MEMORANDUM

TO: Alcoholic Beverage Control Board
FROM: Kristina Serezhenkov, OLE
RE: #6035 49th 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
May 11, 2022

Ms. Carrie Craig  
Alaska Alcohol and Marijuana Control Office  
550 W 7th 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  
  - Tatliani 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**
  49th 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**
  49th 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,

[Signature]

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.

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

| 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:       | jmottyka@nhgalaska.com          |

Seasonal License?  

| Yes | No |

If “Yes”, write your six-month operating period:  

OFFICE USE ONLY

| Complete Date: | 3-3-22 |
| License Years: |       |
| License #:     | L8035  |
| Board Meeting Date: | 4-12-22 |
| Transaction #:  | 1003486005 |
| Issue Date:     |       |
| BRE:            |       |

[Form AB-00] (rev 10/10/2016)  

AMCO  

FEB 11 2022
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:
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.

<table>
<thead>
<tr>
<th>Entity Official</th>
<th>David McCarthy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title(s):</td>
<td>President</td>
</tr>
<tr>
<td>Phone:</td>
<td>907-599-0052</td>
</tr>
<tr>
<td>% Owned:</td>
<td>70</td>
</tr>
<tr>
<td>Address:</td>
<td>645 W 3rd Ave</td>
</tr>
<tr>
<td>City:</td>
<td>Anchorage</td>
</tr>
<tr>
<td>State:</td>
<td>Alaska</td>
</tr>
<tr>
<td>ZIP:</td>
<td>99501</td>
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</table>

<table>
<thead>
<tr>
<th>Entity Official</th>
<th>Jason Motyka</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title(s):</td>
<td>Manager</td>
</tr>
<tr>
<td>Phone:</td>
<td>907-229-5151</td>
</tr>
<tr>
<td>% Owned:</td>
<td>30</td>
</tr>
<tr>
<td>Address:</td>
<td>645 W 3rd Ave</td>
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<tr>
<td>State:</td>
<td></td>
</tr>
<tr>
<td>ZIP:</td>
<td></td>
</tr>
</tbody>
</table>

[Form AB-00] (rev 10/10/2016)
The 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.

### Form AB-00: New License Application

Alaska Alcoholic Beverage Control Board

Phone: 907.269.5550
Website: www.commerce.alaska.gov/avic
Alcohol Boards, Licensing & Control
Contact: 10500 W. 5th Ave., Juneau, AK 99801
Alcohol and Marijuana Control Office
dba's
5744 Brewery - 49th State Brewing
5745 Winery - 49th State Brewing
Alaska Pacific Beverage Company LLC
Jason Motyka - 5% Gary Klopfer 85%, David McCarthy 10%

4946 Brewpub
49th State Brewing Company
Denali Visions 3000 Corporation
Jason Motyka 50% and David McCarthy 50%

3370 BDL-Tourism Seasonal
Denali Park Salmon Bake

671 BDL
49th State Brewing Company

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

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

4058 BDL
49th State Brewery
Northern Hospitality Group Inc.
Jason Motyka 50% and David McCarthy 50%

4059 Brewpub

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

AMCO Received 3/26/2022
Section 7 – Certifications

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

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

Signature of Notary Public

Notary public in and for the State of Alaska

My commission expires: 3/16/2024

Subscribed and sworn to before me this 10th day of February, 2022.
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 information. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagrams 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.

<table>
<thead>
<tr>
<th>Licensee:</th>
<th>Northern Hospitality Group Inc</th>
<th>License Number:</th>
<th>New</th>
</tr>
</thead>
<tbody>
<tr>
<td>License Type:</td>
<td>Package Store</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doing Business As:</td>
<td>49th State Spirits and Gifts @ The Rail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Premises Address:</td>
<td>721 Depot Drive Suite #50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City:</td>
<td>Anchorage</td>
<td>State:</td>
<td>AK</td>
</tr>
</tbody>
</table>

[Form AB-02] (rev 06/24/2016)
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