

Turnagain Community Council
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sent via e-mail

Mr. Thede Tobish
Senior Planner
West Anchorage District Plan
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MOA Community Development Department
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**Re: Turnagain Community Council Recommendations for
West Anchorage District Plan Public Review Draft, dated March 2011**

Dear Mr. Tobish (Thede):

Thank you for the opportunity to comment on this important planning document for West Anchorage. Please accept the below comments on behalf of Turnagain Community Council, as approved at our regular meeting June 2, 2011.

TCC appreciates the work of the Planning Department and its consultants to form a stakeholder Planning Group with TCC representation and to meet with TCC to develop the Objectives of the Plan. These brain storming sessions on the positive values of living in Turnagain and the things we would like to see preserved or improved are generally well reflected in the Plan objectives. We also appreciate your efforts to explain the Plan at council meetings and attend the public meeting hosted by the Turnagain, Spenard and Sand Lake Community Councils on May 12. Lastly, thank you for your department's willingness to extend the comment deadline in order for TCC to have more time to discuss and make recommendations on the WADP.

While TCC is in general agreement with the Objectives set out in the Plan, we do not think the text and Implementation Actions adequately fulfill those Objectives. As explained below, there needs to be some text revisions in Chapter 4, and some Implementation Actions in Chapter 5 of the Plan need to be strengthened, others added, and some should be removed, as they are counter to the Objectives of the Plan. As a general comment, we do not think the Implementation Actions are robust enough to meet the Objectives of the Plan. Accordingly, we have made some constructive suggestions for additional Implementation Actions for the Plan.

Our comments below are organized by topic. We have included page references as appropriate to direct the reader to a specific part of the Public Review Draft.

⇒ Turnagain Bog

The preservation of all of the remaining Turnagain Bog wetlands and associated uplands as a natural resource and buffer between industrial and airport development and the local community is a major concern to TCC. As a general comment, all of the maps/exhibits and language in the WADP need to consistently recognize the Turnagain Bog and associated uplands as Class A (High Value) wetlands and the importance of their preservation.

The proper designation of Turnagain Bog and associated uplands should demonstrate the commitment of West Anchorage residents to protect the important functions of these wetlands, including wildlife habitat, water pollution filtration, downstream hydrology for Jones Lake, Hood Creek and Cook Inlet, air pollution absorption, and essential buffering for residential and recreational areas from airport development and operations.

For example, the Possible Residential Buffer identified on Exhibit 4-1a: West Anchorage Land Use Plan (page 71) and on Exhibit 4-8b: Lake Hood Residential Compatibility Concepts (page 148) appears to be premised upon an outdated plan that first was proposed in the 1990s for a bike path corridor on Airport property next to their chain link fence from Lakeshore Dr. to W. Northern Lights Blvd. This proposal was never supported by TCC and surrounding landowners . nor is it included in the Anchorage Bike Plan. TCC recommends that the Residential Buffer include the entire **Wetlands Not Permitted** area identified in green in Illustration 2 - Detail referenced in paragraph 10 of AO2000-151(S-2) re: Sale of Klatt Bog Wetland Credits (Appendix A-7). The ordinance states it is in the public's best interest that this area remain as a natural buffer between the Airport and the surrounding neighborhood and **the Plan should reflect this ordinance recognition.**

The TCC specifically disagrees with the comment that there are legal disputes over the Turnagain Bog conditions put forth in AS 2000-151 (S-2) regarding the sale of development rights of Klatt Bog to the Airport for wetland development mitigation, as stated on page 122 of the WADP. If the Airport has taken a formal legal position that they do not have to abide by the Turnagain Bog conditions in the ordinance, then that legal position should be included as a formal document in the Appendix to the Plan. Otherwise, unattributed statements about, **There are differing opinions about how binding this ordinance is on the Airport** should be removed from the plan. As a general comment, the Municipality should not make statements contrary to its legal interests in a Municipal planning document.

TCC also requests that the Planning Department clarify the intent of the WADP Wetlands Exhibits 4-18: Wetlands Disposition Status (page 193). Does **Wetland Disposition Status** indicate current status of the wetlands, as stated on page 192? Or is the intent of this exhibit to indicate what the WADP document recommends for the future (i.e., that it endorses **Future Development** for Turnagain Bog, as stated in the Legend of the exhibit)?

TCC specifically objects to the Exhibit 4-18: Wetlands Disposition Status map reflecting that **future development [is] likely** for all of these Class A wetlands as future Airport expansion subject only to **Corps** permitting and future land trades. This wholesale designation gives the erroneous impression . not reflected in the rest of the plan . that the

Municipality and the local community concurs that development of all of these Class A wetlands is desirable and appropriate.

If the purpose of the exhibit is to show current status, TCC requests that Turnagain Bog be categorized as ~~%~~Airport Owned . Class A (High Value) Wetlands+to reflect their classification in the 1996 Anchorage Wetlands Management Plan and Exhibit 2-14: Wetlands Classifications and Coastal Zone Boundary. If the exhibit ~~s~~ intent is to indicate WADP recommended future action, TCC requests Turnagain Bog be categorized as ~~%~~Airport Owned . Acquire or Evaluate for Preservation,+to reflect the importance of its preservation to the neighborhood.

⇒ **Tony Knowles Coastal Trail Greenbelt/Buffer**

TCC supports Park Objective #6: ~~%~~Acquire and permanently preserve the Tony Knowles Coastal Trail from Kincaid Park to Westchester Lagoon as a well maintained, continuous, public recreational corridor with vegetative buffer.+ (pages 195 & 219)

Our view of a ~~%~~vegetative buffer+for the Coastal Trail is more than a narrow strip of vegetation on both sides of the trail. Rather, we envision the preservation of the existing natural greenbelts along the trail from Westchester Lagoon to Kincaid Park. Unfortunately, many of the natural greenbelt areas along the trail have been lost as a result of private development. Where greenbelt land along the trail is in Municipal ownership, it should not leave municipal ownership and should be preserved as greenbelt along the trail in order to maintain the natural environment and natural setting along the trail that is so valued by recreational users, to preserve an important wildlife corridor, and to retain a buffer between the trail and adjacent land uses, such as high-impact Airport development and operations.

TCC opposes the segregation of Municipally-owned Heritage Land Bank (HLB) land west of the Airport into a narrow area of land along the Coastal Trail to presumably be retained as Coastal Trail greenbelt, from the remaining Municipal land . identified as Parcel 4 in Exhibit 4-11: Airport Perimeter-Parcel Identification Map (page 161) . to be offered to the Airport. Those lands should not be traded away to the Airport under any kind of land exchange and all HLB land in this area should be shown in purple as ~~%~~Heritage Land Bank property+(as opposed to ~~%~~Airport Area Special Study Areas+) in the exhibit.

Similarly, Exhibit 4-9b: Coastal Trail Compatibility Concepts (page 150) should identify as ~~%~~buffer+all land that falls within the Municipally-owned HLB parcels.

In order to fully implement Parks Objective #6, TCC recommends an additional Implementation Action for Parks on page 219 stating:

~~%~~All sections of the Coastal Trail and associated greenbelt buffering on Municipal land not already protected as dedicated parkland should be transferred to the Department of Parks and Recreation and be designated as such. Specifically, all Heritage Land Bank land west of the airport not encumbered by existing nonprofit leases, utility easement or airport use easements should become permanently dedicated parkland. In areas where clearing has occurred on HLB land, an plan for revegetation should be developed and implemented.+

Under Parks Objective #6 on page 195 of the Plan, TCC recommends that the third sentence be reworded to read:

~~The~~ WADP recommends that the MOA permanently acquire those portions of the Coastal Trail corridor that are under TSAIA ownership, so that the full length of the Coastal Trail corridor is brought under Municipal ownership for permanent protection.+

This change in the Plan should also be included on page 219 as an additional Park Implementation Action:

~~Acquire~~ those portions of the Coastal Trail corridor and appropriate greenbelt, to be determined by joint Municipal/public/Airport Task Force, that are under TSAIA ownership, so that the full length of the Coastal Trail corridor is brought under Municipal ownership for permanent protection.+

TCC supports Implementation Action P-6, which calls on the Municipality to ~~Acquire~~ additional or acquire a vegetative buffer easement west of Lyn Ary Park for added buffering of the Coastal Trail.+(page 219) TCC proposes adding language to P-6 that states:

~~The~~ MOA should work with the Anchorage Parks Foundation, Great Land Trust and other organizations to purchase land or easements along the Coastal Trail Corridor to maintain the natural open space along the trail corridor.+

TCC proposes rewording Implementation Action P-7 (page 219) to state:

~~Maintain~~ a **minimum** development setback of at least 300 feet where the Coastal Trail runs through non-Municipal land to preserve wildlife habitat and to ensure buffering from adjacent land uses. Any selective clearing for safety purposes would need to be done judiciously to ensure the integrity of the greenbelt natural setting and wildlife habitat is maintained.+

The TCC supports Implementation Action P-8 (page 219) calling on the MOA to:

~~Develop~~ a strategy to address coastal bluff erosion, identify and contact appropriate agencies, assess mitigation options/costs and prepare a brief report comparing and contrasting alternative solutions.+

This Implementation Action was a response to comments from TCC representatives concerning past and future impacts to the Coastal Trail caused by erosion of bluff areas along the trail. To adequately address this problem, the TCC recommends adding to the Implementing Action that the MOA should work with the appropriate agencies, including the Airport, to both develop and implement a strategy to address coastal erosion along the Tony Knowles Coastal Trail Corridor.

⇒ **Additional North-South Runway**

TCC accepts Airport Objective #2: Promote responsible development and operations inside the airport that minimize the negative effects of airport operations on adjacent neighborhoods, trails, and parks. (page 209)

However, we do not believe that development of a new North-South Runway by TSAIA meets this objective. The WADP recognizes on page 123 that there was significant public opposition to a second North-South Runway in 2008 and identified the negative impacts to the surrounding communities on page 146 of the plan, including additional noise and air pollution to the surrounding residential and recreational land use area, and severe environmental impacts to dedicated parkland, the Anchorage Coastal Wildlife Refuge, and major rerouting (and possible tunneling) of the Tony Knowles Coastal Trail. In 2008, TSAIA air carriers similarly opposed the development of a second North-South Runway as uneconomic and unjustified by realistic air traffic projections.

Consequently, TCC requests that page 123 of the WADP note that TCC has passed motions and/or resolutions opposing the development of a second North-South Runway, and that TCC continues to oppose any such expansion.

TCC opposes the WADP facilitating or recommending actions supporting the development of a new North-South Runway as well. Specifically, TCC requests that the first sentence/second graph under Coastal Trail (Exhibit 4-9a/b) (page 146) be reworded:

Airport expansion to the west would bring the two uses closer together and increase Airport impacts, so a trail greenbelt/buffer would be essential to maintain some level of separation and screening, although the impacts likely would end up severely compromising trail user experiences and natural open space functions.

TCC requests that Exhibit 4-9b: Coastal Trail Compatibility Concepts (page 150) exclude Runway Concept sketches showing locations of two possible second North-South Runways (from the 2008 TSAIA Master Plan Study for reference only).

TCC requests that a statement be included on page 146:

TCC is very skeptical that development of creative design responses to a second North-South Runway would come close to mitigating the high degree of negative impacts that would occur to the Coastal Trail and adjacent greenbelt/natural open space areas.

Because TCC has consistently opposed the development of a second North-South Runway, TCC also opposes any WADP discussion, recommendation or action that would support Airport development of another North-South Runway, including a comprehensive land exchange between the MOA and the Airport that would transfer Pt. Woronzof Park or Coastal Trail greenbelt east of the AWWU Sewage Treatment Plant to the Airport for development of another runway. (Opposition to comprehensive land trade discussed below as well.)

Finally, given all of the above, TCC requests that WADP include a realistic discussion on page 146 regarding the substantial negative impacts on the Coastal Trail of another North-South Runway and a recommendation that the Municipality not endorse any attempt by TSAIA to do so.

⇒ **Comprehensive Land Exchange**

The WADP indicates the primary interest to the Anchorage International Airport is not a per parcel land exchange, but a comprehensive land exchange (pages 156-167) that involves acquiring Pt. Woronzof Park and the Coastal Trail buffer near the sewage treatment plant to enable development for another or expanded North-South runway as detailed in the Airport's 2002 and 2008 Airport Master Plans. (See reference to TCC opposition, as noted above). Pt. Woronzof Park is dedicated Municipal Parkland and thus would require a vote of the citizens of Anchorage to approve transfer of the property. (See History of Land Exchange for Pt. Woronzof Park discussed on pages 119-120 of the WADP.) Acquisition of these and other parcels would allow high-impact aviation/industrial development and activity much closer to the Coastal Trail and possible changes or relocation of the Coastal Trail, which is one of the most significant recreational features in Anchorage and specifically, West Anchorage.

Specifically, a Comprehensive Land Exchange, as proposed in the WADP Public Review Draft, identifies MOA parcels to potentially be traded to the Airport, including:

- **Narrow Greenbelt Buffer between a section of the Coastal Trail running next to AWWU Sewage Treatment Plant and the current Airport boundary to the east** (Map Parcel #6). This is a small, but significant greenbelt section for the trail, strategically located between two highly-incompatible land uses . yet it works due to the site location, topography and mature vegetation that has been preserved.
- **Pt. Woronzof Park** (created as a condition of a 1994 land exchange between MOA and Airport when Airport acquired 129 acres of MOA Heritage Land Bank land east of park) (Map Parcel #17) See discussion above as to TCC opposition to any option for a comprehensive land exchange involving Pt. Woronzof Park.
- **All acreage of Earthquake Park south of W. Northern Lights** (Map Parcel #27) TCC finds it outrageous that the West Anchorage District Plan would propose giving away a portion of another major park with a significant historical impact in Anchorage. The publicly-owned wetlands within this park area are designated Class A (High Value) in the 1996 Anchorage Wetlands Management Plan and Exhibit 2-14: Wetlands Classifications and Coastal Zone Boundary and should remain permanently protected dedicated parkland. (Airport acquisition of this dedicated parkland would also require a citizen majority vote to approve transfer of the property to the Airport.)
- **AWWU Property south of current sewage treatment facility** (Map Parcel #30). TCC expresses concern about the possibility of TSAIA obtaining the AWWU property set aside for possible facility expansion in the future. If traded to TSAIA, an expanded AWWU Sewage Treatment Plant would then need to be relocated, causing other potential impacts in West Anchorage that are not at all addressed in the Plan.

- **Municipally-owned Heritage Land Bank land generally north and west of the E-W Runways where a section of the Coastal Trail is routed** (Map Parcel #4). TCC requests that this proposal be eliminated from the Plan and, instead, all HLB land in this area be transferred to the Parks Department as permanently dedicated parkland/Coastal Trail greenbelt.

The TCC requests that the WADP reflects the option that all of the above parcels should remain in MOA ownership because they serve valuable functions for the Anchorage community, including wildlife habitat, scenic viewsheds, Turnagain residential buffering from Airport impacts, recreational opportunities, wetland functions, essential buffering to the Coastal Trail as well as routing for the trail itself, and land for future expansion of the sewage treatment plant, if needed.

Land Exchange Scenario #1 (page 158) states that a transfer of recreational lands to the Municipality from the Airport ~~without~~ any compensatory property given in return would not be supported by the TSAIA or FAA. TCC suggests that this statement is misleading since the TSAIA/FAA requirement is that the Airport be compensated at fair market value for its land. That can also be accomplished through money payment. TCC requests that Scenario #1 and/or Table 4.3-3 be modified to include a scenario in which the Municipality purchases these State lands or purchases a conservation easement on these State lands with the support of the Anchorage Parks Foundation, Great Land Trust or other sources of funding. Similarly, the option of preserving wetland parcels in their natural state as part of wetlands mitigation banking should also be included. (See page 132)

Contrary to the statement made on page 132 of the draft plan, conservation easements are not limited to situations in which wetlands credits are not available from off-site airport sources or preservation of wetlands is required by the U.S. Army Corps of Engineers. Under Alaska Statute 34.17.010 . 34.17.100, the Conservation and Public Recreation Easement Act, conservation easements can be created on TSAIA lands if the City provides fair market value compensation for the public easement.

In conclusion, the TCC requests that in the place of Implementation Action IA-20 (page 214), the WADP include an Implementation Action calling on the Municipality to purchase title or conservation and trail easements on the following parcels:

- Parcel 2: Little Campbell Lake
- Parcel 3: Coastal Trail, SW corner of E-W Runway
- Parcel 5: Coastal Trail, West Airpark Tract South of Pt. Woronzof Park
- Parcel 7: Coastal Trail, Point Woronzof Overlook
- Parcel 8: Coastal Trail, Eastside of Pt. Woronzof Bluffs
- Parcel 9: Turnagain Bog
- Parcel 11: Spenard Beach Park
- Parcel 12: Northern area of Connor's Bog/Lake
- Parcel 13: East Section of Connor's Land-Snow Dump
- Parcel 14: DeLong Lake Park Parcel
- Parcel 20: Notch between FCC land and Little Campbell Lake
- Parcel 28: Raspberry Road Buffer
- Parcel 29: Kullis Road Buffer

⇒ Land Use Plan Map

The WADP Land Use Plan Map, which will become an element of the Anchorage 2020 Comprehensive Plan and will guide future land use decisions, should reflect the community's long-term vision of land use in West Anchorage, **regardless of ownership**.

Not all airport property should be designated as ~~%Major Transportation Facility,~~ as shown on Exhibit 4-1a: West Anchorage Land Use Plan (page 71). Instead, parcels within airport boundaries that TCC recommends be acquired by the Municipality through purchase title or conservation/trail easements (see list on page 7, with the exception of Parcel 13) should be designated as ~~%Other Areas that Function as Park and Natural Resources.~~

This approach would be consistent with the 1982 Anchorage Comprehensive Plan Generalized Land Use Plan Map, in that Airport/State of Alaska-owned land was broken down into several categories . including ~~%Parks/Open Space~~ reflecting current and/or long-term community desired uses of some land within Airport boundaries.

No alternative Land Use Classifications on the Land Use Plan Map should show Municipal land as ~~%Major Transportation Facility,~~ including MOA Pt. Woronzof Park dedicated parkland, Coastal Trail greenbelt buffering near the sewage treatment plant, or Heritage Land Bank land west of the Airport that serves as essential Coastal Trail greenbelt buffering from current and future Airport operations and development.

⇒ Private Property Owner Disclosure Requirements Based on Airport Noise Contours

The establishment of a ~~%Noise Overlay~~ zoning district and an ~~%Airport Environs Overlay~~ for private property, based on the Airport's 60 DNL or higher noise contours (pages 129 & 211), could negatively impact private property owners. This approach would also provide no incentives for the Airport and its leaseholders to reduce noise at the source on Airport property.

Mandates would include full-page ~~%prominent~~ disclosure statements to prospective buyers, which could affect ability to sell and sales price, and plat notes put on subdivision plats that would require enhanced sound attenuation measures put on new construction or additions.

The current noise contour map in the WADP was based on a 1997 Airport noise study. It may be updated this year or 2012. This contour could move from the time one study is done to the next, yet plat notes and sales disclosures mandates would be based on potentially outdated information. This is not an appropriate way to deal with Airport-generated noise impacts on West Anchorage property owners and TCC requests that more discussion be put in the Plan to address the inequities of this proposal.

Also, TCC requests that the WADP Plan clarify and/or address:

- 1) What, if any, of the Implementation Actions are additional requirements above and beyond what is currently required of property owners, so that it is clear what additional actions are being asked of private property owners, as recommended in the WADP; and
- 2) If additional restrictions/disclosure requirements are put in place for those residents whose property falls within the Noise Overlay zoning district or the Airport Environs Overlay+(as established by TSAIA's DNL contour lines), would it be appropriate for these requirements to only apply to those impacted by TSAIA's aviation-generated noise? Would property owners impacted by aviation noise generated by Merrill Field, Elmendorf-Ft. Richardson Joint Military Base, Campbell Lake, etc. be exempt from the restrictions/disclosure requirements recommended in the WADP? Is it fair to put additional restrictions/disclosure requirements on homes affected by aviation noise from one airport in one area of town, but not another? Clearly, the WADP needs to provide an analysis of this potential dichotomy.

⇒ **Municipal Advocacy for Noise Mitigation Measures On Airport Property Through Available State and Federal Programs**

TCC requests that the Municipality be more proactive and more assertive in representing the interests of West Anchorage residents in the TSAIA's planning processes, including such things as the Part 150 Noise Compatibility Study and Noise Compatibility Program. The Part 150 Noise Study includes measuring aircraft noise and determining the exposure of individuals to noise in the vicinity of airports. The Noise Compatibility Program is designed to reduce the number of people and/or incompatible land uses within the airport's noise contours. (Appendix A-9)

The Municipality should also advocate on behalf of its Westside residents that the Airport undertake noise mitigation measures on the Airport with funding available through Part 150 and through TSAIA and local aviation fuel sales tax revenues. (Appendix A-3, FAA Grant Assurance #25) As the draft WADP acknowledges on page 124, the regulatory complexity of Airport decision-making does not lend itself to citizens' understanding of the avenues for advancing their interest in noise mitigation and other measures applicable to the Airport that could reduce impacts on the surrounding community. Consequently, TCC believes the Municipality has an important role to play in providing the expertise and institutional presence to advocate for the community's interest in noise reduction on the Airport. In order to carry out the TSAIA Implementation Actions involving the MOA, it is important that the Municipality has the expertise and staffing necessary to address the complexities involved in the TSAIA/Municipality relationship.

To do this, TCC recommends:

- 1) A new Implementation Action be added to Airport Objective #2 Promote responsible development and operations inside the airport that minimize the negative effects of airport operations on adjacent neighborhoods, trails and parks.+(pages 138 & 209):

Advocate for West Anchorage residents' interest in operational noise mitigation measures on the TSAIA as part of the FAA Part 150 Noise Compatibility Program,

recommendations in the TSAIA Comprehensive Ground Noise Study, and through Airport Master Plan and other State and Federal regulatory or land use programs.+

Responsible Entity: MOA

- 2) A new Implementation Action be added to Airport Objective #4 Improve communication, understanding, problem solving, and consensus building between TSAIA, MOA, FAA, airport leaseholders, and the surrounding community, and better integrate these stakeholders into airport decision-making. (pages 151 & 212):

¶ Create a new position in the Municipal Planning Department to work on TSAIA-Municipal issues and act as an advocate for community interests in noise reduction, air and water quality issues, traffic, buffer/natural open space and park and recreational issues, and other concerns arising out of TSAIA development and operations. Act as a point of contact for the community and for Municipal participation in Municipal, State, FAA and other regulatory or land use programs that might provide an avenue for resolution of community concerns about Airport impacts.+

Responsible Entity: MOA

⇒ **Depending on the Circumstances, Municipal Land Use Laws May Apply on the TSAIA**

The WADP's discussion of the application of local land zoning to the Airport is far too conciliatory to the Airport. Rather than asserting the Municipality's legal interests, the draft WADP concedes defeat on the application of land use zoning to the Airport and instead, calls for negotiation with the TSAIA.

The issue of whether MOA zoning applies to TSAIA and the surrounding state-owned lands is not a simple issue. The issue is unresolved and the Alaska courts have not ruled on the specific issue. There is an October 24, 1996, Informal Alaska Attorney General's opinion on the subject. The Informal Opinion concludes that the 1951 provisions of the Airport Zoning Act, AS 02.25.020, controls over the later and more general provisions of AS 35.30.020 that requires state departments to comply with local zoning ordinances in the same manner and to the same extent as other landowners. AS 35.30.30 authorizes a waiver, ¶ a department clearly demonstrates an overriding state interest, waiver of local planning authority approval and the compliance requirement may be granted by the governor.+

The Informal Opinion concludes that the two acts must be harmonized, but ultimately reaches the conclusion that the Airport Zoning Act must control in order to have uniformity in airport zoning in Alaska. The Informal Opinion concludes that the State Aviation laws manifest an intention to occupy the field of land use regulation. This conclusion, however, is not self-evident nor is it the only possible interpretation when harmonizing the two state statutes. In light of the lack of a pre-emption clause in AS 35.30.020 and AS 02.25.020, a court could conclude that in the absence of an actual conflict between a DOT exercise of zoning authority under AS 02.25.020 and a Municipal Zoning Ordinance, that the more general mandate that state departments comply with local zoning requirements controls.

The Alaska Supreme Court's 2004 decision in *Native Villiage of Eklutna v. Alaska Railroad Corporation*, 87 P.3d 41 (Alaska 2004) makes such an interpretation upholding municipal zoning even more likely. In *Eklutna*, the Alaska Supreme Court upheld the Municipality of Anchorage's application of local zoning law to the Alaska Railroad, a public corporation created as an instrumentality of the State empowered to run the Alaska Railroad. The Court found that a lack of clear legislative intention to preempt application of local zoning to the Railroad dictated application of such zoning. In so doing, the Alaska Supreme Court applied a balance of interests test opposed to a strict superior sovereign test.

In the case of AS 02.25.020 and AS 35.30.020, the Legislature has not clearly preempted application of local zoning to the Airport. Rather, AS 35.30.020 applies local zoning to state departments, including DOT, as a general proposition. While AS 02.25 empowers DOT to adopt airport zoning using the procedures in the Airport Zoning Act, we are not aware that the Airport has actually adopted a zoning plan under this authority. In the absence of an actual zoning plan adopted by the Airport using the procedures in AS 02.25 that directly conflicts with a Municipal zoning ordinance, there is no potential conflict with Municipal land use zoning's application to Airport lands.

TCC requests that all of the statements concerning the inapplicability of Municipal zoning to Airport lands be removed from the draft WADP. For example, on page 124, 4.3.3 Airport Regulations, TCC recommends the text in the first graph, starting with second sentence, to read:

Unlike many other airports, TSAIA is owned by the State of Alaska rather than the city in which it operates. This means that, even though the Airport is the predominant land use in West Anchorage, the MOA does not directly operate or control the development or operational decisions made there. This problem caused by the absence of municipal ownership is compounded by the State disputing the authority of municipal zoning on airport property. See 2004 Inf. Ag. Op. (October 25, 1996). The MOA disagrees with this interpretation of state law given the general mandate in AS 35.30.020 that all departments comply with local zoning ordinances and subdivision requirements in the same manner and to the same extent as other landowners and based on the Alaska Supreme Court's adoption of a balancing of interests test to the application of local zoning in *Native Villiage of Eklutna v. Alaska Railroad Corporation*, 87 P.3d 41 (Alaska 2004).

Thank you for the opportunity to comment on this important Plan. While our letter may have missed referencing specific exhibits and/or text, TCC's intent is for our comments on the above issues be reflected in all relevant sections of the document. TCC looks forward to continue working with the Municipality to ensure that our input during this public process is reflected in the Public Hearing Draft of the WADP that will be submitted to the Anchorage Planning and Zoning Commission. There has been a suggestion with regard to the WADP Planning Group meeting with the Planning Department to review public comment after the June 10 deadline. We would be interested in pursuing that effort as well as meeting with the Planning Department at any time to discuss our input.

Sincerely,

Cathy L. Gleason
President
Turnagain Community Council

CC:

Mayor Dan Sullivan
Assembly Member Harriet Drummond
Assembly Member Ernie Hall
Mr. Jerry Weaver, MOA Community Development Department Director
Mr. Dennis A. Wheeler, Municipal Attorney
Mr. John Rodda, Anchorage Parks and Recreation Department Director
Ms. Tammy Oswald, Heritage Land Bank & Real Estate Services Director