

1 **CLERK'S OFFICE**
2 **APPROVED**

3 Date: 3-1-05

Submitted by: Assemblymember COFFEY

Prepared by: Department of Assembly

For reading: February 15, 2005

4
5 **ANCHORAGE, ALASKA**
6 **AO NO. 2005-19**

7
8 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
9 **ANCHORAGE MUNICIPAL CODE SECTION 21.15.030, APPROVAL OF SITE PLANS**
10 **AND CONDITIONAL USES**

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12
13 THE ANCHORAGE ASSEMBLY ORDAINS:

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15 **Section 1:** That Anchorage Municipal Code Section 21.15.030, Approval of site
16 plans and conditional uses, is amended to read as follows:

17 * * * * *


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20 G. Modification of final approval.
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22 1. The authority that approved a conditional use or site plan may, upon
23 application by the petitioner, modify the conditional use or site plan:
- 24
25 a. When changed conditions cause the conditional use or site plan no
26 longer to conform to the standards for its approval.
- 27
28 b. To implement a different development or operational plan
29 conforming to the standards for its approval.
- 30
31 2. Upon the filing of an application for a modification of a conditional use and
32 after a review of the application to determine that it is complete and meets
33 the requirements of this title, the Department staff shall place the
34 requested modification on the consent agenda of either the planning and
35 zoning commission or the Assembly, as the case may be, for approval,
36 denial, further inquiry, public hearing and, thereafter, action by the
37 respective body.
- 38
39 a. The planning and zoning commission or the Assembly, upon an
40 express finding that the proposed modifications will have a
41 significant effect on the surrounding neighborhood or on owners or
42 occupiers of adjacent property that is the subject of the modification
43 application, may determine that a public hearing is necessary. In
44 such event the hearing shall be scheduled as soon as practicable
45 after the matter first comes before the body for conclusion.
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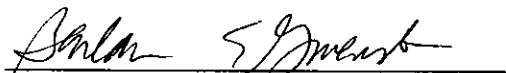
3. The modification application shall be considered as an application for final approval under subsection F of this section and therefore subject to the provisions of that section; [PROVIDED THAT A MODIFICATION APPLICATION SHALL NOT BE SUBJECTED TO A PUBLIC HEARING UNLESS THE AUTHORITY FINDS THAT THE MODIFICATION WILL HAVE A SIGNIFICANT EFFECT ON THE SURROUNDING NEIGHBORHOOD OR ON OWNERS OR OCCUPIERS, OTHER THAN THE APPLICANT, OF THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION.]

Section 2: That this ordinance shall take effect immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 15th day of March, 2005.


Chair

ATTEST:


Municipal Clerk



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 72-2005

Meeting Date: February 15, 2005

1 **From:** Assemblymember Dan Coffey

2 **Subject:** An ordinance of the Anchorage Municipal Assembly Amending Anchorage Municipal
3 Code Section 21.15.030, Approval of Site Plans and Conditional Uses.
4

5 Assemblymember Coffey proposed an ordinance amending Anchorage Municipal Code Section
6 21.15.030 to clarify procedures for the Planning and Zoning Commission and the Assembly
7 regarding a process to determine when a minor and major modifications to existing conditional use
8 approval requires a full public hearing or whether it can be processed as a consent agenda item.
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10 The intent of the ordinance is that all amendments will be brought to the applicable reviewing body
11 as a consent agenda item. The reviewing body must then make a specific finding that the proposed
12 amendment does or does not have a significant effect on the public and/or on the adjacent
13 neighbors. If there is a finding that there is a significant impact, the item then is scheduled for a
14 public hearing that follows the public notice requirements of AMC 21.15.005 and submittal and
15 final approval requirements of AMC 21.15.030, with an additional fee as applicable. Non-
16 controversial amendments with little or no impact to the public can be dealt with in an expeditious
17 manner and approved as a consent agenda item.
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19 Respectfully submitted: Dan Coffey, Assemblymember
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DRAFT

**MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2004-088**

A RESOLUTION APPROVING AN ORDINANCE AMENDMENT TO AMC 21.15.030 G (MODIFICATION OF FINAL APPROVALS) TO PROVIDE A PROCESS FOR THE ASSEMBLY AND THE PLANNING AND ZONING COMMISSION TO DEAL WITH MODIFICATIONS TO EXISTING CONDITIONAL USES.

(Case 2004-171)

WHEREAS, an ordinance amendment has been received from Assemblyman Dan Coffey to AMC 21.15.030 G (Modification of Final Approvals) to provide a process for the Assembly and the Planning and Zoning Commission to deal with modifications to existing conditional uses.

WHEREAS, notices were published, and a public hearing was held on December 6, 2004.

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

- A. The Commission makes the following findings of fact:
1. Assemblyman Coffey prepared an amendment to the Anchorage Municipal Code Section AMC 21.15.030.G (modification of final approvals) of conditional uses to provide a process for the Assembly and the Planning and Zoning Commission to deal with modifications to existing conditional uses, of which some are major and others are minor. Clarifying how the reviewing body determines whether a change is a minor or major amendment to an existing conditional use will allow non-controversial items with little or no impact to the public to be dealt with in an expeditious manner, with specific findings to that effect.
 2. The majority of Title 21 conditional uses are reviewed and approved by the Planning and Zoning Commission. The exception is for alcoholic beverages conditional uses. Any use involving the retail sales of alcoholic beverages is permitted only by conditional use approval by the Assembly. The conditional use requirement applies only to the retail sale or dispensing of alcoholic beverages and not to related principal or accessory uses. No review and approval is required for this type of conditional use by the Planning and Zoning Commission.
 3. The Assembly has expressed a desire that the current ordinance be changed to allow minor changes to alcoholic beverage conditional uses come to them as consent agenda items. The intent is that these minor amendments do not warrant an additional public hearing. Assembly public hearings must first be introduced on a regular agenda and a public hearing date scheduled no earlier than 10-days prior to the public hearing date. This process is often times unnecessary and time consuming.
 4. The amendment to AMC 21.15.030G.1.b will add the words "or operation,"

between the words development plan, to the sentence. AMC 21.15.030 treats all conditional uses the same with respect to the submittal and review process. By inserting the underlined term “operational” into the sentence in subparagraph b, it clarifies that certain operational aspects of the conditional use, if changed, also must be approved to modify the original approval. This amendment makes clear that the approved operational nature of the use, as distinct from a programmatic change, can not change without modification of the original approval. For example, if the hours/days of operation of a natural resource extraction or a restaurant serving beer and wine, are expanded from what was initially approved, the new schedule might have land use implications (traffic, noise, parking, etc.) would modify the original approval and have to be reviewed by the reviewing body. However, programmatic changes are not covered under this change.

5. The new subparagraph AMC 21.15.030G.2 provides that all modifications will be brought to the applicable reviewing body on its consent agenda. If the Assembly or the Planning and Zoning Commission make an express finding that the proposed modification will have a significant effect on the surrounding neighborhood or on owners or occupiers of adjacent property, then may determine that a public hearing is necessary and subject to the process described in AMC 21.15.030.F. If the finding is that there is no significant effect, the matter can be resolved as a consent agenda item.
6. By first placing all modifications or amendments to an existing conditional use on the consent agenda of the approving body, it requires the approving body to make a specific finding that the amendment does or does not have a significant effect on the public and/or adjacent neighbors. If it does not, then the amendment is minor and is then approved as listed on the consent agenda. If the approving body finds in the affirmative, it then is scheduled for a public hearing that follows the public notice requirements of AMC 21.15.005, in which case it may require the applicant to provide more detailed information as may be required for a new conditional use, and an additional fee as applicable.
7. The Commission found this to be a good housekeeping ordinance, noting there had been some confusion over the years in which cases require a public hearing is appropriate or how to require one when it is felt appropriate. The Commission expressed concern that the public have notice of items on the Consent Agenda that did not require a public hearing, however, the only public notice of Consent Agenda items is that provided on the Department’s on line web site.
8. The Commission’s intent is that the Assembly’s modification of conditional uses is limited to case involving alcohol.
9. The Commission voted unanimously to approve the subject ordinance amendment.

- B. The Commission recommends to the Assembly to approve the subject ordinance, and to clarify that Section 2 clarifies the jurisdiction of both the Commission and the Assembly on conditional use permits.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission this 6th day of December 2004.

Tom Nelson
Secretary

Don Poulton
Chair

(2004-171)

ma

COMMISSIONER PEASE supported the proposal for on-site parking, which helps the parking situation in the CBD. The additional conditions ensure the garage will be an aesthetic condition with appropriate pedestrian circulation and amenities.

AYE: Isham, Pease, T. Jones, Gibbons, Poulton, G. Jones, Simonian,
Wielechowski

NAY: None

PASSED

5. 2004-171 Municipality of Anchorage. An Ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 21.15.030.G, Modification of Final Approval Conditional Uses.

Staff member ANGELA CHAMBERS explained that Assemblyman Coffey has proposed this ordinance amendment to provide a clear process for the Assembly and Planning and Zoning Commission to deal with modifications of conditional uses. Some modifications are major, whereas some are minor and do not require a public hearing. Currently, the code does not clarify how the reviewing body determines whether a change is major or minor so it can allow non-controversial items of little or now impact to be dealt with in an expeditious manner. Specific findings to that effect must be made on the record, however. Staff currently determines whether an amendment is likely to be major or minor; minor amendments are typically placed on a Consent Agenda. The ordinance before the Commission establishes standards for determining whether an amendment is major or minor. One of the impetuses for this is that any small change in a liquor license conditional use must come back for a full public hearing, when some change are minor in nature.

COMMISSIONER SIMONIAN stated she examined AMC 21.15.030 and the ordinance amendment includes the Planning and Zoning Commission and the Assembly, but that language is not included under 2 or 2.a in the amendment. She asked if that change would allow for this body to be bypassed for a conditional use. MS. CHAMBERS thought the appropriate language would be "the Planning and Zoning Commission, or the Assembly for a liquor license conditional use." In general, wherever the Assembly is referenced, the reference should be for liquor license only.

COMMISSIONER PEASE asked if "operational" and "programmatic" are defined clearly. MS. CHAMBERS indicated she would research this

question. COMMISSIONER PEASE asked if Consent Agenda items are noticed to community councils. MS. CHAMBERS replied in the affirmative, noting that community councils are notified of any cases that require agency review; the adjacent council is also notified. The only difference between this notification and that of a public hearing item is the public hearing notice mail out. COMMISSIONER PEASE asked how an affected community council would register the magnitude of their concern with a conditional use. MS. CHAMBERS replied that cases are routed to community councils and she receives calls on Consent Agenda items. If a council wants to protest an item, it typically issues a resolution or a statement requesting that the item be pulled for public hearing.

The public hearing was opened and closed without public comment.

COMMISSIONER G. JONES moved for approval subject to an amendment to Section 2 that clarifies the jurisdiction of both the Commission and the Assembly on conditional use permits.

COMMISSIONER T. JONES seconded.

COMMISSIONER G. JONES felt this was a good housekeeping ordinance. He noted there has been confusion over the years in which cases a public hearing is appropriate or how to require one when it is felt appropriate.

AYE: Isham, Pease, T. Jones, Gibbons, Poulton, G. Jones, Simonian,
Wielechowski

NAY: None

PASSED

6. 2004-168 Municipality of Anchorage. An ordinance amending Anchorage Municipal Code subsection 21.40.020b to allow temporary uses of up to 90 days in the PLI (public lands and institutions) district.

Staff member AL BARRETT explained this ordinance is proposed as a result of incidences over the years involving temporary uses. Two letters of concern were received, both expressing concern that somehow this was an attempt to circumvent the public hearing process, which is not the case. The situation is that various uses have had little, no, or inappropriate review over time and have been approved. In the past year, this concern arose when a circus appeared in the parking area next to the Permit Center. That applicant received approval from Parks and Recreation, but the Permit Center, Traffic, Right-of-Way, Risk

**MUNICIPALITY OF ANCHORAGE
PLANNING DEPARTMENT
MEMORANDUM**

DATE: December 6, 2004

TO: Planning and Zoning Commission

THRU: *TN* Tom Nelson, Director, Planning Department

THRU: Jerry T. Weaver, Jr., Division Administrator

FROM: Mary Autor, Senior Planner *M Autor*

SUBJECT: 2004-171 An Ordinance Amendment to AMC 21.15.030 G,
Modification of Final Approval Conditional Uses.

PROPOSED AMENDMENT REQUEST:

Assemblyman Coffey has prepared an amendment to the Anchorage Municipal Code Section AMC 21.15.030.G (modification of final approvals) of conditional uses to provide a process for the Assembly and the Planning and Zoning Commission to deal with modifications to existing conditional uses, of which some are major and others are minor. Clarifying how the reviewing body determines whether a change is a minor or major amendment to an existing conditional use will allow non-controversial items with little or no impact to the public to be dealt with in an expeditious manner, with specific findings to that effect.

BACKGROUND:

The majority of Title 21 conditional uses are reviewed and approved by the Planning and Zoning Commission.

Any use involving the retail sales of alcoholic beverages is permitted only by conditional use approval by the Assembly. The conditional use requirement applies only to the retail sale or dispensing of alcoholic beverages and not to related principal or accessory uses. No review and approval is required for this type of conditional use by the Planning and Zoning Commission.

The Assembly has expressed a desire that the current ordinance be changed to allow minor changes to alcoholic beverage conditional uses come to them as consent agenda items. The intent is that these minor amendments do not warrant an additional public hearing. Assembly public hearings must first be

introduced on a regular agenda and a public hearing date scheduled no earlier than 10-days prior to the public hearing date. This process is often times unnecessary and time consuming.

DISCUSSION of Amendment proposal of AMC 21.15.030 G

G. Modification of final approval.

1. *The authority that approved a conditional use or site plan may, upon application by the petitioner, modify the conditional use or site plan:*

- a. *When changed conditions cause the conditional use or site plan no longer to conform to the standards for its approval.*
- b. *To implement a different development or operational plan conforming to the standards for its approval.*

Discussion: AMC 21.15.030 treats all conditional uses the same with respect to the submittal and review process. By inserting the underlined term “operational” into the sentence in subparagraph b, it clarifies that certain operational aspects of the conditional use, if changed, also must be approved to modify the original approval. This amendment makes clear that the approved operational nature of the use, as distinct from a programmatic change, can not change without modification of the original approval. For example, if the hours/days of operation of a natural resource extraction or a restaurant serving beer and wine, are expanded from what was initially approved, the new schedule might have land use implications (traffic, noise, parking, etc.) would modify the original approval and have to be reviewed by the reviewing body. However, programmatic changes are not covered under this change.

2. Upon the filing of an application for a modification of a conditional use and after a review of the application to determine that it is complete and meets the requirements of this title, the Department staff shall place the requested modification on the consent agenda of either the planning and zoning commission or the assembly, as the case may be, for approval, denial, further inquiry, public hearing and, thereafter, action by the respective body.

- a. The planning and zoning commission or the assembly, upon an express finding that the proposed modifications will have a significant effect on the surrounding neighborhood or on owners or occupiers of adjacent property that is the subject of the modification application, may determine that a public hearing is necessary. In such event the hearing shall be scheduled as soon as practicable after the matter first comes before the body for

conclusion.

Discussion: By first placing all modifications or amendments to an existing conditional use on the consent agenda of the approving body, it requires the approving body to make a specific finding that the amendment does or does not have a significant effect on the public and/or adjacent neighbors. If it does not, then the amendment is minor and is then approved as listed on the consent agenda. If the approving body finds in the affirmative, it then is scheduled for a public hearing that follows the public notice requirements of AMC 21.15.005, in which case it may require the applicant to provide more detailed information as may be required for a new conditional use, and an additional fee as applicable.

3. *The modification application shall be considered as an application for final approval under subsection F of this section and therefore subject to the provisions of that section; [PROVIDED THAT A MODIFICATION APPLICATION SHALL NOT BE SUBJECTED TO A PUBLIC HEARING UNLESS THE AUTHORITY FINDS THAT THE MODIFICATION WILL HAVE A SIGNIFICANT EFFECT ON THE SURROUNDING NEIGHBORHOOD OR ON OWNERS OR OCCUPIERS, OTHER THAN THE APPLICANT, OF THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION.]*

Discussion: See above.

RECOMMENDATION:

Staff has no objection to amendments to AMC 21.15.030 G as proposed.

Submitted by: Assemblymember COFFEY
Prepared by: Department of Assembly
For reading:

ANCHORAGE, ALASKA
AO NO. 2004-

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE SECTION 21.15.030, APPROVAL OF SITE PLANS
AND CONDITIONAL USES

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: That Anchorage Municipal Code Section 21.15.030, Approval of site plans and conditional uses, is amended to read as follows:

- G. Modification of final approval.
1. The authority that approved a conditional use or site plan may, upon application by the petitioner, modify the conditional use or site plan:
 - a. When changed conditions cause the conditional use or site plan no longer to conform to the standards for its approval.
 - b. To implement a different development or operational plan conforming to the standards for its approval.
 2. Upon the filing of an application for a modification of a conditional use and after a review of the application to determine that it is complete and meets the requirements of this title, the Department staff shall place the requested modification on the consent agenda of either the planning and zoning commission or the assembly, as the case may be, for approval, denial, further inquiry, public hearing and, thereafter, action by the respective body.
 - a. The planning and zoning commission or the Assembly, upon an express finding that the proposed modifications will have a significant effect on the surrounding neighborhood or on owners or occupiers of adjacent property that is the subject of the modification application, may determine that a public hearing is necessary. In such event the hearing shall be scheduled as soon as practicable after the matter first comes before the body for conclusion.
 3. The modification application shall be considered as an application for final

1 approval under subsection F of this section and therefore subject to the
2 provisions of that section; [PROVIDED THAT A MODIFICATION
3 APPLICATION SHALL NOT BE SUBJECTED TO A PUBLIC HEARING
4 UNLESS THE AUTHORITY FINDS THAT THE MODIFICATION WILL
5 HAVE A SIGNIFICANT EFFECT ON THE SURROUNDING
6 NEIGHBORHOOD OR ON OWNERS OR OCCUPIERS, OTHER THAN
7 THE APPLICANT, OF THE PROPERTY THAT IS THE SUBJECT OF THE
8 APPLICATION.]

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10 **Section 2:** That this ordinance shall take effect immediately upon passage and
11 approval.

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13 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
14 _____, 2004.

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19 _____
Chair

20 ATTEST:

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26 Municipal Clerk

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44 EGJ/2004/ORDINANCES/AO16

Content Information

Content ID : 002580

Type: Ordinance - AO

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY

Title: AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.15.030,
APPROVAL OF SITE PLANS AND CONDITIONAL USES

Author: gray-jackson

Initiating Dept: Assembly

Date Prepared: 1/28/05 4:15 PM

Director Name: Dick Traini

Assembly

Meeting Date 2/15/05

MM/DD/YY:

Public Hearing

Date MM/DD/YY: 3/1/05

Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID
AllOrdinanceWorkflow	1/28/05 4:16 PM	Checkin	gray-jackson	Public	002580

2005 JAN 29 PM 4:31
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