

Correspondence



RABBIT CREEK COMMUNITY COUNCIL (RCCC)
A Forum for Respectful Communication & Community Relations



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

May 3, 2024

Dear Anchorage Assembly:

The Rabbit Creek Community Council (RCCC) Board and Land Use and Transportation Committee have reviewed AO 2024-45 (AO-45) - Laid-on-the-Table April 23, 2024.

RCCC strongly objects to the process that the Assembly Sponsors are using to enact areawide rezoning. The Assembly Sponsors propose to change the rules governing rezoning in Anchorage through AO-45. This could allow legal implementation of the proposed ordinance AO 2023-87(S), which seeks to rezone all residential areas of the Anchorage Bowl, without any meaningful opportunities for adequate public notice and involvement.

Our specific concerns with AO 2024-45 include:

- Avoiding use of the word rezoning, even though 87(S) would rezone all residential districts by consolidating them into only five new zones.
- An accelerated timeline that deters meaningful public review and input.
- Inadequate public notice, including failure to notify affected property owners.
- No overall review of our existing Comprehensive Plan elements as required under A.S. 29.40.
- Minimal to no analysis by professional Municipal Planning staff.
- No review by the Planning and Zoning Commission.
- Combining into one action, what should be three separate analyses and steps: amending the Comprehensive Plan, amending the zoning map, and implementing a Title 21 text amendment.
- Making approval criteria for Title 21 amendments optional.
- Overruling neighborhood and district plans developed with extensive and local public input.

We continue to believe the 2040 Land Use Plan includes many well-crafted and researched actions and strategies (Actions Checklist, pages 82-93) that should be given priority and implemented before enacting the major zoning and plan revisions of 87(S) and AO-45. We believe implementing the 2040 actions would more effectively and swiftly incentivize housing development in Anchorage.

Therefore, we recommend tabling AO 2024-45. We present detailed concerns justifying this recommendation in the Attachment.

Sincerely,

Ann Rappoport, Co-chair

John Riley, Co-chair

cc: Mayor Bronson
Anchorage Planning Department

Attachment

Following are RCCC's specific comments and concerns with proposed AO 2024-45. After describing a concern/comment, a specific reference to AO 2024-45 is provided in parentheses.

Avoiding use of the word rezoning

The term 'conforming amendments' replaces the word 'rezone' in AO-45. This feels like a deceptive use of words intended to remove the legal procedures currently in place for an area-wide rezone.

Do not allow changes to the official zoning map by text amendments or Comprehensive Plan amendments. Rezoning has a direct financial and legal effect on individual property owners and deserves a different public notice and hearing procedure than changes to planning documents.

(Objection to changes to 21.01.050.B Official Zoning Map)

We note that the Municipal Attorney, in response to a formal query from the Municipal Planning Department, has found that, "The actions proposed in AO 2023-87(S) qualify as a "rezone" and the procedures of AMC 21.03.160 must be followed before the ordinance can be enacted" (April 22, 2024, Memorandum from Office of the Municipal Attorney).

Accelerated timeline deters meaningful public review and input

AO-45 would shorten the usual 21-day notice for Title 21 Text Amendments to only 7 days notice by the Assembly. This would make informed public response nearly impossible. This short timeline effectively handicaps Community Councils from responding.

(Objection to changing 21.03.210.C.5 Title 21 Text Amendments, Notice of Amendments)

AO-45 in its entirety has had only 14 days of public notice. It has not received any Planning staff analysis. The complexity and the short notice preclude meaningful and knowledgeable public input.

Inadequate public notice to property owners

Rezoning requires direct notification of affected property owners. The Municipality should fulfill its obligation of direct notification to enable property owners to participate in a public process for their most significant investment—their property. AO-45 would allow rezoning without specific analysis and direct notification and analysis to property owners by concurrently changing the Comprehensive Plan and the Zoning Map and exempting those changes from standard rezoning procedures. (Objection to changing 21.03.210.C)

No overall review of existing Comprehensive Plan elements

Alaska Statutes require overall review of the Comprehensive Plan before making substantive updates and requires participation of the Planning and Zoning Commission. AO 87(S) is a substantive change to the Comprehensive Plan policies and land use map: abandoning targeted rezoning and instituting random higher-density residential anywhere, with many scattered new commercial areas.

For example, **AS 29.40.030. Comprehensive Plan** establishes:

“(b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan. The assembly shall, **after receiving the recommendations of the planning commission**, periodically *undertake an overall review of the comprehensive plan and update the plan as necessary.*”

We note that the Municipal Attorney, in response to a formal query from the Municipal Planning Department, has found that, “under Anchorage Municipal Charter Section 12.01, land use decisions and regulations must be consistent with Anchorage's Comprehensive Plan” (April 22, 2024, Memorandum from Office of the Municipal Attorney).

Minimal to no analysis by Municipal Planning staff

AO-45 has not been reviewed by Planning Staff.

AO 2023-87(S) was reviewed under a short-time frame by Planning Staff and found to have many deficiencies; additionally, 87(S) lacks the detailed data and analysis typical of major rezoning and Comprehensive Plan changes. Other cities, such as Minneapolis, undertook a 2-year analysis before implementing their areawide residential rezoning. Anchorage Planning Staff found that targeted rezoning rather than areawide rezoning would best achieve efficient use of infrastructure and meet other goals for efficiency and public welfare.

AO-45 would require the planning staff to provide its review directly to the Assembly before providing it to the Planning and Zoning Commission (PZC), which is backwards to the current process and cuts the expertise of PZC out of meaningful input.
(Object to 21.03.070.B)

No review by the Planning and Zoning Commission (PZC)

The public interest is not served by waiving the PZC review of AO-45. Avoidance of a PZC review and public hearing deprives the Assembly of professional recommendations and the associated staff report, including independent legal analysis.
(The Title of AO 2024-45)

The Assembly should acknowledge the shared responsibility to develop the Comprehensive Plan through the efforts of the PZC and the Planning Staff, with public involvement: the Assembly has final authority but not “sole” authority as stated in the first WHEREAS of 2024-45.

Combining into one action, what should be three separate analyses and steps

Concurrent processing should not be used to reduce analysis related to rezoning.

Alaska Statute 29.40 requires that land use zoning regulations must be in accordance with comprehensive plans. In other words, planning must inform and guide zoning. The only insurance that planning guides zoning is for sequential consideration and adoption of plan amendments prior to adoption of zoning regulations.

(Objection to changes in 21.03.020.K/L)

Comprehensive plan amendments, zoning map amendments and Title 21 text amendments should be evaluated and voted upon as distinct actions, although they can be heard concurrently.

Retain the current intent of 21.03.160.C Rezoning (zoning map amendments) by requiring that the comprehensive plan amendment be decided first, not in a combined action with zoning and Title 21 amendments.

Overruling neighborhood and district plans

The Assembly's areawide rezoning overrides Neighborhood and District Plans without addressing or amending them. AO 87(S) creates inconsistency between the 2040 Land Use Plan and other elements of the Comprehensive Plan without comprehensive, or indeed, *any* review of the various plans.

The Comprehensive Plan is a collection of numerous adopted plans of different scales, including District and Neighborhood Plans. (See 21.01, Table 21.01-1: Comprehensive Plan elements.) The 2040 Land Use Plan did not conflict with zoning densities outlined in the Hillside District Plan except a few specified, compact locations where the 2040 Land Use Plan recommended targeted rezoning based on physical constraints or infrastructure.

ADDITIONAL POINTS

Usurping the public hearing process

Assembly input to the Planning and Zoning Commission is usually done in a work session. It is not necessary nor fair to the public to have Assembly members testifying in a public hearing, to the very individuals who are then supposed to advise the Assembly. That appears heavy-handed at best; and it diminishes the importance of public, i.e., citizen, testimony. There is a potential chilling effect on the professional and personal input of the Commissioners and the public.

(Objection to changes to 21.03.020 Public Hearing, by specifying presentation from the Assembly to other decision-making bodies. Same objection to 21.03.160. D/E.)

(Objection to 21.03.070.C.1 Comprehensive plan amendments to allow a single member of a decision-making body to initiate a Comprehensive Plan Amendment.)

Approval Criteria for Title 21 Text Amendments should be requirements, and not just topics for 'consideration.'

Require ALL approval criteria for Title 21 text amendments to be MET, not merely "considered." Ordinances are laws: they should not be changed arbitrarily. These criteria place the public interest and not the political interest foremost. If approval criteria are optional, they are not criteria.

(Object to changes to 21.03.210.B.6.C)

REITERATION:

Areawide rezoning is being fast-tracked as if it were an emergency measure, a quick fix, or a last hope to solve housing unaffordability. Areawide rezoning is none of those.

Through proposed AO 2024-45 (Laid-on-the-Table April 23, 2024), the Assembly seeks to change the planning procedures to empower themselves to make unilateral decisions on a timeline so short that Planning Staff, PZC and the public are practically shut out.

Areawide rezoning is promoted as a necessary measure to increase housing stocks without supporting data or justification for the negative impact to numerous comprehensive plan goals, including efficient use of infrastructure; reducing dependence on driving; design standards for safety, public health, and aesthetics; neighborhood commercial centers in planned locations, neighborhoods with distinctive character, harmony with the natural setting etc.