

Submitted by: Assembly Member Volland  
Assembly Member Brawley  
Assembly Vice Chair Zaletel  
Prepared by: Assembly Counsel's Office  
For reading:

**ANCHORAGE, ALASKA**  
**AO No. 2024-99**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**  
2 **ANCHORAGE MUNICIPAL CODE SECTION 21.03.160 TO PROHIBIT THE**  
3 **APPLICATION FOR OR RECOMMENDATION OF SPECIAL LIMITATIONS IN**  
4 **APPROVING AN AMENDMENT TO THE ZONING MAP AND WAIVING**  
5 **PLANNING AND ZONING COMMISSION REVIEW.**  
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7  
8 **WHEREAS**, a special limitation is a legal mechanism under Title 21 enabling the  
9 municipal government to restrict certain land uses otherwise allowed on private  
10 property within the zoning district; and

11  
12 **WHEREAS**, special limitations are frequently project specific to that moment,  
13 current code at that time, and are parcel or location specific; and

14  
15 **WHEREAS**, special limitations are approved by ordinance, are not recorded in the  
16 State Recorder's Office Anchorage Recording District, and attach to the zoning map,  
17 not the individual parcels of property within the zone, making them a permanent  
18 constraint to the subject properties; and

19  
20 **WHEREAS**, the persistent and consistent use of special limitations constitute stop-  
21 gap measures designed to address an immediate issue at the expense of  
22 indefinitely burdening property owners; and

23  
24 **WHEREAS**, special limitations have been utilized in a variety of ways to place  
25 conditions on development, but there are many other planning and land use  
26 regulation tools already in the Anchorage Municipal Code and built into the plan  
27 review and permitting process that can achieve the same community objectives;  
28 now, therefore,

29  
30 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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32 **Section 1.** Anchorage Municipal Code section 21.03.160 is hereby amended to  
33 read as follows (*the remainder of the section is not affected and therefore not set*  
34 *out*):

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36 **21.03.160 Rezoning (zoning map amendments).**

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38 \*\*\* \*\*

39 D. *General procedure.*

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41 \*\*\* \*\*

42 4. *Application submittal.* Applications for a rezoning shall be

1 submitted to the director on a form provided by the department  
2 and shall contain the information specified on the application  
3 form. Additional materials may be required for certain types of  
4 rezoning[, SUCH AS REZONING WITH SPECIAL  
5 LIMITATIONS].  
6

7 5. *Public notice.* Notice shall be provided in accordance with  
8 subsection 21.03.020 H. In addition, the published and written  
9 (mailed) notice for the public hearing before the assembly shall  
10 list the protest provisions set forth in subsection D.9. below.

11  
12 6. *Departmental review.* The department shall review each  
13 proposed rezoning in light of the approval criteria in subsection  
14 E. below and distribute the application to other reviewers as  
15 deemed necessary. Based on the results of those reviews, the  
16 department shall provide a report to the planning and zoning  
17 commission.  
18

19 7. *Planning and zoning commission action.*  
20

21 a. The planning and zoning commission shall hold a public  
22 hearing on the proposed rezoning and, at the close of  
23 the hearing, taking into account the recommendations of  
24 the department and public input, and based upon the  
25 approval criteria of subsection E. below, shall  
26 recommend approval, approval with [SPECIAL  
27 LIMITATIONS OR OTHER] modifications (at least as  
28 restrictive as submitted in the application), or denial. The  
29 commission shall include written findings based on each  
30 of the approval criteria. The planning and zoning  
31 commission shall supplement any denial  
32 recommendation with a summary of critical issues  
33 related to the application, based upon public input and  
34 the commission's deliberations. This information will be  
35 available to assist the assembly if an ordinance is  
36 submitted under subsection 7.c. below.  
37

38 b. If the commission recommends approval or approval  
39 with [SPECIAL LIMITATIONS OR OTHER]  
40 modifications, within 60 days of the commission's written  
41 resolution, the director shall forward the  
42 recommendation to the assembly with an ordinance to  
43 amend the official zoning map in accordance with the  
44 recommendation.  
45

46 c. If the commission recommends denial, the amendment  
47 shall be deemed disapproved unless, within 15 days of  
48 the commission's written resolution recommending  
49 denial, the applicant files a written statement with the  
50 municipal clerk requesting that an ordinance amending  
51 the zoning map as set out in the application be submitted

for action by the assembly. The draft ordinance shall be appended to an Assembly Informational Memorandum (AIM) for consideration by the assembly.

8. *Assembly action.* The assembly shall hold a public hearing on the proposed rezoning and shall, at the close of the hearing, taking into account the recommendations of the department, planning and zoning commission, and public input, and based upon the approval criteria of subsection E. below:

- a. Approve the zoning map amendment as submitted in the application to the planning and zoning commission;
- b. Approve the zoning map amendment with [SPECIAL LIMITATIONS (SEE SUBSECTION G.) OR OTHER] modifications at least as restrictive as those submitted in the application, provided that an ordinance approving an amendment initiated under this section shall become effective only with the written consent of the property owner(s) to the [SPECIAL LIMITATIONS OR OTHER] modifications;
- c. Deny the amendment; or
- d. Remand the proposed amendment to the planning and zoning commission or to a committee of the assembly for further consideration.

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11. *Form of amending ordinance.* An ordinance amending the zoning map shall contain the following:

- a. The names of the current and the requested zoning districts;
- b. The legal description of the subject property; and
- c. [ANY SPECIAL LIMITATIONS BEING APPLIED TO THE SUBJECT PROPERTY; AND
- D.] An effective clause.

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G. Rezoning with special limitations. Pursuant to this subsection, the department and planning and zoning commission shall not recommend, nor should the assembly approve, the imposition of special limitations as part of a proposed rezone. An application for a rezoning received after [insert date of passage] may not include special limitations that restrict some aspects of development, to a greater degree than otherwise provided for a zoning district applied by the rezoning.

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- [1. *PURPOSES.* A REZONING MAY INCLUDE SPECIAL LIMITATIONS FOR ONE OR MORE OF THE FOLLOWING PURPOSES:
  - A. TO PROHIBIT STRUCTURES, OR USES OF LAND OR STRUCTURES, THAT WOULD ADVERSELY AFFECT THE SURROUNDING NEIGHBORHOOD OR CONFLICT WITH THE COMPREHENSIVE PLAN.
  - B. TO CONFORM THE ZONING MAP AMENDMENT TO THE COMPREHENSIVE PLAN, OR TO FURTHER THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN.
  - C. TO CONFORM DEVELOPMENT UNDER THE ZONING MAP AMENDMENT TO EXISTING PATTERNS OF DEVELOPMENT IN THE SURROUNDING NEIGHBORHOOD.
  - D. TO MITIGATE THE ADVERSE EFFECTS OF DEVELOPMENT UNDER THE ZONING MAP AMENDMENT ON THE NATURAL ENVIRONMENT, THE SURROUNDING NEIGHBORHOOD, AND ON PUBLIC FACILITIES AND SERVICES.
  
- 2. *TYPES OF LIMITATIONS.* A SPECIAL LIMITATION SHALL DO ONE OR MORE OF THE FOLLOWING:
  - A. LIMIT RESIDENTIAL DENSITY; OR PROHIBIT STRUCTURES, OR USES OF LAND OR STRUCTURES, OTHERWISE PERMITTED IN A ZONING DISTRICT.
  - B. REQUIRE COMPLIANCE WITH DESIGN STANDARDS FOR STRUCTURES AND OTHER SITE FEATURES.
  - C. REQUIRE COMPLIANCE WITH A SITE PLAN APPROVED UNDER THIS TITLE.
  - D. REQUIRE THE CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS, INCLUDING PUBLIC IMPROVEMENTS.
  - E. IMPOSE TIME LIMITS FOR TAKING SUBSEQUENT DEVELOPMENT ACTIONS.
  
- 3. *EFFECT OF APPROVAL.*
  - A. A ZONING DISTRICT SUBJECT TO SPECIAL LIMITATIONS SHALL BE IDENTIFIED ON THE

ZONING MAP BY THE SUFFIX "SL," AND THE NUMBER OF THE ORDINANCE APPLYING THE SPECIAL LIMITATIONS SHALL BE PRINTED ON THE ZONING MAP.

B. WHERE A SPECIAL LIMITATION IN A ZONING MAP AMENDMENT CONFLICTS WITH ANY LESS RESTRICTIVE PROVISION OF THIS TITLE, THE SPECIAL LIMITATION GOVERNS.]

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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2017-176, § 1, 1-9-18; AO No. 2021-89(S), § 21, 2-15-22; AO No. 2022-38, § 2, 4-12-22)

**Section 2.** All special limitations approved prior to passage of this ordinance shall remain valid and unaffected.

**Section 3.** The Assembly hereby petitions the Planning Department to initiate a comprehensive review of the official zoning map to identify all zones and parcels within the municipality containing special limitations and to report its findings to the Assembly detailing the zones, number of parcels within each zone, and the special limitations imposed. Additionally, in rendering its report, the Department should make recommendations for zones and parcels to be considered in a later ordinance removing the special limitations it finds no longer serve the interests of the community.

**Section 4.** Pursuant to AMC subsection 21.03.210C., this ordinance shall not require planning and zoning commission review prior to assembly action, and the 21-day published notice requirement of AMC subsection 21.03.020H.4. is waived; this ordinance shall comply with charter § 10.01(b) notice requirements.

**Section 5.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk

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# MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 836-2024

Meeting Date: October 22, 2024

1 **From:** Assembly Vice Chair Zaletel and Members Volland and Brawley

2  
3 **Subject:** AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY  
4 AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.03.160  
5 TO PROHIBIT THE APPLICATION FOR, OR RECOMMENDATION  
6 OF, SPECIAL LIMITATIONS IN APPROVING AN AMENDMENT TO  
7 THE ZONING MAP, AND WAIVING PLANNING AND ZONING  
8 COMMISSION REVIEW.  
9

10 This memorandum provides background information on special limitations (SLs)  
11 and how they relate to land use regulation as a system of policies, specifically  
12 zoning, and as supporting information for the premise of this ordinance: that the  
13 Municipality should immediately end the practice of placing special limitations on  
14 properties during a rezone process, and instead use other tools that already exist  
15 our code, to achieve the same community objectives. Not only is this current practice  
16 outside the scope of standard planning and land use regulatory tools that  
17 communities use to restrict property rights (entitlements), but also the widespread  
18 use of SLs over decades has had significant negative impacts on several property  
19 owners' ability to build projects, and the continued use of this practice is directly  
20 contrary to our goals to facilitate more housing development in the city.

21  
22 ***What are special limitations?***

23 For decades, Anchorage Municipal Code has included a mechanism for adding  
24 special limitations (SL), which are specific restrictions on uses or structures  
25 developed within a zone, that restrict property owners' entitlements and are codified  
26 in an ordinance, to a parcel or group of parcels during a rezone approval process.  
27 It has been the practice of both the Planning and Zoning Commission and the  
28 Assembly to add SLs to the rezone ordinance, either on the recommendation of  
29 Planning Department staff or in response to public feedback, on a proposed  
30 development project which required the rezone.

31  
32 ***How do special limitations interact with zoning code?***

33 Zoning code is a land use regulation that clearly defines property rights  
34 (entitlements) permitted by right or by conditional use permits and is based on the  
35 idea that the municipality has a compelling interest to define and restrict how people  
36 can and can't use their land, including rules to limit uses, site layout, and design  
37 (scale, massing, architectural features) of structures. Zoning is also based on the  
38 idea that property rights are intended to be defined at the parcel level, but through  
39 a system of regulating uses, defining physical districts, and using other tools such  
40 as overlay districts, conditional uses and variances to regulate land use at a more  
41 nuanced level. While the municipality can place nuanced rules and limitations on  
42 individual properties, it must be balanced against the principle that regulation must  
43 not be arbitrary and capricious: that 2 properties with similar characteristics, with the  
44 same zoning rules applied to them, should have essentially similar entitlement to by

1 right or conditional uses.

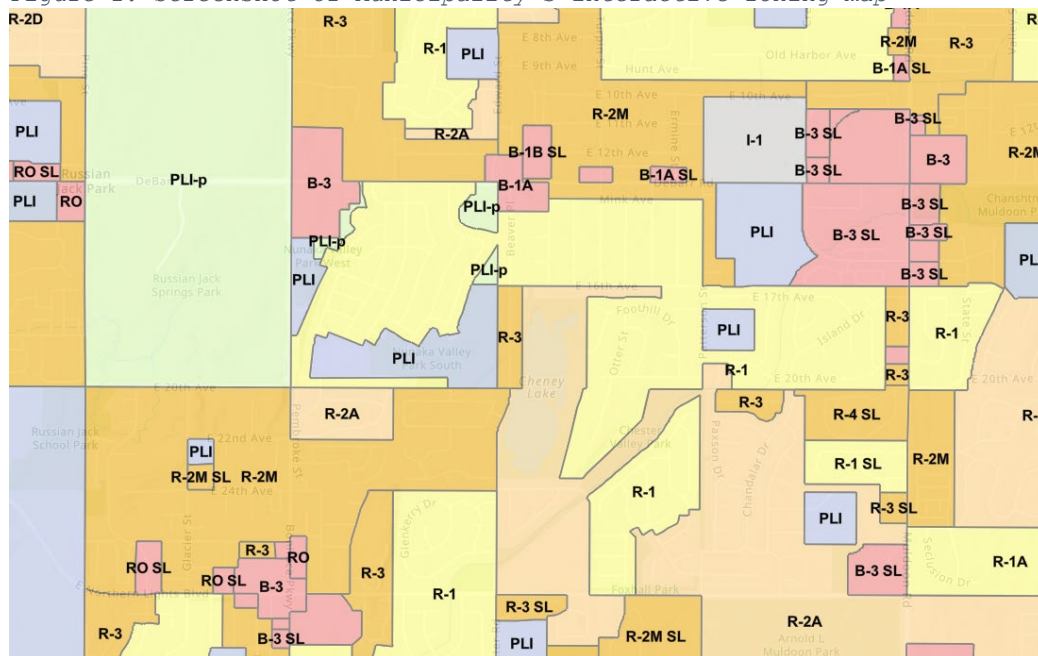
2  
 3 While SLs are referenced and enabled through Title 21, the Municipality’s zoning  
 4 code, the use of special limitations is not a standard, or even commonly-utilized,  
 5 planning practice. In other communities, there may be special use limitations  
 6 (additional rules for certain land uses); special district limitations (such as design  
 7 standards for a neighborhood historic district); and a process for placing conditions  
 8 on a particular site or type of activity through a conditional use permit. Property-  
 9 specific restrictions can also be legally achieved through a deed restriction, separate  
 10 from the property’s zoning. Instead, SLs are placed on a parcel or parcels via  
 11 ordinance during rezone approval, which modifies the zoning label placed on the  
 12 property (“R3-SL” rather than “R3”)—but the defined limitations on that property  
 13 must be traced back to the actual rezone-with-special-limitations ordinance.

14  
 15 Simply put, SLs are a mechanism Anchorage created that is defined in Title 21, but  
 16 is not a zoning tool: SLs limit property rights from within a rezoning ordinance, but  
 17 are not themselves a rezone, nor are they defined as part of any zoning district,  
 18 overlay district, the use table, or processes such as conditional uses and variances.

19  
 20 **How many special limitations are there in the municipality?**

21 While the Municipality has not created or maintained an official list of properties with  
 22 special limitations placed on them, SLs have been utilized for at least 40 years, and  
 23 are observable on the city’s official zoning map<sup>1</sup>: the map has 1,498 distinct zoned  
 24 areas (each is one or more parcels), and of these, 392 (26%) have special  
 25 limitations placed on them, denoted with “-SL” in the zoning designation. Figure 1  
 26 depicts a portion of East Anchorage with at least 21 individual SL districts. Each of  
 27 these districts is associated with a specific rezone ordinance, where the limitations  
 28 on the property are defined—and do not appear in the zoning code itself.

29 *Figure 1. Screenshot of Municipality’s interactive zoning map*



<sup>1</sup> Municipality of Anchorage, 2040 Land Use Plan Map & Current Zoning Map, interactive “swipe” map:  
<https://muniorg.maps.arcgis.com/apps/instant/media/index.html?appid=fb30276e2f4046cf88fa50a2c3c4f901>

**How are special limitations used?**

The Code does not provide significant guidance or guardrails for what or how special limitations can be defined, nor does it provide specific criteria that Planning Department staff or the Planning and Zoning Commission must use when creating SLs. As a result, SLs have historically been utilized in a variety of ways, but based on the sponsors' initial review of examples from different time periods, limitations can generally be grouped as follows:

1. Limiting the intensity or scale of a development, typically housing, to further restrict the property's underlying zoning entitlements and potential uses: reducing the number of units allowed, density (units per acre), height or number of structures, etc.;
2. Placing additional design or site configuration restrictions on development, such as requiring additional landscaping or improvements, or broad directives such as "preventing glare"; or
3. (Mostly in 1980s-era SLs) Specifying additional process or approval requirements the property must complete, many of which were later codified in Title 21 itself as required review processes.

Because SLs have been utilized in so many ways, it is important to understand the breadth of what exists on properties now, which will also inform us on the implications of considering removing SLs from existing properties. Section 3 of this ordinance requests that the Planning Department compile a complete list of SLs in the Municipality, including ordinance numbers and a summary of the specific limitations for each, and recommendations for how to address SLs that already exist.

**What have the impacts of using special limitations been on development, specifically housing production?**

While this question is difficult to answer without the benefit of a complete list and summary analysis of existing SLs, the sponsors believe that the persistent use of SLs over time has had the impact of, among other things, restricting or preventing housing production on multiple parcels, and in particular has made multi-family housing, and housing development in zones that allow higher density, less feasible. There are numerous examples of projects that were reduced in size because of SLs placed on the property, and other examples where the imposition of SLs reduced the owner's entitlements to the point that it was not economically feasible to finance and construct the project, and therefore the project never materialized. It is difficult to speculate on scale, but it is likely true that several vacant properties remain vacant to this day because of prohibitively restrictive SLs.

The fact that SLs are individually defined in ordinances, not in code, also means they are opaque to the property owner, and are often only discovered through a development application and review process. One recent example: PZC Case 2024-0079,<sup>2</sup> in which a property owned by Southcentral Foundation (SCF) and zoned B3-SL, with plans to build a 522 sq. ft. accessory greenhouse for elders and youth to use on an existing daycare property. While B3, a commercial zone, allows greenhouses as an accessory use, this property had an SL placed on it in 1985 (AO

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<sup>2</sup> Available at <https://www.muni.org/CityViewPortal/Planning/Status?planningId=18028>.



1 85-104) stating that constructing a greenhouse on the property would require major  
2 site plan review. Discussion at the August 5, 2024 Planning and Zoning Commission  
3 hearing for the case included a question whether the property owner had considered  
4 a rezone process to remove the SL, which would add significant cost and time in  
5 the process to build a new accessory structure.

6  
7 ***If not SLs, what tools does the Municipality have to regulate development to***  
8 ***protect the public interest?***

9 The table, attached as Exhibit A, provides an overview of already-existing  
10 mechanisms in code for considering site- or use-specific restrictions on a property  
11 or development. Additionally, the Municipality can also amend Title 21 to create use-  
12 specific or district-specific restrictions, which are not specific to an individual  
13 property, but apply equally to any similar property within that district, or with that  
14 specified use.

15  
16 ***What happens to existing SLs on properties, if the tool is removed from code?***

17 The scope of this ordinance is forward-looking only: it seeks to end the use of  
18 defining property rights using special limitations defined in individual rezone  
19 ordinances.

20  
21 Because they are created in an ordinance, special limitations can be, and have  
22 been, removed by ordinance: one example is an SL on an Eagle River property's  
23 legal access points to existing roads, which was removed in 2016 from the property  
24 by Assembly Ordinance (AO 2016-119). The memorandum described the  
25 alternative option for the property owner, a new rezone application to remove the  
26 SL, as "unnecessary and burdensome."

27  
28 The sponsors recognize the need to address existing SLs, and provide a reasonable  
29 mechanism to consider removing SLs from a property, a larger project than this  
30 ordinance. However, Section 3 identifies the need to produce and review the full list  
31 of existing SLs, with the intent to create a process to achieve this, after determining  
32 how they are utilized, the implications of removing them, and recognizing the  
33 balance between a property owner's rights and the community interest in  
34 maintaining restrictions on those rights.

35  
36 **We request your support for the ordinance.**

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38 Reviewed by: Assembly Counsel's Office

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40 Respectfully submitted: Meg Zaletel, Assembly Vice Chair  
41 District 4, Midtown Anchorage

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43 Daniel Volland, Assembly Member  
44 District 1, North Anchorage

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46 Anna Brawley, Assembly Member  
47 District 3, West Anchorage

Exhibit A. Existing Planning Regulatory Tools to Modify Zoning Entitlements

Review Procedure	Conditions this type of process can impose:	Process Cost	Conditions Placed On:	Decision Authority
Administrative Site Plan Review	Presumably any conditions that “ensure compliance with the development and design standards and provisions” of Title 21 and “encourage quality development in the municipality reflective of the goals, policies, and objectives of the comprehensive plan.”	\$1,850- \$3,965+	Particular land use	Planning Director
Major Site Plan Review	Presumably any conditions that “ensure compliance with the development and design standards and provisions” of Title 21 and “encourage quality development in the municipality reflective of the goals, policies, and objectives of the comprehensive plan.”	\$3,965+	Particular land use	Urban Design Commission or Planning & Zoning Commission
Variance (sometimes “with approval subject to conditions”)	<p>Presumably any conditions that allow only “limited relief from the requirements of this title in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the reasonable use of land in a manner otherwise allowed[under Title 21]”.</p> <p>Conditions probably have to relate to “some unique physical attribute of the property itself.”</p> <p><u>Of note:</u> “Under no circumstances shall the decision-making body grant a variance from any written conditions attached by another decision-making body to the approval of a conditional use, subdivision plat, site plan, or rezone (<b>special limitation</b>).”</p>	\$710- \$3,965	Particular land use, or maybe particular structure?	UDC, PZC, ZBEA, FAA

Exhibit A. Existing Planning Regulatory Tools to Modify Zoning Entitlements

Review Procedure	Conditions this type of process can impose:	Process Cost	Conditions Placed On:	Decision Authority
Conditional Use Permit	Presumably any conditions that control <i>“...where a use may or may not be appropriate in a district, depending on the specific location, the use characteristics, and potential conditions to decrease the adverse impacts of the use on surrounding properties and/or the community-at-large”</i> or for conditions needed to control <i>“uses with unique or widely varying operating characteristics or unusual site development features.”</i>	\$1,770- \$16,520	Particular land use	Planning & Zoning Commission
Rezone with Conditions of Approval	Historically included as special limitations but requirements of this nature that require procedure or sequencing of development are more appropriately classified as conditions of approval than special limitations for the zone	\$2,830- \$9,960+	Property or multiple properties	Assembly
Rezone to create a new overlay	<ul style="list-style-type: none"> <li>a. Permit, require, prohibit, or restrict structures or the use of land or structures;</li> <li>b. Alter the provisions of the use-specific requirements as applied to property within the overlay district;</li> <li>c. Require new development or attributes of new development to conform to a specific architectural or design theme;</li> <li>d. Require a design review approval process; and/or</li> <li>e. Alter the development standards of the underlying district by decreasing or increasing the requirements with regard to building height, setbacks, lot area, lot width, lot coverage, and lot densities of the underlying district.</li> </ul>	\$2,830- \$9,960+	Property or multiple properties	Assembly

Exhibit A. Existing Planning Regulatory Tools to Modify Zoning Entitlements

	<p>This is a means to deviate from the desired zoning district designation's standard use and dimensional limitations, and is an alternative that could be pursued early in a development proposal similarly in the timeline when special limitations are sought or imposed.</p>			
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