the food that will be served at Dimitri's.

On or about May 23, 2016, the Alcohol Beverage Control Board notified City Clerk Lori Strickler of the Maro Kargas-Eating Place Number 5491 DBA Dimitri's Restaurant new application for a new restaurant designation permit. The notice to the City of Bethel (COB) specifies that a local governing body may protest the approval of an application pursuant to AS 11.04.480 by furnishing the board and the applicant with a clear and concise written statement of the reasons in support of a protest within sixty (60) days of receipt of this notice. An applicant subject to a local government protest may seek an informal conference with either the director or the board and if not satisfied by the informal conference is entitled to a formal hearing in accordance with AS 44.62.330-44.62.630. If the applicant requests a hearing the local governing body must assist or undertake the defense of the protest.

The notice from the ABC Board to the City also notes:

(a) A person may not be issued a license or permit in a municipality if a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages unless a variance of the regulation or ordinance has been approved.

As reported by the City Planner's report, the Planning Department has not received a Conditional Use Permit application from applicant Maro Kargas, DBA Dimitri's Restaurant.

Council will review the said application as prescribed under BMC 5.08.030 and will determine in part or *inter alia*: 'whether to protest or recommend with conditions, the issuance, renewal or transfer of a liquor license application and shall consider the following factors it believes are pertinent.'

The notice to the City refers to 3AAC 304.145 the local governing body protest regulations.

Upon receipt of the notice of the new application from Maro Kargas DBA Dimitri's Restaurant the City Manager pursuant to BMC 5.08.020 began the procedure for administrative review of the license application. That process provides:

A. Upon receipt of notice from the Board of an application for the issuance, renewal, transfer of location or transfer to another person of a liquor license for a license location in the city, the clerk shall as soon as practicable distribute copies of the notice to the city manager, the city council and the city attorney.

B. The city manager shall immediately refer the application for review as follows:

1. To the planning director or their designee to determine if the applicant has complied with the conditional use provision of the Bethel Municipal Code;
2. To the finance director or their designee to determine whether the licensee or license transferee is delinquent in paying to the city any tax, assessment, business license fee, or fee or charge for utility service for the business and/or affiliate (as defined in 3 AAC 304.990) that operates or will operate, under the liquor license.
3. To the police and fire chiefs to determine whether, in their opinion, there have been excessive calls for service, excessive numbers of convictions or arrests for unlawful activity at the license location, police or ambulance reports, reports of unlawful activity at the license location, or police, fire or ambulance dispatches to the license location.

C. The fire chief, police chief, planning director and finance director shall forward written statements to the city manager within fourteen (14) calendar days after the application was referred by the city manager.

D. The city manager shall provide a written report to the city council, with a copy to the applicant, listing any objections to the Board's issuance of the application. The city manager's report is due within twenty (20) days after the date of receipt of notice from the city clerk.

E. An applicant who believes the city manager's report contains factual errors shall file a written protest outlining, with specifics, the sections of the report believed to be factually incorrect. Such protest must be filed to the city manager not later than ten (10) calendar days after issuance of the city manager report.

F. The city manager shall investigate the applicant's protest and shall issue a written decision no later than ten (10) calendar days after receipt of the protest.

G. The city clerk shall place the matter of the application upon the city council agenda not less than thirty (30) and not more than forty (40) calendar days after the date of receipt from the Board. [Ord. 15-32 § 2.]

The City Manager timely submitted the application to the Fire and Police Chiefs, the Planning Director and the Finance Director to report their findings to the City Manager for the presentation to the City Council who review the application. BMC 5.08.040. A synopsis of each of the departmental reviews is set forth below:

(a) City Planner – Dimitri's Restaurant **has not complied** with the Conditional Use Provision (CUP).

To date, Dimitri's Restaurant has not applied for a CUP.

(b) Finance Director – determined that the *applicant is in compliance* with BMC 5.08.020 (B)(2). The applicant has no outstanding taxes, assessments, fees or payments for utilities.

(c) Police Chief – determined that there **has not been excessive** calls for service, excessive numbers of conviction or arrests for unlawful activity at the licensed location, police or ambulance reports, reports of unlawful activity at the licensed location or police, fire or ambulance dispatches to the license location.

(d) Fire Chief – determined **there has not been** excessive calls for fire or ambulance services. The applicant **has not** complied with the requested fire, health and safety codes as previously determined by the Fire Chief.

Attached is a letter from City of Bethel Fire Chief to the applicant and owner of Dimitri's Restaurant (Exhibit "A").

A review of the departmental reports compel that the City Manager raise questions related to important matters that appear to be absent in Dimitri's application for a liquor license.

(a) Until Dimitri's applies for and receives a conditional use permit (CUP), it may be obligatory for City Council to delay its decision, given that the CUP application process identifies many of the factors to be considered by City Council during the process as required in BMC 5.08.030 City Council review of license such as; proximity to a school or alcohol inpatient or outpatient treatment, compliance with the state and local fire, health and safety codes, adequacy of parking facilities, character and public interest of the surrounding neighborhood and any other factors City Council determines is relevant to a particular application.

(b) Dimitri's application states that it will seek the liquor license for a "full year". It may be a reasonable request to the applicant by Council to ascertain if the applicant intends to keep this establishment open full year, that being 12 months, or limit the operation to a April to November schedule of each year as it has been the custom and practice by this establishment for the past decade or so.

Respectfully



Ann K. Capela
City Manager



Celebrating 50 Years of Service

CITY OF BETHEL

Fire Department

Exhibit "A"

William F. Howell III, Fire Chief
P.O. Box 1388, Bethel, Alaska 99559
Phone: (907)-543-2131
Fax: (907)-543-2702
bhowell@cityofbethel.net

Maro Kargas
Dimitri's Restaurant
P.O. Box 1528
Bethel, AK. 99559

June 2, 2016

This letter is a notice of correction for fire and life safety code violations found during a recent inspection of your business on May 31, 2016. You have ten business days to correct the items identified in this report. If you are unable to make corrections in the time frame provided, please contact my office to make other arrangements.

1. Rear office stairs and Main entry. Main entry has no floor joist in the landing and open spans approximately 60 inches unsupported. The deck feels spongy under foot and might break if loaded with greater than one person.
 - a. **1013.1 Where required.** *Guards* shall be located along open-sided walking surfaces, including *mezzanines, equipment platforms, stairs, ramps* and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below at any point within 36 inches (914 mm) horizontally to the edge of the open side. *Guards* shall be adequate in strength and attachment in accordance with Section 1607.7 of the *International Building Code*.
 - b. **1009.5 Stairway landings.** There shall be a floor or landing at the top and bottom of each *stairway*. The width of landings shall not be less than the width of *stairways* they serve. Every landing shall have a minimum dimension measured in the direction of travel equal to the width of the *stairway*. Such dimension need not exceed 48 inches (1219 mm) where the *stairway* has a straight run. Doors opening onto a landing shall not reduce the landing to less than one-half the required width. When fully open, the door shall not project more than 7 inches (178 mm) into a landing. When *wheelchair spaces* are required on the *stairway* landing in accordance with Section 1007.6.1, the *wheelchair space* shall not be located in the required width of the landing and doors shall not swing over the *wheelchair spaces*.
 - c. **1013.2 Height.** Required *guards* shall be not less than 42 inches (1067 mm) high, measured vertically above the adjacent walking surfaces, adjacent fixed seating or the line connecting the leading edges of the treads.
 - d. **1013.3 Opening limitations.** Required *guards* shall not have openings which allow passage of a sphere 4 inches (102 mm) in diameter from the walking surface to the required *guard* height.
 - e. 13AAC50.070(a)9 Any condition found to be hazardous

2. Penetrations in the sheetrock of the furnace room, office and behind ice maker create a hazard of fire extension into concealed wall spaces.
 - a. **703.1 Maintenance.** The required *fire-resistance rating* of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, *smoke barriers*, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be visually inspected by the *owner* annually and properly repaired, restored or replaced when damaged, altered, breached or penetrated. Where concealed, such elements shall not be required to be visually inspected by the *owner* unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with *approved* methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of *approved* construction meeting the fire protection requirements for the assembly.

3. Open electrical was noted in kitchen pantry, kitchen sink area, office area (by Toyo and behind door), icemaker and exterior lighting (North West side).
 - a. **605.6 Unapproved conditions.** Open junction boxes and open-wiring splices shall be prohibited. *Approved* covers shall be provided for all switch and electrical outlet boxes.
 - b. **605.1 Abatement of electrical hazards.** Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.

4. Electrical panel in kitchen is blocked by pizza table.
 - a. **605.3 Working space and clearance.** A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches (762 mm), the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.
 - b. **605.1 Abatement of electrical hazards.** Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.

5. Extension cords, un-fused plug strips and multi-plug adapters were servicing more than one appliance in place of permanent wiring behind the microwave, under the pizza oven, cash register, kitchen telephone and slicer.
 - a. **605.5 Extension cords.** Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.
 - b. **605.4 Multiplug adapters.** Multiplug adapters, such as cube adapters, unfused plug strips or any other device not complying with NFPA 70 shall be prohibited.

6. Type K extinguishers must be provided per code. Extinguishers must be inspected and tagged annually, marked and mounted and accessible.
 - a. **904.11.5 Portable fire extinguishers for commercial cooking equipment.** Portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial-type cooking equipment. Cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher in accordance with Sections 904.11.5.1 or 904.11.5.2, as applicable.

7. Extinguishers must be provided and maintained per code. Extinguisher in dining area was on the floor and had no annual inspection tag
- a. **906.5 Conspicuous location.** Portable fire extinguishers shall be located in conspicuous locations where they will be readily accessible and immediately available for use. These locations shall be along normal paths of travel, unless the *fire code official* determines that the hazard posed indicates the need for placement away from normal paths of travel.
 - b. **906.6 Unobstructed and unobscured.** Portable fire extinguishers shall not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means shall be provided to indicate the locations of extinguishers.
 - c. **906.7 Hangers and brackets.** Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.
 - d. **906.8 Cabinets.** Cabinets used to house portable fire extinguishers shall not be locked.
 - e. **906.9 Extinguisher installation.** The installation of portable fire extinguishers shall be in accordance with Sections 906.9.1 through 906.9.3.
 - f. **906.9.1 Extinguishers weighing 40 pounds or less.** Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 5 feet (1524 mm) above the floor.
 - g. **906.9.2 Extinguishers weighing more than 40 pounds.** Hand-held portable fire extinguishers having a gross weight exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 3.5 feet (1067 mm) above the floor.
 - h. **906.9.3 Floor clearance.** The clearance between the floor and the bottom of installed hand-held portable fire extinguishers shall not be less than 4 inches (102 mm).

8. Grease laden vapor cooking requires use of a Type-1 UL300 Fire Suppression system range hood and annual inspection per code. Range hoods were not fitted with traps and require cleaning. System interconnection and shut offs must be provided per code. Grease laden cooking appliances must be under the hood. Fryers were found to be only partially covered by the hood.

- a. **609.1 General.** Commercial kitchen exhaust hoods shall comply with the requirements of the *International Mechanical Code*. [M]
- b. **609.2 Where required.** A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. [M]
- c. **609.3 Operations and maintenance.** Commercial cooking systems shall be operated and maintained in accordance with Sections 609.3.1 through 609.3.4.
- d. **609.3.1 Ventilation system.** The ventilation system in connection with hoods shall be operated at the required rate of air movement, and classified grease filters shall be in place when equipment under a kitchen grease hood is used.
- e. **609.3.2 Grease extractors.** Where grease extractors are installed, they shall be operated when the commercial-type cooking equipment is used.
- f. **609.3.3 Cleaning.** Hoods, grease-removal devices, fans, ducts and other appurtenances shall be cleaned at intervals as required by Sections 609.3.3.1 through 609.3.3.3.
609.3.3.1 Inspection. Hoods, grease-removal devices, fans, ducts and other appurtenances shall be inspected at intervals specified in Table 609.3.3.1 or as *approved* by the *fire code official*. Inspections shall be completed by qualified individuals.

g. **TABLE 609.3.3.1 COMMERCIAL COOKING SYSTEM INSPECTION FREQUENCY**

TYPE OF COOKING OPERATIONS	FREQUENCY OF INSPECTION
High-volume cooking operations such as 24-hour cooking, charbroiling or wok cooking	3 months
Low-volume cooking operations such as places of religious worship, seasonal businesses and senior centers	12 months

Cooking operations utilizing solid-fuel burning cooking appliances	1 month
All other cooking operations	6 months

- h. **609.3.3.2 Grease accumulation.** If during the inspection it is found that hoods, grease-removal devices, fans, ducts or other appurtenances have an accumulation of grease, such components shall be cleaned.
 - i. **609.3.3.3 Records.** Records for inspections shall state the individual and company performing the inspection, a description of the inspection and when the inspection took place. Records for cleanings shall state the individual and company performing the cleaning and when the cleaning took place. Such records shall be completed after each inspection or cleaning, maintained on the premises for a minimum of three years and be copied to the *fire code official* upon request.
 - j. **609.3.4 Extinguishing system service.** Automatic fire-extinguishing systems protecting commercial cooking systems shall be serviced as required in Section 904.11.6
 - k. **904.11.2 System interconnection.** The actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual.
9. Wall coverings in the loading dock freezer room/arctic entry have flame spread characteristics greater than allowed by code. Cardboard and spray foam insulation are used as insulation in this area. Remove or cover with a thermal barrier per code.
- a. **803.7 Foam plastic materials.** Foam plastic materials shall not be used as interior wall and ceiling finish unless specifically allowed by Section 803.7.1 or 803.7.2. Foam plastic materials shall not be used as interior trim unless specifically allowed by Section 803.7.3.
 - b. **803.7.1 Combustibility characteristics.** Foam plastic materials shall be allowed on the basis of fire tests that substantiate their combustibility characteristics for the use intended under actual fire conditions, as indicated in Section 2603.9 of the *International Building Code*. This section shall apply both to exposed foam plastics and to foam plastics used in conjunction with a textile or vinyl facing or cover.
 - c. **803.7.2 Thermal barrier.** Foam plastic material shall be allowed if it is separated from the interior of the building by a thermal barrier in accordance with Section 2603.4 of the *International Building Code*.
10. A sleeping area was found in an interior storage area. Sleeping areas are not permitted in areas without adequate emergency egress. Remove bed and do not allow employees to sleep in this area or provide egress per code.
- a. **1029.1 General.** In addition to the *means of egress* required by this chapter, provisions shall be made for emergency escape and rescue in Group R and I-1 occupancies. Basements and sleeping rooms below the fourth *story above grade plane* shall have at least one exterior *emergency escape and rescue opening* in accordance with this section. Where basements contain one or more sleeping rooms, *emergency escape and rescue openings* shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a *public way* or to a *yard or court* that opens to a *public way*.
11. Propane storage is non-compliant and unprotected from collision. Combustible debris, grass and trees are in close proximity to the tanks. Supply piping is non-compliant with the code.
- a. **603.9 Gas meters.** Above-ground gas meters, regulators and piping subject to damage shall be protected by a barrier complying with Section 312 or otherwise protected in an *approved manner*.
 - b. **3807.3 Clearance to combustibles.** Weeds, grass, brush, trash and other combustible materials shall be kept a minimum of 10 feet (3048 mm) from LP-gas tanks or containers.

June 3, 2016

- c. **3807.4 Protecting containers from vehicles.** Where exposed to vehicular damage due to proximity to alleys, driveways or parking areas, LP-gas containers, regulators and piping shall be protected in accordance with Section 312.
12. Boardwalks in rear of building present trip, fall and injury hazards to employees, firefighters, and City water/sewer workers. Repair to safe condition.
a. 13AAC50.070(a)9 Any condition found to be hazardous
13. Provide building numbers. Bethel Fire Department requires 4-inch white reflective numbers on a 6" wide green reflective background.
a. **505.1 Address identification.** New and existing buildings shall have *approved* address numbers, building numbers or *approved* building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the *public way*, a monument, pole or other sign or means shall be used to identify the structure.

Sincerely,



William F. Howell III, Fire Chief

CC: Alaska Fire Marshall's Office
City Manager Cappella

I _____, as the authorized representative have
Print
received a copy of this notification. _____ Date _____



Celebrating 50 Years of Service

CITY OF BETHEL

Fire Department

William F. Howell III, Fire Chief
P.O. Box 1388, Bethel, Alaska 99559
Phone: (907)-543-2131
Fax: (907)-543-2702
bhowell@cityofbethel.net

Maro Kargas
Dimitri's Restaurant
P.O. Box 1528
Bethel, AK. 99559

June 2, 2016

This letter is a notice of correction for fire and life safety code violations found during a recent inspection of your business on May 31, 2016. You have ten business days to correct the items identified in this report. If you are unable to make corrections in the time frame provided, please contact my office to make other arrangements.

1. Rear office stairs and Main entry. Main entry has no floor joist in the landing and open spans approximately 60 inches unsupported. The deck feels spongy under foot and might break if loaded with greater than one person.
 - a. **1013.1 Where required.** *Guards* shall be located along open-sided walking surfaces, including *mezzanines, equipment platforms, stairs, ramps* and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below at any point within 36 inches (914 mm) horizontally to the edge of the open side. *Guards* shall be adequate in strength and attachment in accordance with Section 1607.7 of the *International Building Code*. **Completed, verified on 06/30/2016 by T. Haviland.**
 - b. **1009.5 Stairway landings.** There shall be a floor or landing at the top and bottom of each *stairway*. The width of landings shall not be less than the width of *stairways* they serve. Every landing shall have a minimum dimension measured in the direction of travel equal to the width of the *stairway*. Such dimension need not exceed 48 inches (1219 mm) where the *stairway* has a straight run. Doors opening onto a landing shall not reduce the landing to less than one-half the required width. When fully open, the door shall not project more than 7 inches (178 mm) into a landing. When *wheelchair spaces* are required on the *stairway* landing in accordance with [Section 1007.6.1](#), the *wheelchair space* shall not be located in the required width of the landing and doors shall not swing over the *wheelchair spaces*. **Completed, verified on 06/30/2016 by T. Haviland.**
 - c. **1013.2 Height.** Required *guards* shall be not less than 42 inches (1067 mm) high, measured vertically above the adjacent walking surfaces, adjacent fixed seating or the line connecting the leading edges of the treads. **Completed, verified on 06/30/2016 by T. Haviland.**
 - d. **1013.3 Opening limitations.** Required *guards* shall not have openings which allow passage of a sphere 4 inches (102 mm) in diameter from the walking surface to the required *guard* height. **Not completed, owner waiting on contractor 06/30/2016 T. Haviland.**
 - e. 13AAC50.070(a)9 Any condition found to be hazardous

2. Penetrations in the sheetrock of the furnace room, office and behind ice maker create a hazard of fire extension into concealed wall spaces.
 - a. **703.1 Maintenance.** The required *fire-resistance rating* of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, *smoke barriers*, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be visually inspected by the *owner* annually and properly repaired, restored or replaced when damaged, altered, breached or penetrated. Where concealed, such elements shall not be required to be visually inspected by the *owner* unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with *approved* methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of *approved* construction meeting the fire protection requirements for the assembly. **Completed, verified on 06/30/2016 by T. Haviland.**

3. Open electrical was noted in kitchen pantry, kitchen sink area, office area (by Toyo and behind door), icemaker and exterior lighting (North West side).
 - a. **605.6 Unapproved conditions.** Open junction boxes and open-wiring splices shall be prohibited. *Approved* covers shall be provided for all switch and electrical outlet boxes. **Repaired, verified on 06/30/2016 by T. Haviland.**
 - b. **605.1 Abatement of electrical hazards.** Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used. **Repaired, verified on 06/30/2016 by T. Haviland.**

4. Electrical panel in kitchen is blocked by pizza table.
 - a. **605.3 Working space and clearance.** A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches (762 mm), the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space. **Not completed, 06/30/2016 T. Haviland.**
 - b. **605.1 Abatement of electrical hazards.** Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used. **Not completed, 06/30/2016 T. Haviland.**

5. Extension cords, un-fused plug strips and multi-plug adapters were servicing more than one appliance in place of permanent wiring behind the microwave, under the pizza oven, cash register, kitchen telephone and slicer. **Replaced with permanent wiring in conduit, verified 06/30/2016 by T. Haviland.**
 - a. **605.5 Extension cords.** Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.
 - b. **605.4 Multiplug adapters.** Multiplug adapters, such as cube adapters, unfused plug strips or any other device not complying with NFPA 70 shall be prohibited.

6. Type K extinguishers must be provided per code. Extinguishers must be inspected and tagged annually, marked and mounted and accessible. **No Type-K extinguisher present, 06/30/2016 T. Haviland.**

- a. **904.11.5 Portable fire extinguishers for commercial cooking equipment.** Portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial-type cooking equipment. Cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher in accordance with [Sections 904.11.5.1](#) or [904.11.5.2](#), as applicable.
7. Extinguishers must be provided and maintained per code. Extinguisher in dining area was on the floor and had no annual inspection tag. **Not completed, owner is still waiting on service technician, 06/30/2016 T. Haviland.**
- a. **906.5 Conspicuous location.** Portable fire extinguishers shall be located in conspicuous locations where they will be readily accessible and immediately available for use. These locations shall be along normal paths of travel, unless the *fire code official* determines that the hazard posed indicates the need for placement away from normal paths of travel.
- b. **906.6 Unobstructed and unobscured.** Portable fire extinguishers shall not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means shall be provided to indicate the locations of extinguishers.
- c. **906.7 Hangers and brackets.** Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.
- d. **906.8 Cabinets.** Cabinets used to house portable fire extinguishers shall not be locked.
- e. **906.9 Extinguisher installation.** The installation of portable fire extinguishers shall be in accordance with [Sections 906.9.1](#) through [906.9.3](#).
- f. **906.9.1 Extinguishers weighing 40 pounds or less.** Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 5 feet (1524 mm) above the floor.
- g. **906.9.2 Extinguishers weighing more than 40 pounds.** Hand-held portable fire extinguishers having a gross weight exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 3.5 feet (1067 mm) above the floor.
- h. **906.9.3 Floor clearance.** The clearance between the floor and the bottom of installed hand-held portable fire extinguishers shall not be less than 4 inches (102 mm).
8. Grease laden vapor cooking requires use of a Type-1 UL300 Fire Suppression system range hood and annual inspection per code. Range hoods were not fitted with traps and require cleaning. System interconnection and shut offs must be provided per code. Grease laden cooking appliances must be under the hood. Fryers were found to be only partially covered by the hood. **Hood was cleaned, but owner is waiting on service technician, 06/30/2016 T. Haviland.**
- a. **609.1 General.** Commercial kitchen exhaust hoods shall comply with the requirements of the *International Mechanical Code*. [M]
- b. **609.2 Where required.** A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. [M]
- c. **609.3 Operations and maintenance.** Commercial cooking systems shall be operated and maintained in accordance with [Sections 609.3.1](#) through [609.3.4](#).
- d. **609.3.1 Ventilation system.** The ventilation system in connection with hoods shall be operated at the required rate of air movement, and classified grease filters shall be in place when equipment under a kitchen grease hood is used.
- e. **609.3.2 Grease extractors.** Where grease extractors are installed, they shall be operated when the commercial-type cooking equipment is used.
- f. **609.3.3 Cleaning.** Hoods, grease-removal devices, fans, ducts and other appurtenances shall be cleaned at intervals as required by [Sections 609.3.3.1](#) through [609.3.3.3](#). **609.3.3.1 Inspection.** Hoods, grease-removal devices, fans, ducts and other appurtenances shall be inspected at intervals specified in Table 609.3.3.1 or as *approved* by the *fire code official*. Inspections shall be completed by qualified individuals.

g. TABLE 609.3.3.1 COMMERCIAL COOKING SYSTEM INSPECTION FREQUENCY

TYPE OF COOKING OPERATIONS	FREQUENCY OF INSPECTION
High-volume cooking operations such as 24-hour cooking, charbroiling or wok cooking	3 months
Low-volume cooking operations such as places of religious worship, seasonal businesses and senior centers	12 months
Cooking operations utilizing solid-fuel burning cooking appliances	1 month
All other cooking operations	6 months

- h. **609.3.3.2 Grease accumulation.** If during the inspection it is found that hoods, grease-removal devices, fans, ducts or other appurtenances have an accumulation of grease, such components shall be cleaned.
- i. **609.3.3.3 Records.** Records for inspections shall state the individual and company performing the inspection, a description of the inspection and when the inspection took place. Records for cleanings shall state the individual and company performing the cleaning and when the cleaning took place. Such records shall be completed after each inspection or cleaning, maintained on the premises for a minimum of three years and be copied to the *fire code official* upon request.
- j. **609.3.4 Extinguishing system service.** Automatic fire-extinguishing systems protecting commercial cooking systems shall be serviced as required in Section 904.11.6
- k. **904.11.2 System interconnection.** The actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual.
9. Wall coverings in the loading dock freezer room/arctic entry have flame spread characteristics greater than allowed by code. Cardboard and spray foam insulation are used as insulation in this area. Remove or cover with a thermal barrier per code. **Area was covered by sheetrock. 06/30/2016 T. Haviland.**
- a. **803.7 Foam plastic materials.** Foam plastic materials shall not be used as interior wall and ceiling finish unless specifically allowed by [Section 803.7.1](#) or [803.7.2](#). Foam plastic materials shall not be used as interior trim unless specifically allowed by [Section 803.7.3](#).
- b. **803.7.1 Combustibility characteristics.** Foam plastic materials shall be allowed on the basis of fire tests that substantiate their combustibility characteristics for the use intended under actual fire conditions, as indicated in Section 2603.9 of the *International Building Code*. This section shall apply both to exposed foam plastics and to foam plastics used in conjunction with a textile or vinyl facing or cover.
- c. **803.7.2 Thermal barrier.** Foam plastic material shall be allowed if it is separated from the interior of the building by a thermal barrier in accordance with Section 2603.4 of the *International Building Code*.
10. A sleeping area was found in an interior storage area. Sleeping areas are not permitted in areas without adequate emergency egress. Remove bed and do not allow employees to sleep in this area or provide egress per code. **The bed is still present, the owner stated they will remove the bed, 06/30/2016 T. Haviland.**
- a. **1029.1 General.** In addition to the *means of egress* required by this chapter, provisions shall be made for emergency escape and rescue in Group R and I-1 occupancies. Basements and sleeping rooms below the fourth *story above grade plane* shall have at least one exterior *emergency escape and rescue opening* in accordance with this section. Where basements contain one or more sleeping rooms, *emergency escape and rescue openings* shall be required in each sleeping room, but shall not be

required in adjoining areas of the basement. Such openings shall open directly into a *public way* or to a *yard* or *court* that opens to a *public way*. **Not completed, 06/30/2016 T. Haviland.**

11. Propane storage is non-compliant and unprotected from collision. Combustible debris, grass and trees are in close proximity to the tanks. Supply piping is non compliant with the code.
 - a. **603.9 Gas meters.** Above-ground gas meters, regulators and piping subject to damage shall be protected by a barrier complying with Section 312 or otherwise protected in an *approved* manner. **Not completed, 06/30/2016 T. Haviland.**
 - b. **3807.3 Clearance to combustibles.** Weeds, grass, brush, trash and other combustible materials shall be kept a minimum of 10 feet (3048 mm) from LP-gas tanks or containers. **Completed, 06/30/2016 T. Haviland.**
 - c. **3807.4 Protecting containers from vehicles.** Where exposed to vehicular damage due to proximity to alleys, driveways or parking areas, LP-gas containers, regulators and piping shall be protected in accordance with Section 312. **Not completed, 06/30/2016 T. Haviland.**

12. Boardwalks in rear of building present trip, fall and injury hazards to employees, firefighters, and City water/sewer workers. Repair to safe condition.
 - a. 13AAC50.070(a)9 Any condition found to be hazardous **Not completed, 06/30/2016 T. Haviland.**

13. Provide building numbers. Bethel Fire Department requires 4-inch white reflective numbers on a 6" wide green reflective background.
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*Comments noted in RED are updates from the follow-up inspection conducted by the Bethel Fire Department on June 30, 2016.

MEMORANDUM

TO: DEC – Area Office
DPS – State Fire Marshal’s Office

breanna.bullock@alaska.gov
jessica.faulkner@alaska.gov

FROM: ABC Board
Maxine Andrews
550 W. 7th Ave. Ste. 1600
Anchorage, AK 99501
269-0350 – Phone 334-2285 – Fax

DATE: 5/23/16

SUBJECT: New Liquor License Application

WITHIN 30 DAYS please notify our office if there is a reason to object to requested application.

License #	5491
DBA	Dimitri's Restaurant
TYPE OF LICENSE	Restaurant or Eating Place
FOOD SERVICE PROVIDED	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN <input type="checkbox"/>
PREMISE LOCATION	281 Fourth Avenue Bethel
MAILING ADDRESS	PO Box 1528 Bethel, AK 99559
PHONE	Maro Kargas 907-543-3434

PROPOSED BUILDING EXISTING FACILITY NEW BUILDING

REVIEWED/APPROVED: _____ DEC

DATE: 7/6/2016 FIRE

PHONE: 269-7628

I do not recommend approval. The facility does not have a Certified Food Protection Manager on staff. I contacted the facility twice by phone since 5/23/16 when this request was received and the owner has not demonstrated effort to correct this repeat violation.

Bevin Durant, EHO
DEC-FSS

MEMORANDUM

TO: DEC – Area Office
DPS – State Fire Marshal’s Office

breanna.bullock@alaska.gov
jessica.faulkner@alaska.gov

FROM: ABC Board
Maxine Andrews
550 W. 7th Ave. Ste. 1600
Anchorage, AK 99501
269-0350 – Phone 334-2285 – Fax

DATE: 5/23/16

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PREMISE LOCATION	281 Fourth Avenue Bethel
MAILING ADDRESS	PO Box 1528 Bethel, AK 99559
PHONE	Maro Kargas 907-543-3434

PROPOSED BUILDING EXISTING FACILITY NEW BUILDING

REVIEWED/APPROVED: Denied DEC

DATE: 5/24/16 FIRE

PHONE: 907-269-5482

Fire and Life Safety has an open file on Dimitri's Restaurant. We have requested information from the owner with no response dating back to 2015.