

Submitted by: Assemblymembers Tesche, Sullivan
Prepared by: Assembly Department
For reading: March 18, 2003

CLERK'S OFFICE
AMENDED AND APPROVED ANCHORAGE, ALASKA
Date: 7-8-13
AO NO. 2003-58 As Amended

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
2 ANCHORAGE MUNICIPAL CODE 21.10.030 AND 2.30.030 TERMINATING
3 DESIGNATION OF THE ASSEMBLY AS THE BOARD OF ADJUSTMENT, CREATING
4 A SEPARATE BOARD OF ADJUSTMENT, AND TRANSFERRING ALL FUNCTIONS OF
5 THE BOARD OF ADJUSTMENT FROM THE ASSEMBLY TO THE NEWLY
6 CONSTITUTED BOARD.

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9 THE ANCHORAGE ASSEMBLY ORDAINS:

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11 **Section 1.** Anchorage Municipal Code Section 21.10.030B1, board of adjustment, is
12 amended by adding language to read as follows:

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14 **21.10.030 Board of adjustment.**

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16 A. There is a board of adjustment, which shall decide appeals from:

- 17
18 1. Decisions regarding the approval or disapproval of a plat or variance from the
19 provisions of chapters 21.80 and 21.85; and
20
21 2. Decisions regarding the approval or disapproval of applications for concept or
22 final approval of conditional uses;

23
24 in accordance with Chapter 21.30.

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26 B. The board of adjustment shall be:

- 27
28 1. A three-member board of adjustment, with two alternate members to serve in
29 the absence of the three sitting members [THE ASSEMBLY], for appeals
30 from the platting board and the planning and zoning commission, whose
31 members are nominated by the mayor and confirmed by eight members of the
32 assembly for three-year staggered terms. The board's seats shall be designated
33 Seats 1, 2, and 3. The board members shall be knowledgeable and experienced
34 in administrative law and in the provisions of Title 21 of the Municipal Code.

35
36 (Corrected to Reflect the Record)

1 2. The planning and zoning commission, for appeals from the hearing officer.
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3 C. When transmitting to the Assembly for confirmation the name of appointees to the
4 board of adjustment, the Mayor shall cause a notice of a 10-day comment period
5 inviting public comment on the qualifications of such appointees to be published in
6 a newspaper of general circulation in the Municipality. The notice shall advise that
7 comments shall be in writing and filed with the Municipal Clerk. Upon receipt, the
8 Municipal Clerk shall forward comments received to the Mayor and the Assembly.
9 The Assembly shall not take action on any appointment to the board of adjustment
10 until after the close of the public comment period.
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12 (GAAB 21.30.360, 21.30.370; AO No. 73-76; AO No. 77-355; AO No. 84-70; AO
13 No. 85-72; AO No. 86-155)

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15 **Section 2.** Anchorage Municipal Code 2.30.030 is amended to delete reference to the
16 assembly sitting as the board of adjustment and renumbered to read as follows:
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18 **2.30.030 Meetings.**
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20 * * *

21 I. The order of business at all regular meetings of the assembly shall be as follows:
22

23 * * *

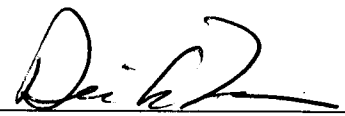
24 [15.] [BOARD OF ADJUSTMENT/ASSEMBLY APPEALS.]
25 15.[16.] Special orders.
26 16.[17.] Unfinished agenda.
27 17.[18.] Audience participation.
28 18.[19.] Assembly comments.
29 19.[20.] Executive sessions.
30 20.[21.] Adjournment, which shall be promptly at 11:00 p.m.; provided, however, by
31 three-quarters vote of the assembly, adjournment and business before the
32 assembly may be continued past 11:00 p.m. until 12:00 midnight.
33

34 **Section 3.** This ordinance shall become effective upon passage and approval by the
35 Assembly, provided that all appeals filed with the Board of Adjustment prior to the effective date
36 of this ordinance shall be heard by the Board of Adjustment as constituted and according to the
37 ordinances in effect prior to the effective date of this ordinance. All other appeals filed with the
38 Board of Adjustment shall comply with the provisions of this ordinance.
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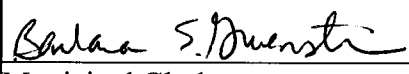
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PASSED AND APPROVED by the Anchorage Assembly this 8th day of July,
2003.


Chair

ATTEST:


Municipal Clerk

(Corrected to Reflect the Record)



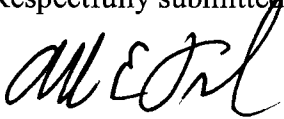
MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 222-2003

Meeting Date: March 18, 2003

1 **From:** Assemblymember Tesche
2 **Subject:** AO 2003-58, Amending AMC 21.10.030 and 2.30.030 Terminating Designation
3 of the Assembly as the Board of Adjustment and Creating a Separate Three-
4 Member Board of Adjustment
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7 Attached Ordinance AO 2003-58 is hereby introduced for referral to the Planning Commission for
8 review and comment. The ordinance establishes a three-member Board of Adjustment to hear quasi-
9 judicial appeals pertaining to platting matters and conditional use permitting requirements in
10 accordance with Chapter 21.30. Currently, the Assembly, the local legislative body for the
11 Municipality, sits as the Board of Adjustment and has jurisdiction over appeals as noted above.
12 Referring Board of Adjustment matters to a three-member board should provide for a speedy local
13 administrative remedy prior to a case being filed in superior court.
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18 Respectfully submitted,

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22 Assemblymember Tesche
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**MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM**

NO. 34- 2003

Meeting Date: June 24, 2003

From: Assemblymember Tesche

**Subject: SUMMARY OF ECONOMIC EFFECTS - AO 2003-58 - AMENDING AMC
21.10.030 and 2.30.030 TERMINATING DESIGNATION OF THE
ASSEMBLY AS THE BOARD OF ADJUSTMENT**

Attached is the required Summary of Economic Effects to accompany AO 2003-58.

Respectfully submitted,

Allan Tesche
Allan Tesche
Assemblymember

Prepared by:

Elvi Gray-Jackson
Elvi Gray-Jackson, Manager
Budget and Legislative Services

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MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2003-58

Title: Amending AMC 21.10.030 and 2.30.030 Terminating Designation of Assembly as the Board of Adjustment

Sponsor: Assemblymembers Tesche, Sullivan

Preparing Agency: Department of Assembly

Others Impacted: Planning

CHANGES IN EXPENDITURES AND REVENUES:	(In Thousands of Dollars)				
	FY03	FY04	FY05	FY06	FY07
Operating Expenditures					
1000 Personal Services	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10
2000 Non-Labor	20	20	20	20	20
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

Anchorage Municipal Code 4.05.050 B. provides for compensation to Regulatory and Adjudicatory Boards and Commissions in the amount of \$50 per member per meeting, and \$40 for special meetings. Although the Board of Adjustment is an adjudicatory board, since the Assembly previously served in this capacity, the stipend provided for in 4.05.050 B has never been addressed. Upon approval of AO 2003-58, and appointment of new Board members, this will probably change.

During the last three years, there were 35 cases brought before the Assembly with some cases requiring more than one meeting or special meeting to address the issue. In addition to providing per meeting compensation to the Board members, there will also be administrative costs for meeting preparation, staff attendance, costs for providing meals, and also costs to provide for legal representation. Therefore, it is estimated that, at minimum, \$30,000 per year would be the required additional appropriation to the Planning Department.

PRIVATE SECTOR ECONOMIC EFFECTS:

The three member board would receive a stipend of \$50 per regular meeting, and \$40 per special meeting.

Prepared by: Elvi Gray-Jackson

Telephone: 343-4751

Municipality of Anchorage
MUNICIPAL CLERKS OFFICE
Agenda Document Control Sheet

A 34-2003

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New Public Hearing at 10:00 AM - 11:00 AM

Dr. [Name]

6	ASSEMBLY HEARING DATE REQUESTED <i>10/20/03</i>	7	PUBLIC HEARING DATE REQUESTED
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See AO 2003-58



**MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM**

No. AM 553-2003

Meeting Date: June 24, 2003

From: Mayor

Subject: Planning and Zoning Commission Amending AMC 21.10.030 creating a new three-member Board of Adjustment to replace the Assembly as the Board of Adjustment.
recommending concerning AO 2003-58

1 Currently, AMC 21.10.030 provides that the Assembly sit as the Board of Adjustment in hearing
2 quasi-judicial appeals from the Planning and Zoning Commission and the Platting Board.
3 Assemblymembers Tesche and Sullivan have introduced AO 2003-58 to eliminate the designation
4 of the Municipal Assembly as the Board of Adjustment, and create a three-member Board of
5 Adjustment whose members are recommended by the Mayor, and confirmed by the Municipal
6 Assembly.
7

8 The Planning and zoning Commission supports the ordinance revision and recommends approval of
9 the changes along with the following recommendations:

- 10 1. There should be two alternate members to serve in the absence of any of the three
11 sitting members.
- 12 2. The board members should be knowledgeable and experienced in administrative law
13 and in the provisions of Title 21 of the Municipal Code.
- 14 3. AMC 21.12.010 should be amended to include the Board of Adjustment
15 appointments and require a 10-day waiting period for confirmation, as is required
16 with the Planning and Zoning Commission and the Platting Board.
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21 This Assembly memorandum transmits the Planning and Zoning Commission recommendation of
22 May 5, 2003 supporting the ordinance change.
23
24

25 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

26 Concur: Susan R. Fison, Director, Planning Department

27 Concur: Michael J. Scott, Executive Director, Office of Planning, Development and Public
28 Works

29 Concur: Harry J. Kieling, Jr., Municipal Manager

30 Respectfully submitted, George P. Wuerch, Mayor

DRAFT

**MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2003-032**

A RESOLUTION RECOMMENDING APPROVAL TO THE ASSEMBLY FOR AN ORDINANCE AMENDMENT TO ANCHORAGE MUNICIPAL CODE SECTION 21.10.030 TERMINATING DESIGNATION OF THE BOARD OF ADJUSTMENT AS THE BOARD OF ADJUSTMENT AND CREATING A SEPARATE BOARD OF ADJUSTMENT, AND TRANSFERRING ALL FUNCTIONS OF THE BOARD OF ADJUSTMENT FROM THE ASSEMBLY TO THE NEWLY CONSTITUTED BOARD.

(Case 2003-068)

WHEREAS, the Assembly introduced AO 2003-58, an ordinance amending AMC 21.30.030 to eliminate the designation of the Municipal Assembly as the Board of Adjustment, and to create a three-member Board of Adjustment whose members are recommended by the Mayor and confirmed by the Municipal Assembly; and

WHEREAS, it has been recognized that the present process should be modified; and

WHEREAS, notices were published, and a public hearing was held on May 5, 2003; and

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Planning and Zoning Commission that:

- A. The Commission makes the following findings of fact:
1. The Planning and Zoning Commission supports this ordinance amendment but believes that there should be two alternate members to serve in the absence of any of the three sitting members.
 2. The Planning and Zoning Commission recommends that the board members be knowledgeable and experienced in administrative law and in the provisions of Title 21 of the Municipal Code.
 3. The Planning and Zoning Commission recommends that AMC 21.12.010 be amended to include the Board of Adjustment appointments and require a 10-day waiting period for confirmation, as is required with the Planning and Zoning Commission and Platting Board.
 3. The Assembly has introduced the ordinance revisions in order to hear the cases quickly for a speedy administrative remedy.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission this 5thth day of May 2003.

Susan R. Fison
Director

Henry Penney
Chair

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Knepper, Klein
NAY: None

PASSED

- 4. 2003-068** Municipality of Anchorage. An Ordinance of the Municipality of Anchorage amending Anchorage Municipal Code 21.10.030 and 2.30.030 terminating designation of the Assembly as the Board of Adjustment, creating a separate Board of Adjustment, and transferring all functions of the Board of Adjustment from the Assembly to the newly constitute board.

Staff member JERRY WEAVER stated this ordinance was originated by Assemblymembers Tesche and Sullivan and proposes to eliminate the present composition of the Board of Adjustment from the Assembly to a 3-member body. It is a straightforward amendment. Staff has discussed this in the past with Clarion Associates and other professionals who have visited Anchorage over the years and believes the change would hopefully result in a process that gives quicker administrative remedy to cases on appeal from the Commission and the Platting Board. Staff recommended adoption of the proposed ordinance amendment. When originally reviewed, Staff thought AMC 21.30 would need to be amended as well, but upon re-examination, that was not found to be needed.

COMMISSIONER COFFEY assumed any appeals from the Board of Adjustment with this change would be to Superior Court, as is the case currently. MR. WEAVER replied in the affirmative.

COMMISSIONER KLINKNER asked for a comparison of the experience of cases currently sent to the Assembly versus those from the Zoning Board of Examiners and Appeals (ZBEA) that are sent to Superior Court. MR. WEAVER stated the concept of using the process as used with ZBEA has been discussed, as has using ZBEA as the Board of Adjustment. The ZBEA has a charge that is narrowly defined to dimensional issues within the code and their workload is such that it would not be practical for the ZBEA to be

the Board of Adjustment. The present process of appeal from ZBEA to Superior Court works very well.

COMMISSIONER KNEPPER asked how many appeals were filed in the last year. MR. WEAVER replied there were fewer appeals this year, approximately 6 to 8.

COMMISSIONER JONES asked what is the average time frame from the notice of appeal to action by the current Board of Adjustment. MR. WEAVER replied that the processing of the appeal takes upward of 90 days and then the appeal is then scheduled by the Municipal Clerk on the Assembly calendar, which can range from 4 to 7 months.

CHAIR PENNEY asked whether, if this ordinance is passed, rules of procedure would be developed. MR. WEAVER stated those rules are already codified in AMC 21.30.

The public hearing was opened.

ALLEN TESCHE, 1032 "G" Street, stated he drafted this ordinance in response to problems that became apparent to him on the Assembly in handling quasi-judicial appeals. He explained that the Assembly is not very well equipped to handle these sort of appeals. As elected officials Assembly members thrive on information, speak with constituents, answer telephones, look at email, look at property involved in decisions that are made, and when an appeal is brought before the Assembly, it is hard to turn off all these sources of information and act as judges. He stated the Assembly members find it difficult to understand rules concerning substantial evidence, what is substantial evidence, how much evidence is substantial, how to handle cases where the inclination of some members is to substitute the judgment of the body for the decision of the board from which the appeal is being made. He was uncertain where public policy fits into these sorts of appeals or whether the Assembly can consider good public policy. All Assembly members, to varying degrees, believe they were elected to bring about change to improve the community, but are then told they are not acting in a policy-making role with respect to a quasi-judicial appeal, but rather to judge whether or not the decision being appealed is supported by substantial information or is a violation of law. He indicated the question has arisen whether other alternatives have been considered. Consideration was given to shifting these appeals to the ZBEA, but there is a workload issue

with that body. Another option is to send these appeals directly to Superior Court. He had no objection to that, as a lawyer, but there is a public policy issue and that is the feeling on the part of some residents that they would like to have a local appeal before people have to bear the expense of going to Superior Court. Other comments are that it might be wise to consider qualifications for members of this body, such as experience in administrative law, experience in planning, architecture, or engineering. He stated he would defer to the recommendations of the Commission regarding that suggestion. Finally, it would be possible to wait until the rewrite of Title 21 is done, but he believed this could be accommodated at this time, given that the consultant is asking the city what it wants to do and is possibly laying out a similar alternative.

COMMISSIONER KLEIN asked whether, if the Assembly is giving up its responsibility to this other body, would the Assembly prefer to recommend the members of the new Board. MR. TESCHE replied this would be possible, but he could not speak for other members of the Assembly. The home rule charter provides that members of boards and commissions are recommended by the Mayor and confirmed by the Assembly. He checked the provisions of Title 29 today which seem to suggest that the Board of Adjustment is a function of the assembly, but those provisions are not home rule limitations. Therefore the home rule charter in Anchorage that gives the Mayor the first right to nominate and the Assembly the second right to confirm would cover the Board of Adjustment as well. He thought this proposal was consistent with the charter. COMMISSIONER KLEIN asked what would be the situation if one of the three members does not attend a hearing and is there an effective decision-making body with such a small number of individuals. MR. TESCHE anticipated that all three members would participate. If those members had no other duties as a part of some other municipal board or commission, he hoped they would attend. He felt it might be hard to find individuals with the expertise that is desirable. He was open to any suggestions by the Commission. A 5-member body was considered, but was rejected because it might be preferable to put other qualified people on the Platting Board, Planning and Zoning Commission, or ZBEA.

COMMISSIONER POULTON agreed that Assembly members take on responsibilities for the good of the community, as do members of other boards and commissions; however, the latter do not have constituencies. He asked if actions by the Board of Adjustment have been politicized at times because Assembly members have constituencies. MR. TESCHE

replied that this has absolutely been the case. In every case, there are political pressures. The fact he cannot talk to his constituents is a source of frustration for them. COMMISSIONER POULTON asked if this situation would be alleviated under the proposed structure. MR. TESCHE replied that it would because these are not elected officials that must respond to a constituency.

COMMISSIONER JONES noted that conflicts of interest do arise, which might cause concern with respect to the functioning of a 3-member board. MR. TESCHE indicated he gave this consideration and his thought was that, the more members, the more potential conflicts would exist.

COMMISSIONER POULTON asked, if it was discovered that a 3-member Board was not practical, what could be done to increase the membership. MR. TESCHE stated it would not be difficult to redraft the ordinance or to find people on an ad hoc basis. He stated if the Commission felt more comfortable with a 5-member body, that would not be objectionable.

COMMISSIONER COFFEY listed architects, engineers, and attorneys as having possible appropriate expertise to serve on the Board of Adjustment and asked if it would also be appropriate for a lay person with no particular expertise to also serve. MR. TESCHE replied he is open to this suggestion. He recommended that at least one member have expertise in administrative proceedings.

COMMISSIONER POULTON did not believe there were qualifications listed for membership on any other board or commission. MR. TESCHE acknowledged it is not possible to cover all areas, but he felt it would be helpful to give some guidance in this regard. He stated it is possible to draft language that the individuals selected should come from backgrounds that would provide them with practical and demonstrable professional experience in certain fields.

CHAIR PENNEY noted that land use board and commission appointees are required to go through a 10-day waiting period after Assembly confirmation and asked if that would apply to this Board. MR. TESCHE hoped that would be the case. CHAIR PENNEY asked if that would require amendment to another ordinance. MR. WEAVER replied that would be the case. MR. TESCHE suggested this could be handled through a floor amendment or as a substitute ordinance that the

Assembly could consider. COMMISSIONER COFFEY stated that provision is contained in AMC 21.10.010.

COMMISSIONER KLEIN remarked there have been volunteers in the past that have not been recommended by the Mayor's office, although well qualified. He asked how there could be assurance that vacancies would not go unfilled. MR. TESCHE stated the charter gives the Mayor the right to make the nomination, whereas the Assembly's power is to reject or confirm a nomination. He presumed the Mayor would guard the power to appoint very strenuously. As a practical matter, the only way to address that is to change the charter. COMMISSIONER COFFEY asked if there is a problem with the Mayor nominating members of this body. MR. TESCHE stated the process is fine, although there are times when members of the community are frustrated as Mr. Klein mentioned. It is, however, the Mayor's constitutional right to nominate board members and commissioners.

LARRY NORENE stated he sits on the Board of Equalization, which is appointed by the Assembly. This body sits as a panel of experts on behalf of the Assembly, which is by charter the Board of Equalization. The Clerk forwards nomination to the Assembly for new Board members. This Board uses a list of alternate board members, so if there are conflicts or trouble getting a quorum, those individuals can be drawn forward.

COMMISSIONER KLEIN asked if Mr. Norene was suggesting that language be added to this ordinance to provide for alternates. MR. NORENE replied this would be a solution to issues of conflicts, absence, etc.

COMMISSIONER COFFEY asked who selects the alternate that would serve in a particular instance. MR. NORENE indicated he had not thought that through.

COMMISSIONER POULTON asked how many members serve on the Board of Equalization. MR. NORENE replied that there are seven members and seven alternates. COMMISSIONER POULTON asked if the alternates attend all meetings. MR. NORENE replied in the negative. He noted that the business of the Board would be such in the coming year that the quorum is being reduced to five. COMMISSIONER POULTON asked if an alternate would have sufficient background, understanding, and knowledge of whatever matter might be before the Board. MR.

NORENE replied that the appointments to the Board are made strictly on the basis of expertise.

CHAIR PENNEY asked what is the quorum requirement for the Board of Equalization. MR. NORENE replied that the quorum is presently 5 and it will be reduced to 4 through an ordinance change.

DIANNE HOLMES, representing the Rabbit Creek Community Council, stated at the April meeting by a unanimous vote of the Board the Council voted to oppose the ordinance before the Commission. This would remove the Assembly from the review of land use appeals and reduce the accountability of elected officials in the land use policy review process and would remove the Assembly from examining and dealing with issues that affect land use decisions that neighborhoods have to struggle with every month. The Council felt it was appropriate that the Assembly occasionally examine the workings of the land use system and the contested cases are essential for determining where the system is working or failing. The Council also noted that in the ordinance there is no language about the qualifications of members. The Council felt it is exceedingly important that there be very strict qualifications with regard to land use policy, knowledge of Title 21, and the ability to think logically. MS. HOLMES favored 5 members over 3 members. The Council also feels that how these members are appointed is very important because occasionally people that might be politically motivated may be appointed to commissions. She recommended that the Assembly appoint one or two members, the Mayor appoint one or two members, and perhaps the Federation of Community Councils appoint one member. She suggested there be a sunset clause in the ordinance in order to incorporate any changes that might be made as a result of the Title 21 rewrite.

COMMISSIONER KLEIN asked what qualifications Ms. Holmes would recommend. MS. HOLMES felt members of the Board of Adjustment should be knowledgeable in Title 21 and land use and be able to spend the time to do the necessary research.

GREG RUMSEY voiced concerns with the current appeal process. He explained that he and Dave Hultquist have found themselves in a difficult position during an appeal that has been ongoing through the last year. He stated they run their development company honestly and with integrity. He indicated that when appellants act in such a manner that they deliberately violate ex parte laws without consequence, there is a breakdown in the process. He felt everyone should have access to their

Assembly representative. The ability to have open dialogue with Assembly members allows for positive community involvement. He felt it was impractical for Assembly members to put political ties aside and act impartially in a quasi-judicial appeal situation. He stated that in his appeal, all Assembly members were contacted through ex parte contact. He noted that Assembly members are asked to serve the voters, and then are asked to make an impartial decision that affects those individuals, which creates a conflict. He remarked on the difficulty in finding time in the Assembly's schedule to hear an appeal. In his appeal, there were 1,500 pages of public record consisting of highly technical and essential information for creating a basis on which to form an opinion. There are possibilities of political motivation for action, members not understanding or having read all information, and other factors that could negatively affect the appeal process.

COMMISSIONER KLEIN asked whether qualification requirements should be included in the ordinance to guide the membership of the Board. MR. RUMSEY felt members should meet some criteria, such as being educated in areas of land use.

COMMISSIONER COFFEY asked the time frame of Mr. Rumsey's appeal process. MR. RUMSEY replied his hearing spanned the period from May to December.

BILL BOBRICK, a professional lobbyist who appears before the Assembly, stated he lives in the world of laws, ordinances, and regulations as well as in the political world of campaigns and elections. He stated that having elected officials serving as judges does not work. He suggested that is the reason the commission members are appointed and not elected. Often the people appealing a case are the individuals who have put Assembly members into office and can vote them out of office. He stated judges are not elected in the state of Alaska because the framers of the constitution felt it was a bad idea. He stated that as someone who has watched land use issues over the last 16 years, he believed as Anchorage gets more dense, there will be more and more appeals.

COMMISSIONER KLEIN asked whether Mr. Bobrick felt the composition or qualifications for members of the board should be specified. MR. BOBRICK did not have strong opinions about this. He favored the idea of a lay person, but he also felt there were a sufficient number of individuals with pertinent expertise who will not have conflicts of

interest. He felt the current system of appointment by the Mayor and confirmation by the Assembly is appropriate.

RYAN STENCEL, representing Huffman/O'Malley Community Council, suggested that these positions would preferably be elected, noting that an appointed board overseeing another appointed board caused the Council concern. The next step of appeal from the Board of Adjustment is to court, which is expensive. If election of members is not possible, she felt the appropriate process would be nomination by the Assembly, choice and final nomination by the Mayor, and confirmation by the Assembly. She believed the qualifications of members must be listed. She suggested possibly two judges or magistrates, retired, a Title 21/Comprehensive Plan expert, and a lay person. She felt a 5-member board with 2 alternates would be preferable.

CHAIR PENNEY was intrigued by the concept of alternates. MR. TESCHE stated the statute that created the Board of Equalization is state law that is binding on home rule municipalities. They clearly provide that board is the Assembly. The mayor plays no role in the appointment of members to that board. The workload of that board is tremendous. If there is a concern with vacancies or absences on the Board of Adjustment, there could be a 3-member board with at least 2 alternates appointed who would serve in the absence of any board member. CHAIR PENNEY recalled previous discussions about alternates on other boards and commissions and asked for Staff comment. MR WEAVER stated that the concept of alternates has been discussed in the past. He thought the Commission could simply make the recommendation for alternates, if that is their desire. MR. TESCHE indicated that such a recommendation could be sent to the Assembly as a substitute.

The public hearing was closed.

COMMISSIONER KLEIN moved for approval of an ordinance amending the municipal code to eliminate the designation of the Municipal Assembly as the Board of Adjustment and to create a three-member Board of Adjustment whose members are recommended by the Mayor and confirmed by the Assembly, as submitted, and recommending that there be provision for two alternates to serve in the absence of any of the three members, and recommending that the Board sunset two years from its initial date of approval, unless properly extended.

COMMISSIONER JONES seconded.

COMMISSIONER KLEIN felt this was a brilliant idea and that it is appropriate for land use decisions to go on appeal to an unbiased body. He thought the ordinance had been well considered and he supported the concept of a 3-member body.

COMMISSIONER COFFEY moved to amend that the nominees to the Board of Adjustment shall be determined to be knowledgeable and have experience in the provisions of Title 21 and/or administrative law.

COMMISSIONER KLEIN seconded.

COMMISSIONER COFFEY stated the idea of selecting individuals based on their professions was troublesome to him, whereas requiring a knowledge of Title 21 and administrative law indicates to both the Mayor and Assembly as they are processing nominees that these are areas where inquiries should be made.

COMMISSIONER JONES supported the amendment, noting that in an environment where an appeal is being considered, it is important to have sufficient knowledge to apply the provisions of Title 21.

COMMISSIONER POULTON clarified that the amendment was suggesting that the ordinance include this concept, not this specific language.

COMMISSIONER KLEIN felt Mr. Coffey's suggestion was helpful and would bring forward qualified people to serve on the Board.

Amendment

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Knepper, Klein

NAY: None

PASSED

COMMISSIONER POULTON offered a friendly amendment that the body be constituted of 5 members rather than 3 members. He noted that it has been his experience that it is difficult to secure alternates and to have alternates attend meetings so that they are experienced in the process. He also asked if there had been consideration of the rotation of positions, such as occurs on other boards and commissions.

COMMISSIONER KLEIN was opposed to the suggestion of a 5-member Board. He believed that the Board of Equalization with alternates has worked effectively.

COMMISSIONER POULTON moved to amend that the Board of Adjustment be a 5-member body.

COMMISSIONER COFFEY seconded.

COMMISSIONER POULTON felt that a 5-member body would be better for rotation purposes as well.

COMMISSIONER JONES supported the original language of a 3-member board. She noted that many of the things dealt with by the Commission are long-range, whereas the things that would be dealt with by this Board are very specific and limited. She was aware of one 5-member regulatory body that does much of their work with three members.

COMMISSIONER COFFEY did not think there would be regular meetings of the Board of Adjustment as it would deal only with appeals. He believed a hearing would not be held until the quorum of three or five was available, so being an alternate in a body where one would serve on a particular case is different than the situation of an alternate on the Platting Board or Commission. He worried about a 5-member body being cumbersome and costly.

Amendment

AYE: Poulton

NAY: Penney, Klinkner, Starr, Jones, Coffey, Knepper, Klein

FAILED

COMMISSIONER STARR asked what is the intent of Section 2 dealing with AMC 2.3.030, Meetings. COMMISSIONER KLINKNER explained this amendment simply deletes the Board of Adjustment/Assembly Appeals from the Assembly's agenda.

COMMISSIONER STARR asked if the 3-member board would operate in a manner similar to the Commission. CHAIR PENNEY indicated there are adopted prescribed rules of procedure for the Board of Adjustment. MR. WEAVER stated those rules are found in AMC 21.30.

COMMISSIONER KLINKNER moved a substitute motion to eliminate designation of the Assembly as the Board of Adjustment and that appeals of Platting Board and Planning and Zoning Commission that currently go to the Board of Adjustment would go directly to Superior Court.

COMMISSIONER COFFEY seconded.

COMMISSIONER KLINKNER stated he was proposing this recommendation for three reasons, the first of which was for the sake of simplicity. He noted the complexity involved in crafting an internal appellate body, whereas, the procedures for the Superior Court of appeal are established. The second reason was the economy achieved by unburdening municipal government with the expense and necessity of supporting this intermediate board and shifting that burden to the State of Alaska. Third, this would achieve an improved the quality of decision-making both in terms of the judicial expertise to handle the appellate decision and because the participants before either the Platting Board or this Commission would potentially improve their presentations.

COMMISSIONER COFFEY questioned whether the public good would be advanced by taking appeals directly to Superior Court, given the ongoing rewrite of Title 21 and the fact that the judiciary would not likely be as familiar with Title 21 and the Comprehensive Plan. He also questioned how this process would give the public a chance to appeal on the local level without the personal expense involved in going to Superior Court. COMMISSIONER KLINKNER agreed there are trade-offs and balancing to be done. He saw merit in both proposals. The prospect of going directly to Superior Court puts the burden on the board and Staff to expose all Title 21 and Comprehensive Plan issues clearly in the initial proceeding and the public to make their best presentation at that level as well. He felt that setting up a second quasi-lay board would give people the misconception that there is an opportunity to reformulate their case when they go to the second body.

CHAIR PENNEY understood that appeals to the court are somewhat expensive. He feared some members of the public might be precluded from the appeal process due to financial considerations.

COMMISSIONER KLINKNER agreed that it would likely be more expensive for private parties that want to pursue an appeal to appeal to court than to a board. It would be more expensive to the Municipality to support a board. A possible compromise would be for the Municipality to still have the responsibility to prepare the record.

COMMISSIONER JONES stated that intellectually she followed Mr. Klinkner's suggestion, but she was struggling with the cultural shift it embodies. She thought the Commission would need to change the way it does business in terms of making findings, etc. or many cases would that might be appealed might also be remanded.

COMMISSIONER KLEIN asked what is the approximate time frame involved in a court appeal. COMMISSIONER KLINKNER indicated he would not estimate the time frame is different than with the Board of Adjustment. COMMISSIONER JONES indicated that the time frame could realistically be much longer because cases are at the mercy of the court's calendar.

COMMISSIONER COFFEY stated that implicit in Mr. Klinkner's motion is that the body from which appeals are taken is both presumed to, and challenged to, make a good record. His experience with appeals has been that frequently appeals are not meritorious and are interposed to delay and cause problems for the petitioner. There are also cases where there are legitimate grounds for appeals and appealing to court might inhibit those because of financial considerations. There is also the issue that this process would result in a dramatic change from what has been done historically with regard to appeals. He stated that an award of cost might deter frivolous appeals. He also believed that the political climate around this ordinance would argue against Mr. Klinkner's motion.

COMMISSIONER KLEIN stated that much of the information that is given to the Staff is purposely inaccurate and much has to be ferreted out in the Staff's analysis of that information. Therefore, it is not realistic to expect that on the first review Staff can catch everything. He felt the existence of a new Board of Adjustment would encourage parties to make more realistic compromises.

Motion to Substitute

AYE: Klinkner

NAY: Penney, Starr, Poulton, Jones, Coffey, Knepper, Klein

FAILED

COMMISSIONER COFFEY moved to amend to add the Board of Adjustment to AMC 21.10.010, the provision imposing a 10-day

comment period that is applicable to the Commission and Platting Board members.

COMMISSIONER KLEIN seconded.

COMMISSIONER COFFEY felt that a position on the Board of Adjustment is an important post and there should be the opportunity for comments to be heard on appointments before they are confirmed.

Amendment

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Knepper, Klein

NAY: None

PASSED

COMMISSIONER POULTON thought a 2-year sunset was a short period, given the time involved in setting up the body, etc. He suggested a 3-year sunset provision. COMMISSIONER KLEIN accepted this as a friendly amendment, explaining he had suggested a 2-year time frame because of the pending work with Clarion Associates to include specific language in Title 21 to address this issue. COMMISSIONER POULTON asked if, in fact, this is the case. CHAIR PENNEY understood that Clarion Associates is currently working on a rewrite of Title 21, but there will be hearings before the Commission and the Assembly.

COMMISSIONER COFFEY noted that the Commission would be meeting with Clarion Associates on May 15 and this issue has been a subject of their review. He did not want to set a sunset provision that either does or does not coincide with the provisions of Title 21 and the potential changes to Title 21. He believed the projection is that the Title 21 rewrite would be presented in 18 months. He asked if it would be appropriate to take the Commission's suggestions to Clarion Associates on May 15 and, if there are no substantial objections, it can be passed onto the Assembly. He did not want this authority to go back to the Assembly. He did not support a sunset clause. He moved to amend to delete the sunset clause.

COMMISSIONER JONES seconded.

COMMISSIONER JONES noted that the Assembly has the power to change any provision in Title 21 at any time, so if this provision is not working, it can be removed or changed.

Amendment

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Klein

NAY: Knepper

PASSED

COMMISSIONER COFFEY asked if this work should be discussed with Clarion Associates and this matter then be put back on the agenda for a final vote.

COMMISSIONER POULTON asked how many members would be attending that May 15 meeting with Clarion Associates; three responded. COMMISSIONER COFFEY indicated he wished to vote this evening, given this information. COMMISSIONER KLINKNER understood that Clarion Associates is asking what the Municipality wants to do with respect to the Board of Adjustment, they are not necessarily giving direction in that regard.

COMMISSIONER JONES supported the motion, believing it is long overdue. She suggested that, if this does pass at the Assembly level, as implementation occurs, thought should be given to giving adequate training to members and making materials available long before they start reviewing cases on appeal. She stated she listened to the public testimony about having the ability to take appeals directly to the Assembly, but she hoped that if the process does not appear to be working, it might be time for the Assembly to look at policies and rules that need changing.

COMMISSIONER COFFEY supported the motion. He suggested that the time to address the concerns of the public about the opportunity for the Assembly to judge how appointed bodies are working and whether or not a policy is good is when the legislative body is formulating the rules that govern land use.

COMMISSIONER KLEIN stated that when sunset clauses are in ordinances the Assembly is forced to address any concerns that might have arisen. In many cases, that has been helpful.

CHAIR PENNEY thought this new ordinance would speed the process by which appeals are processed and would also de-politicize the process.

Main Motion

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Knepper, Klein
NAY: None

PASSED

COMMISSIONER COFFEY moved to reorder the agenda to hear case 2003-069 before case 2003-037.

COMMISSIONER STARR seconded.

AYE: Penney, Klinkner, Starr, Poulton, Jones, Coffey, Knepper, Klein
NAY: None

PASSED

- 6. 2003-069** Gregory E. Broderick. A request to rezone approximately 1.91 acres from R-6 (Suburban Residential) to R-1 (Single-Family Residential). Bruin Park First Addition, Block 6, Lots 15, 16, 17 and Block 7, Lots 2 & 3. Located at 2500, 2510 Klatt Road and at 2521, 2511 and 2501 Mona Avenue.


CHAIR PENNEY noted that Brock Shamberg had submitted a written withdrawal of his opposition to this rezoning.


Staff member AL BARRETT stated 149 public hearing notices were mailed, 0 were received in support, and 1 was received in opposition. He stated that no written comment was received from the community council, but he has been told they have made verbal comments to other Staff members. Pages 03 and 04 of the packet show the proposed plat, if the rezoning is successful. The existing situation is depicted on page 038 of the packet. The existing five lots are nonconforming lots of record in the R-6 district. They were platted in 1961 and rezoned in 1974. No nonconforming rights have been established, but they are likely developable as either R-1 or R-5, using well and septic. If the applicant is successful, would lose nonconforming rights and be required to connect to city water and sewer. The request to rezone is consistent with the Comprehensive Plan and the zoning is

MUNICIPALITY OF ANCHORAGE
MEMORANDUM
Planning Department

DATE: April 23, 2003

TO: Planning and Zoning Commission

THRU:  Susan R. Fison, Planning Director

FROM:  Jerry T. Weaver Jr., Zoning Administrator

SUBJECT: Case 2003-068, an ordinance amending the Municipal Code to eliminate the designation of the Municipal Assembly as the Board of Adjustment and to create a three-member Board of Adjustment whose members are recommended by the Mayor and confirmed by the Municipal Assembly.

Assemblymembers Tesche and Sullivan have introduced A0 2003-58 to eliminate the designation of the Municipal Assembly as the Board of Adjustment and to create a three-member Board of Adjustment whose members are recommended by the Mayor and confirmed by the Municipal Assembly.

The general rationalization for the change is outlined in Assembly Memorandum Number 222-2003. The Assembly Memorandum indicates that the newly constituted Board of Adjustment would hear appeals from the Platting Board and the Planning and Zoning Commission. It is suggested that the new board should be able to hear the cases quicker for a speedy administrative remedy.

The Planning Department has discussed this issue with Clarion and Associates, the consultant which is working on the rewrite of Title 21 of the Municipal Code. Clarion and Associates also recognized the need to do something different from the present practice. However, their work will not be completed with suggested code revisions for at least 9-12 months.

Comprehensive Planning suggests that there may be a positive benefit to move the responsibilities to another entity, thereby creating additional time for the Assembly to work on other issues while leaving the technical appeal process to another board to decide. The new board should be able to meet to decide cases more expeditiously and, therefore, give applicants improved due process for appeals.

Staff supports the proposed revisions to the Municipal Code but other areas of the code need to be amended as well. AMC 21.30 has numerous sections which will need to be changed to reflect the proposed change creating the new three-member Board of Adjustment.

Submitted by: Assemblymembers Tesche, Sullivan
 Prepared by: Assembly Department
 For reading: March 18, 2003

ANCHORAGE, ALASKA
 AO NO. 2003-58

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
 2 ANCHORAGE MUNICIPAL CODE 21.10.030 AND 21.30.030 TERMINATING
 3 DESIGNATION OF THE ASSEMBLY AS THE BOARD OF ADJUSTMENT, CREATING
 4 A SEPARATE BOARD OF ADJUSTMENT, AND TRANSFERRING ALL FUNCTIONS OF
 5 THE BOARD OF ADJUSTMENT FROM THE ASSEMBLY TO THE NEWLY
 6 CONSTITUTED BOARD.
 7

8
 9 THE ANCHORAGE ASSEMBLY ORDAINS:

10
 11 Section 1. Anchorage Municipal Code Section 21.10.030B1, board of adjustment, is
 12 amended by adding language to read as follows:
 13

14 **21.10.030 Board of adjustment.**

15
 16 A. There is a board of adjustment, which shall decide appeals from:

- 17
 18 1. Decisions regarding the approval or disapproval of a plat or variance from the
 19 provisions of chapters 21.80 and 21.85; and
 20
 21 2. Decisions regarding the approval or disapproval of applications for concept
 22 or final approval of conditional uses;
 23

24 in accordance with Chapter 21.30.

25
 26 B. The board of adjustment shall be:

- 27
 28 1. A three-member board of adjustment [THE ASSEMBLY], for appeals from
 29 the platting board and the planning and zoning commission, whose members
 30 are nominated by the mayor and confirmed by the assembly for three-year
 31 staggered terms. The board's seats shall be designated Seats 1, 2, and 3;
 32
 33 2. The planning and zoning commission, for appeals from the hearing officer.
 34

35 (GAAB 21.30.360, 21.30.370; AO No. 73-76; AO No. 77-355; AO No. 84-70; AO
 36 No. 85-72; AO No. 86-155)



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 222-2003

Meeting Date: March 18, 2003

1 **From:** Assemblymember Tesche
2 **Subject:** AO 2003-58, Amending AMC 21.10.030 and 2.30.030 Terminating Designation
3 of the Assembly as the Board of Adjustment and Creating a Separate Three-
4 Member Board of Adjustment
5
6

7 Attached Ordinance AO 2003-58 is hereby introduced for referral to the Planning Commission for
8 review and comment. The ordinance establishes a three-member Board of Adjustment to hear quasi-
9 judicial appeals pertaining to platting matters and conditional use permitting requirements in
10 accordance with Chapter 21.30. Currently, the Assembly, the local legislative body for the
11 Municipality, sits as the Board of Adjustment and has jurisdiction over appeals as noted above.
12 Referring Board of Adjustment matters to a three-member board should provide for a speedy local
13 administrative remedy prior to a case being filed in superior court.
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18 Respectfully submitted,
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22 *Assemblymember Tesche*
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Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AD 2003-58

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED
	An Ordinance Amending AMC 21.10.030 and 2.30.030 Terminating Designation of the Assembly as the Board of Adjustment, creating a Separate Board of Adjustment, and Transferring all Functions of the BOA from the Assembly to the Newly Constituted board.		3/4/03
2	DEPARTMENT NAME	Indicate Documents Attached	
	Assembly	<input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	DIRECTOR'S NAME	
	Assembly Counsel Administrative Assistant	4420	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
	Mayor		
	Heritage Land Bank		
	Merrill Field Airport		
	Municipal Light & Power		
	Port of Anchorage		
	Solid Waste Services		A
	Water & Wastewater Utility		
	Municipal Manager		
	Cultural & Recreational Services		
	Employee Relations		
	Finance, Chief Fiscal Officer		
	Fire		
	Health & Human Services		
	Office of Management and Budget		
	Management Information Services		
	Police		
	Planning, Development & Public Works		
	Development Services		
	Facility Management		
	Planning		
	Project Management & Engineering		
	Street Maintenance		
	Traffic		
	Public Transportation Department		
	Purchasing		
	Municipal Attorney		
	Municipal Clerk		
	Other		
5	Special Instructions/Comments		
		<i>Interchange</i>	
6	ASSEMBLY HEARING DATE REQUESTED	7 PUBLIC HEARING DATE REQUESTED	
	3/18/03		

2003 MAR -14 AM 10:14
M.C.A.
CLERKS OFFICE

MUNICIPALITY OF ANCHORAGE

APR 17 2003

MEMORANDUM

MUNICIPALITY OF ANCHORAGE
PLANNING & ZONING DIVISION

DATE: April 14, 2002

TO: Jerry T. Weaver, Jr., Division Administrator
Zoning Division, Planning Department

THRU: TH Tom Nelson, Planning Supervisor
Comprehensive Planning Division

FROM: Comprehensive Planning Division Staff

SUBJECT: Staff comments for May 5, 2003 Zoning Cases

Following are Comprehensive Planning Division comments regarding rezoning cases 2003-69 and -73, and zoning ordinance amendment 2003-068, to be heard May 5, 2003.

Case 2003-068 Amendment to Title 21 for changes to the Board of Adjustment

The proposed reorganization of the appellate board occurs in the context of the overall rewrite of Title 21. In the Annotated Outline of a New Title 21 (April 2003), the Title 21 rewrite consultant proposes potential alternatives for appellate board reform:

...We heard several comments suggesting that the Assembly should no longer play a role in the appeals process in this manner, given the potential for politicization of appeals. Some revision of this section probably is necessary. To keep the current situation intact but clarify the Assembly's role, one option is simply to list the appellate authority of the Assembly directly, and eliminate the nominal provisions creating the Board of Adjustment. Other options include transferring the BOA powers to the Zoning Board of Examiners and Appeals or the Administrative Hearing Officer, seating an independent Board of Adjustment, or retaining the existing system of split BOA powers between the Assembly and the Planning and Zoning Commission. Yet another option that some interviewees supported is eliminating the BOA and sending appeals of all regulatory decisions to Superior Court. We seek feedback from the Municipality on this matter.

The Title 21 consultant now intends to research and develop appellate board reform alternatives with the Title 21 Citizens Advisory Committee (CAC) and Technical Advisory Committee (TAC) this summer and fall. The consultant intends to present a draft solution for an appellate board as part of its first module of the Title 21 rewrite. Therefore, the Comprehensive Planning Division advises delaying the proposed ordinance until later this year when the consultant and its advisory committees present a review draft comprehensive solution to the appellate board issue.

Jerry T. Weaver, Jr., Zoning Division Administrator
Comprehensive Planning Division Comments
May 5, 2003 Zoning Cases
April 14, 2003
Page 2

advises delaying the proposed ordinance until later this year when the consultant and its advisory committees present a review draft comprehensive solution to the appellate board issue.

However, if there is a decision to press on with the proposed amendment now, Comprehensive Planning Division has the following recommendations regarding its content:

- o Comprehensive Planning Division supports the transfer of appellate powers from the Assembly over to a dedicated board. The removal of the Assembly from a case by case role in the appeals process has advantages both for the case review process and for the Assembly, which stands to gain relief from the burden of individual case reviews.
- o Comprehensive Planning Division suggests *consideration*, at least, of alternatives to creating a new board. For example, the Title 21 Annotated Outline lists the transfer of BOA powers to the Zoning Board of Examiners and Appeals. What are the advantages of creating an independent BOA versus the Zoning Board of Examiners and Appeals?

Case 2003-069: Rezoning to R-1 Single-family Residential District

The subject parcels are located on the west side of Lake Otis Parkway, across from the former Tulin gravel pits. The Anchorage Bowl Comprehensive Development Plan (1982) calls for this area to have 3-6 dwelling units per acre. The parcels are located in the Hillside Water and Wastewater Management Plan water and sewer service area.

Urban density single family residential in this location conforms with adopted plans if the zoning map amendment shall not allow for residential densities substantially greater than 6 dwelling units per acre. If the proposed R-1 district would allow more than 6 dwelling units per acre, then the Comprehensive Planning Division recommends denial or exploration of an alternative lower urban density residential zone, such as the R-1A district. The proposed rezone seems to affect only a small area. Does it meet the minimum rezone area requirements?

Case 2003-073: Rezoning from R-3 to PLI, PLI-p

Comprehensive Planning Division supports the proposed rezone as a housekeeping measure.

EAGLE RIVER VALLEY COMMUNITY COUNCIL
P.O. BOX 772812
EAGLE RIVER, AK 99577-2812

April 14, 2003

VIA FAX TO 343-7927

Planning and Zoning Commission
Municipality of Anchorage
Department of Community Planning & Development
P.O. Box 196650
Anchorage, Alaska 99519-6650

APR 14 2003

Re: Amendment to Title 21 regarding the Board of Adjustment
Case # 2003-068

Dear Planning and Zoning Commissioners:

At the April 9, 2003 meeting of the Eagle River Valley Community Council, we discussed the proposed amendment to Title 21 regarding the proposed ordinance changing the Board of Adjustment from an Assembly duty to a separate body appointed by the Mayor. After a lengthy discussion a motion was made and passed unanimously that **The Eagle River Valley Community Council believes that the Anchorage Municipal Assembly is best suited as the Board of Adjustment. We oppose this change to Title 21.** Because the Assembly are elected officials it was thought that they render the most equitable decisions. Creating a second Board not only adds expense to the city but can create a partisan decision making body leading to lawsuits.

Sincerely,

Sarah Wright
President, Eagle River Valley Community Council
swrights@aol.com

Pierce, Eileen A

RECEIVED

From: Staff, Alton R.
Sent: Thursday, April 17, 2003 8:35 AM
To: Ayres, Patty R.; Pierce, Eileen A
Cc: Taylor, Gary A.
Subject: Zoning Cases

APR 17 2003

**MUNICIPALITY OF ALTON ILL
PLANNING & ZONING DEPT**

Public Transportation has no comment on the following zoning cases:

2003-68 through 70

Thank you for the opportunity to comment.

Alton Staff
Operations Supervisor
People Mover
907-343-8230



MUNICIPALITY OF ANCHORAGE
Traffic Department



MEMORANDUM

DATE: April 7, 2003
TO: Jerry T. Weaver, Platting Supervisor, Planning Department
THROUGH: Leland R. Coop, Associate Traffic Engineer *LC*
FROM: Mada Angell, Traffic Engineering Technician *MA*
SUBJECT: Comments, Planning & Zoning Commission, May 5, 2003

APR 11 2003

03-068 Ordinance Amendment to Title 21

Traffic has no comment.

03-069 Bruin Park #1, Lots 15-17 Block 6, Lots 2 & 3 Block 7; Rezone from R-6 to R-1; Grid 2633

This proposed subdivision can have no direct vehicular access to Lake Otis Parkway. Also, Mona Street must be constructed from Lake Otis Parkway to farthest south property. Construction must be to MOA standards.

03-070 Kobuk, Tract A; Conditional Use for a natural resource extraction; Grid 1541

Traffic has no comment.

03-071 New Girdwood Townsite; Conditional Use for the Girdwood Community Needs Center; Grid 51516

The Girdwood Community Needs Center will have to meet the parking requirements of AMC Title 21.

03-072 MHTL, Tract E; Rezone from PLI to B-3SL; Grid 1734

Traffic Impact Analysis is required for this rezone.

E-MAILED

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

CENTRAL REGION - PLANNING

FRANK H. MURKOWSKI, GOVERNOR

4111 AVIATION AVENUE
P.O. BOX 196900
ANCHORAGE, ALASKA 99519-6900
(907) 269-0520 (FAX 269-0521)
(TTY 269-0473)

April 8, 2003

RE: MOA Zoning Comments

APR 09 2003

Mr. Jerry Weaver, Platting Officer
Department of Development & Planning
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99519-6650

Dear Mr. Weaver:

The Alaska Department of Transportation and Public Facilities (ADOT&PF) has reviewed the following cases and has no comment:

- 2003-064 Ordinance amending Title 21 amending the Official Streets & Highways Plan
- 2003-066 Ordinance amending subsection 21.45.245B exempt Teen Nightclubs & Underage Dances from 300' location restriction.
- 2003-068 Ordinance amending Title 21 for changes to the Board of Adjustment
- 2003-069 Bruin Park First Addition Subdivision / Rezoning to R-1
- 2003-070 Kobuk Subdivision Tract A / Conditional Use: Natural Resources Extraction
- 2003-071 Alaska Subdivision New Girdwood Townsite / Conditional Use: Girdwood Community Center
- 2003-072 MHTL Subdivision Tract E / Rezoning to B-3SL
- 2003-073 Merrill Field, eastside of Orca, south of 15th / Rezone to PLI, PLI-P, & R-3
- 2003-074 Pine Valley Estates Subdivision Tract D / Site Plan: review for a church
- 2003-075 Mesa Verde Addition #1 Lot 20 Block 1 / Variance: setback
- 2003-078 BLM Lot 31 T12N R3W Sec 15 / Variance: Title 21 Lot Size

Comment:

2003-076 Olympus Subdivision block 8 Lots 5 & 6 / Variance: Title 21 width: The Department has no objection to the variance to lot 5 & 6 with the following exception. The applicant must adhere to comments previously identified in plat application, S11057 Olympus Subdivision; "Direct vehicular access to Bietinger Drive is prohibited from lot 5A."



MUNICIPALITY OF ANCHORAGE

Department of Health and Human Services



Date: April 7, 2003
To: Rich Cartier, Planning Technician
From: Jeffrey Urbanus, Environmental Specialist
Subject: Environmental Services Division Comments Due 04/07/03

APR 10 2003

Case No. 2003-068: An ordinance amending Title 21 for changes to the board of adjustment: No Comment

Case No. 2003-069: Rezoning to R-1 One family residential district: No Objection

Case No. 2003-070: Zoning conditional use for a natural resource extraction: Conditional use approval for this natural resource extraction requires a dust control plan approved by DHHS. It is not sufficient to say that dustfree conditions will be dealt with "on a daily ongoing situation." A dust control plan must also cover periods when the pit is not being operated. Control of trackout of mud and silt onto public roads should be addressed. Control of dust during windstorms should be addressed. Restoration of the site should be phased, so that dust stabilization or restoration does not depend on final completion of operations. Please Contact Larry Taylor @ 343-4843 with any questions.

Case No. 2003-072: Rezoning to B-3SL General Business district with a special limitations: No Comment

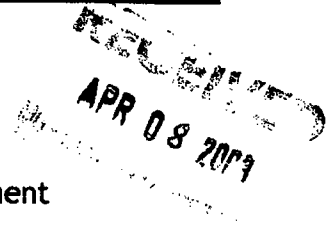


MUNICIPALITY OF ANCHORAGE
Traffic Department



MEMORANDUM

DATE: April 7, 2003
TO: Jerry T. Weaver, Platting Supervisor, Planning Department
THROUGH: Leland R. Coop, Associate Traffic Engineer
FROM: Mada Angell, Traffic Engineering Technician
SUBJECT: Comments, Planning & Zoning Commission, May 5, 2003



03-068 Ordinance Amendment to Title 21

Traffic has no comment.

03-069 Bruin Park #1, Lots 15-17 Block 6, Lots 2 & 3 Block 7; Rezone from R-6 to R-1; Grid 2633

This proposed subdivision can have no direct vehicular access to Lake Otis Parkway. Also, Mona Street must be constructed from Lake Otis Parkway to farthest south property. Construction must be to MOA standards.

03-070 Kobuk, Tract A; Conditional Use for a natural resource extraction; Grid 1541

Traffic has no comment.

03-071 New Girdwood Townsite; Conditional Use for the Girdwood Community Needs Center; Grid 51516

The Girdwood Community Needs Center will have to meet the parking requirements of AMC Title 21.

03-072 MHTL, Tract E; Rezone from PLI to B-3SL; Grid 1734

Traffic Impact Analysis is required for this rezone.

Municipality of Anchorage
MEMORANDUM

RECEIVED
APR 01 2003
MUNICIPALITY OF ANCHORAGE
PLANNING & ZONING DIVISION

DATE: April 1, 2003
TO: Jerry Weaver, Manager, Zoning and Platting Division
FROM: Brian Dean, Acting Zoning Code Compliance Manager
SUBJECT: Zoning Code Compliance Review Comments, Planning and Zoning Commission cases for the meeting of May 5, 2003

Zoning Code Compliance has reviewed the following cases and has comments as noted.

<u>Case #</u>	<u>Legal Description</u>	<u>Grid</u>	<u>Page</u>
2003-068	Ordinance amendment (Board of Adjustment)		1
2003-069	Bruin Park #1, Block 6, Lots 15-17, and Block 7, Lots 2-3	2633	2
2003-070	Kobuk, Tract A	1541	5
2003-071	New Girdwood Townsite, Block 1, Lot 11	4815	6
2003-072	MHTL, Tract E	1734	7

Case #: 2003-068
Type: Ordinance amendment (Board of Adjustment)

Zoning Code Compliance has no adverse comment regarding this case.

(Reviewer: Don Dolenc)



MUNICIPALITY OF ANCHORAGE

Office of Planning, Development, and Public Works
Development Services Department



MEMORANDUM

DATE: March 28, 2003
TO: Community Planning and Development
THRU: Jack L. Frost, Jr., Right of Way Supervisor *JL Frost*
FROM: Lynn McGee, Senior Plan Reviewer *LM*
SUBJ: Request for Comments on Planning and Zoning Commission case(s) for the Meeting of May 5, 2003.

Right of Way has reviewed the following case(s) due April 7, 2003.

- 03-068** Ordinance Amendment
(Board of Adjustment)
Right of Way Division has no comments at this time.
Review time 15 minutes.

- 03-069** Bruin Park #1, Block 6, Lots 15 -17, Block 7, Lots 1 and 2, grid 2633
(Rezone)
Right of Way Division has no comments at this time.
Review time 15 minutes.

- 03-070** Kobuk, Tract A, grid 1541
(Rezone)
Right of Way Division has no comments at this time.
Review time 15 minutes.

- 03-071** New Girdwood Townsite, Alaska Subdivision, Grid 4815
(Conditional Use Community Needs Center)
Right of Way Division has no comments at this time.
Review time 15 minutes.

- 03-072** MHTL, Tract E, grid 1734
(Rezone)
Right of Way Division has no comments at this time.
Review time 15 minutes.



Municipality of Anchorage
Development Services Department
Building Safety Division



MEMORANDUM

RECEIVED

DATE: March 27, 2003 **MAR 27 2003**

TO: Jerry T. Weaver, Jr., Platting Officer, CPD **COMMUNITY PLANNING AND DEVELOPMENT**

FROM: *JC* James Cross, PE, Program Manager, On-Site Water & Wastewater

SUBJECT: Comments on Cases due April 4, and April 7, 2003

The On-Site Water & Wastewater Program has reviewed the following cases and has these comments:

2003 - 074 A request for a Church Site Plan Review for Kingdom Hall. Pine Valley Estates Subdivision.

No objections.

2003 - 068 A request for an ordinance amending Title 21 for changes to the Board of Adjustment.

No objections.

2003 - 069 A request for rezoning to R-1 One family residential district.

No objections.

2003 - 070 Zoning conditional use for a natural resource extraction.

No objections.

2003 - 071 A request for a zoning conditional use for the Girdwood Community Needs Center.

No objections.

2003 - 072 A request for rezoning to B-3SL General Business District with special limitations.

No objections.

Municipality Of Anchorage
ANCHORAGE WATER & WASTEWATER UTILITY

MEMORANDUM

RECEIVED
MAR 24 2003
MUNICIPALITY OF ANCHORAGE
PLANNING & ZONING

DATE: March 24, 2003
TO: Zoning and Platting Division, DCPD
FROM: Hallie Stewart, Engineering Technician
SUBJECT: PLANNING & ZONING Commission Public Hearing of May 5, 2003
AGENCY COMMENTS DUE April 7, 2003

AWWU has reviewed the material and has the following comments.

03-068 Title 21

1. AWWU has no comments on the ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code 21.10.030 and 2.30.030 terminating designation of the assembly as the Board of Adjustment, creating a separate Board of Adjustment, and transferring all functions of the board of adjustment from the assembly to the newly constituted board.

03-069 Bruin Park Addn. #1, Block 6, Lots 15, 16 & 17; Block 7, Lots 2 & 3 (rezone) Grid 2633

1. AWWU water and sanitary sewer mains are located within the Lake Otis Parkway right-of-way. Main agreements are required to extend the existing mains and provide services to the proposed lots.
2. AWWU has no objection to the proposed rezone.

03-070 Kobuk, Tract A (conditional use) Grid 1541

1. AWWU water mains are located within the Muldoon Road and Ptarmigan Court rights-of-way.
2. An AWWU sanitary sewer main is located within the Ptarmigan Court right-of-way.
3. AWWU does not object to the proposed conditional use for a natural resource extraction.

03-071 New Girdwood Townsite, Block 1, Lot 11 (conditional use) Grid SE4815

1. AWWU water mains are not available to the referenced lot.
2. An AWWU sanitary sewer main is located within the Holmgren Place right-of-way.
3. AWWU has no comments on the proposed conditional use.

03-072 MHTL, Tract E (rezone) Grid 1734

1. AWWU water and sanitary sewer mains are located within the rights-of-way and on-property.
2. AWWU has no comments on the proposed rezone.

If you have any questions, please call me at 343-8009 or the AWWU Planning Section at 564-2739.

Chapter 21.30 APPEALS

Part 1. Appeals to Board of Adjustment

- 21.30.010 Jurisdiction of board.
- 21.30.020 Initiation of appeal.
- 21.30.025 Appellees before board.
- 21.30.030 Perfection of appeal; notice of appeal; appeal fee.
- 21.30.040 New evidence or changed circumstances.
- 21.30.050 Appeal record.
- 21.30.060 Written arguments.
- 21.30.070 Appeal packet; notice of hearing.
- 21.30.080 Conduct of hearing.
- 21.30.090 Scope of review.
- 21.30.095 Decision.
- 21.30.100 Remedies.

Part 2. Appeals to Zoning Board of Examiners and Appeals

- 21.30.110 Jurisdiction of board.
- 21.30.120 Initiation of appeal.
- 21.30.130 Time limit for filing; notice of appeal; appeal fee.
- 21.30.140 Scope of review.
- 21.30.150 Hearing.
- 21.30.160 Decision.

Part 3. Rules of Procedure and Judicial Appeals

- 21.30.170 Special rules of procedure applicable to appeal hearings.
- 21.30.180 Judicial review authorized.
- 21.30.190 Scope of judicial review.

PART 1. APPEALS TO BOARD OF ADJUSTMENT

21.30.010 Jurisdiction of board.

The board of adjustment shall decide appeals:

- A. From decisions regarding the approval or disapproval of a plat or a variance from the provisions of chapters 21.80 and 21.85.
- B. From decisions regarding the approval or disapproval of applications for concept or final approval of conditional uses and site plans.

(AO No. 73-76; AO No. 77-355; AO No. 84-32; AO No. 84-70; AO No. 85-72; AO No. 86-90; AO No. 86-155; AO No. 94-55, § 1, 5-3-94)

21.30.020 Initiation of appeal.

- A. Decisions may be appealed to the board of adjustment by:
 - 1. The applicant for a site plan, conditional use or subdivision.
 - 2. Any governmental agency or unit.
 - 3. Any person adversely affected by the action.
- B. The planning and zoning commission may direct that any decision of the hearing officer be reviewed by the commission sitting as the board of adjustment in accordance with this chapter; provided that Section 21.30.050.B and Section 21.30.060 do not apply to such review.

(AO No. 73-76; AO No. 77-355; AO No. 84-32; AO No. 84-70; AO No. 85-72; AO No. 86-155; AO No. 94-55, § 2, 5-3-94)

21.30.025 Appellees before board.

- A. If a decision is appealed to the **board of adjustment** as provided in Section 21.30.020, an appellee brief may be filed as provided in Section 21.30.060 by:
1. The party in whose favor the lower administrative body's decision was rendered.
 2. Any municipal agency.
 3. Any person who would be adversely affected if the decision of the lower administrative body were reversed by the board.
- B. Appellees who wish to be notified by the municipal clerk's office of the date the record is available and of the date the appellant's brief is filed must file a notice of intent to file a brief with the municipal clerk's office on a form prescribed by the municipal clerk within 20 days after the decision of the lower administrative body from which the appeal is taken. An applicant for a site plan, conditional use or subdivision, who is not the appellant, must file a notice of intent to file a brief with the municipal clerk's office within seven days of receipt of the appellant's notice of appeal to become an appellee.

(AO No. 90-144; AO No. 94-55, § 3, 5-3-94)

21.30.030 Perfection of appeal; notice of appeal; appeal fee.

- A. An appeal to the **board of adjustment**:
1. Initiated under Section 21.30.020.A must be perfected no later than 15 days after the decision of the administrative body from which the appeal is taken, unless a written request is made within seven days after the administrative body acts on an application for the body to adopt written findings and conclusions on the application. A written decision under this subsection is the decision of the board for purposes of computing the time for appealing the decision. The appeal is perfected by the filing of a notice of appeal, appeal fee and cost bond in accordance with this section.
 2. Initiated under Section 21.30.020.B must be initiated as provided in that subsection no later than the second regular meeting of the planning and zoning commission after the decision from which the appeal is taken. The planning and zoning commission at any time may waive appeal of a decision under Section 21.30.020.B.
- B. The notice of appeal must be filed with the municipal clerk on a form prescribed by the municipality and must contain detailed and specific allegations of error. If the appellant is not the applicant for a site plan, conditional use or subdivision, the appellant shall, within three days after filing the notice of appeal, serve a copy of the notice of appeal on the applicant by certified mail to the applicant's last known address. Proof the notice was served shall be provided to the municipal clerk.
- C. The appellant shall pay an appeal fee as provided in a fee schedule to be approved by

AM 553-2003

Content Information

Content ID : 000857

Amending AMC 21.10.030 creating a new three-member

Title: Board of Adjustment to replace the Assembly as the Board of Adjustment.

Author: weaverjt

Initiating Dept: Planning

Review Depts: Legal

Date Prepared: 5/16/03 1:17 PM

Director Name: Susan Fison

Requested Assembly Meeting Date MM/DD/YY: 6/24/03 12:00 AM

Requested Public Hearing Date MM/DD/YY: 6/24/03 12:00 AM

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
OtherServicesAMWorkflow	5/16/03 1:20 PM	Checkin	weaverjt	Public	000857
Planning_SubWorkflow	5/19/03 1:04 PM	Approve	fisonsr	Public	000857
PDPW_SubWorkflow	5/19/03 9:19 PM	Approve	scottmj	Public	000857
OtherServicesAMWorkflow	6/2/03 4:08 PM	Reject	wheelerda	Public	000857
OtherServicesAMWorkflow	6/3/03 10:39 AM	Checkin	weaverjt	Public	000857
Planning_SubWorkflow	6/3/03 12:05 PM	Approve	nelsontp	Public	000857
PDPW_SubWorkflow	6/4/03 2:34 PM	Approve	scottmj	Public	000857
Legal_SubWorkflow	6/17/03 5:25 PM	Approve	wheelerda	Public	000857
MuniManager_SubWorkflow	6/18/03 8:00 AM	Approve	kielinghj	Public	000857
MuniMgrCoord_SubWorkflow	6/18/03 8:02 AM	Approve	katkusja	Public	000857

NEW PUBLIC HEARINGS; REF. AO 2003-58

CLERKS OFFICE
2003 JUN 18 AM 8:57
M.A.

