


MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: February 23, 2012

TO: Planning Commission

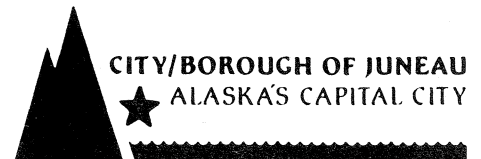
FROM: Dale Pernula, Director 
Community Development Department

FILE NO.: AME2012 0004

SUBJECT: Proposed amendment to Title 49 Section 49.75.130 amending the Land Use Code and the Administrative Appeal Code relating to appeal Procedures.

Last year the Planning Commission recommended that a proposal to rezone property on Atlin Drive be denied. A property owner in the area suggested that pursuit of the matter to the Assembly should be as an appeal of the Commission's decision, not as a hearing on a recommendation. Although Title 49 is clear that when the Planning Commission approves a rezoning the action is a recommendation, the Code is silent as to whether the action is a recommendation or a final decision if the Commission denies the rezoning. Because only final decisions of the Commission can be appealed to the Assembly, it needs to be clarified if the Commission's action is a recommendation or a final decision. The proposed ordinance would establish that the Commission's decision for denial is a final decision that may be appealed to the Assembly. There may be some minor adjustments to other provisions of Title 49 in the appeals section which should also be approved.

I recommend that the Planning Commission forward to the Assembly a recommendation to approve the proposed Ordinance.



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Presented by: The Manager
Introduced:
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA
Serial No. 2012-11

An Ordinance Amending the Land Use Code and the Administrative Appeal Code Relating to Appeal Procedure.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

Section 2. Amendment of Section. CBJ 49.75.130 - Procedure, is amended to read:

49.75.130 - Procedure.

A rezoning shall follow the procedure for a major development permit except for the following:

- (1) The commission decision for approval shall constitute only a recommendation to the assembly.
- (2) As soon as possible after the commission's recommendation, the assembly shall provide public notice and hold a public hearing on the proposed rezoning. A rezoning shall be adopted by ordinance, and any conditions thereon shall be contained in the ordinance. Upon adoption of any such ordinance, the director shall cause the official zoning map to be changed in accordance therewith.

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(3) The commission decision for denial shall constitute a final agency decision on the matter that may be appealed to the Assembly in accordance with CBJ 49.20.120.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this day of 2012.

Bruce Botelho, Mayor

Attest:

Laurie J. Sica, Clerk

DRAFT