

# Planning and Zoning Commission

November 18, 2024

Case #: **2024-0124**

Case Title: **Review and Recommendation on AO 2024-99,  
Text Amendments to AMC 21.03.160,  
to Prohibit the Inclusion of Special Limitations  
in Approving an Amendment to the Zoning Map**

Agenda Item #: **G.1.**      Supplementary Packet #: **2**

☒ Comments submitted after the packet was finalized

☐ Additional information:

☐ Other:

Sent by email: \_\_\_\_\_ yes        **X**   no

## Correspondence



### **RABBIT CREEK COMMUNITY COUNCIL (RCCC)**

A Forum for Respectful Communication & Community Relations

**1057 West Fireweed Lane, Suite 100 / Anchorage, AK 99503**



November 18, 2024

Dear Planning and Zoning Commission:

RE: Planning and Zoning Case 2024-124, Text Amendments to AMC 21.03.160 Rezoning

Rabbit Creek Community Council (RCCC) reviewed Case 2024-124 (draft Assembly Ordinance 2024-99) at our monthly meeting on November 11, 2024. RCCC voted to submit comments to the Planning and Zoning Commission (PZC) by a vote of 24 yeas, zero nays and 1 abstention.

RCCC raised several concerns and questions and, in summary, voted to oppose the ordinance and thereby retain the use of Special Limitations.

RCCC suggests better definition of the “planning toolbox” of how and when to use Special Limitations, effective clauses, plat notes, and conditions of approval. RCCC does not find any basis for the Staff Memo statement that Special Limitations should be based only on safety, health and public welfare.

**CONCERNS:** Following are specific concerns and reasons to retain Special Limitations:

1. Lack of evidence that Special Limitations (SL) have been, or will be, mis-applied. The staff analysis thus far is inchoate and not compelling. There are numerous SL zonings in the Rabbit Creek area and across the Hillside that pertain to inadequate infrastructure and natural conditions: for example, lack of secondary egress, or steep slopes. *There is guidance in 21.03.160 that, “Rezoning shall not be used as a way to legitimize nonconforming uses or structures.”*
2. Public versus private interest. The staff memo describes the removal of an SL through an ordinance as “unnecessary and burdensome” but it is equally valid that removal of an SL should serve the public interest and comply with the Comprehensive Plan, and not serve just a private short-term expediency. Special limitations are not lightly approved; they should not be lightly removed.
3. Up-or-down votes on rezoning by Planning Staff and Planning and Zoning Commission (PZC) could have negative consequences. Without the option to use SLs, there is:
  - a. Higher likelihood for denials of rezoning applications;
  - b. Higher likelihood for approvals of rezoning that do not comply with the Comprehensive Plan; and
  - c. More pressure for piecemeal amendments to the Zoning Map, which defeats the intention of zoning: “to provide a degree of certainty that is important for long-term investment and neighborhood cohesion and stability.

4. Transparency (discovering what a past SL stands for).
  - a. Parcels with SLs are clearly marked on Muni zoning maps and the accompanying data base. That is not true of plat notes or effective clauses or conditions of approval. In some ways, SLs are far more obvious to the public than other conditions of approval.
  - b. The issue of researching SLs can be cleanly solved by a Map Layer in the Muni GIS data base.
  - c. The highest concern for transparency is whether PZC gets to “yes” or “no” on a controversial rezoning case through due process: robust analysis of both the proposed development and the Comprehensive Plan; and full public notice and participation, minus ex parte influence. *It is not clear whether SLs are more, or less, incorruptible than other means to solve a complex rezoning decision.*

#### **REASONS TO RETAIN THE OPTION FOR SPECIAL LIMITATIONS ON REZONING DECISIONS**

1. Special Limitations serve many purposes. The Planning Memo (dated 11/18/24) erroneously asserts that SLs should be applied only for reasons of “safety, health, and public welfare.” This is a major policy statement that comes out of nowhere. Multiple adopted plans and policies clearly commit to building a well-designed city that embraces our natural setting and northern climate and that fosters distinctive neighborhoods. For examples of this public statement of values:
  - a. “Creating Great Places.” Chapter 2 of the 2040 Land Use Plan discusses the importance of physical character. “Character of place is integral to land use, the way people experience a place, and how that place functions.”
  - b. “Shared infill design principles.” Design principles on pages 34-35 are intended to “guide . . . discretionary (non by right) land use decisions such as rezonings or site plan reviews.”
2. Compatibility. Case-by-case consideration is appropriate for making rezoning compatible with adjoining land uses, infrastructure capacity, and environmental conditions.
3. A complete toolbox. SLs serve a niche purpose in getting to “yes” for new development that benefits the entire community. SLs solve concerns that cannot necessarily be handled by plat notes, effective clauses, or other planning tools. Keep a full toolbox of planning tools.

Thank you for your attention to these comments.

Sincerely,



Ann Rappoport, Co-chair



John Riley, Co-chair

cc: Melisa Babb, Director, Muni Planning Department  
Ryan Yelle, Manager, Long Range Planning