



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4545 • Fax: (907) 343-4550 <http://www.muni.org>

Mayor Mark Begich

Office of the Municipal Attorney  
Civil Division

September 27, 2007

HAND DELIVERED

Donald W. McClintock III  
Matthew T. Findley  
ASHBURN & MASON P.C.  
227 W. 9<sup>th</sup> Avenue, Suite 200  
Anchorage, Alaska 99501

Re: Lot 1A-1 Turnagain Northeast Subdivision

Dear Messrs. McClintock and Findley:

I am writing to confirm the position of the Municipality concerning the procedure your client ought to follow for a decision on his request to modify a portion of the Coastal Trail easement area affecting Lot 1A-1, Turnagain Northeast subdivision. We appreciate this opportunity to work with Mr. Pfeffer in achieving a result that honors his concerns about security and privacy while preserving a public voice in activities that have an impact on parks and public rights of way.

I understand that Mr. Pfeffer intends to build a home on his property. A necessary first step is constructing a sub-grade gravel pad for the structure. It is not clear at this time whether the pad extends into the Coastal Trail easement but, for a time, the side slopes of the hole are assumed to impact the easement area. Once installed, the pad will be covered, but the surface of the area above the pad will be elevated about two feet. During construction, a silt fence and a construction fence will be erected within the easement area. Your client also intends to install a permanent fence around his home and the drawing you provided shows that fence well within the easement area. Finally, your client would like to remove cottonwoods, alder and other undesirable species from the easement area.

The Municipality does not claim that its easement creates an exclusive right to use and control the easement area, but the easement does burden the entire area with a public use right. Nothing in the easement agreement limits its scope to the current configuration of the Coastal Trail. Consequently, the entire easement area is subject to use as a trail for non-motorized travel, with appropriate appurtenances, and all proposed changes to the area are subject to public oversight.

*Community, Security, Prosperity*

Donald W. McClintock  
Matthew T. Findley  
September 27, 2007  
Page 2 of 2

Your client's proposal implicates a public right of way and therefore a permit for work within the right of way is required. AMC 24.30.020. Once submitted, the permit application will be routed, *inter alia*, to Parks and Recreation for review and comment. Temporary fencing and removal of nuisance foliage will likely receive swift approval, but clear cuts, permanent alterations of the topography and semi-permanent structures will be subject to more intense scrutiny.

As a separate matter, I understand that some of your client's foliage was damaged by a contractor hired by the West Anchorage Little League last winter. I've been told that compensation for damage to Municipal land was paid to the Parks and Recreation Foundation, but the League is independently working with your client to compensate him for the damage to his land. Mr. Pfeffer is neither obligated nor authorized to construct landscaping improvements on Municipal land, but if he would like to coordinate his restoration with that planned for the park, he should contact the Turnagain Community Council and participate in their discussions of the subject.

My hope is that with continued discussion our respective clients will find a way to enable Mr. Pfeffer to maximize the use and enjoyment of his property while preserving the public's interest in the easement area and nearby Municipal land. In the meantime, he should be aware that without appropriate permits, stop work orders will be issued for any clearing or cutting of foliage, excavation of soils or installation of semi-permanent structures within the easement area.

Sincerely,



Robert P. Owens  
Assistant Municipal Attorney

cc: Mayor Begich  
✓ Turnagain Community Council  
Ron Thompson, Director, Development Services  
Jeff Dillon, Director, Parks and Recreation  
Tom Korosei, Landscape Architect, Parks and Recreation