

January 17, 2009

To: Tom Nelson, Director of Planning
From: Nancy Pease

Re: need for clarification on applying Comprehensive Plan policies and strategies regarding greenbelts, pedestrian easements, and conservation easements

In a recent re-zoning and platting case (Canyon View Estates, heard by P&Z on October 6, 2008), a willing private owner offered permanent public benefits by offering a conservation easement and pedestrian easement along an undeveloped creek corridor along Little Rabbit Creek. Planning staff strongly rejected this opportunity. At the P & Z hearing, several planning staff voiced resistance to the opportunity to acquire these public benefits, with poor substantiation for their position. This staff position seems have disregarded several adopted policies and strategies, as well as past practices; and also the policies proposed in the draft Hillside Plan. The applicable policies are listed below.

This case raises the need to clarify whether planning staff is, and must, follow adopted plans, policies, and strategies to actively pursue land use patterns and conditions of approval that benefit the neighborhood and the broad public as well as the private developer. On a more specific note, is planning staff directed, and encouraged, to negotiate to achieve public greenbelts and pedestrian easements as part of re-zones and platting actions? Also, is it appropriate to consider nascent land use plans an expression of public values and public interests, to the extent that have already collected wide public input and undergone draft review?

This policy review is merited because our land use plans call for public/private collaboration to achieve several specific goals; and one of the most fruitful places for that to occur is during staff pre-view and negotiation with applicants for planning and platting cases.

Case summary from the October 6, 2008 P&Z hearing on Canyonview Estates (2008-090 and plat S-11680)

In the Canyon View Terraces case, staff strongly rejected and refuted the benefits of potential MOA acquisition of a public greenbelt and trail easement along Little Rabbit Creek, *despite the stated willingness of the private developer and the support for these amenities from the community and adopted plans.*

During testimony to the P&Z Commission, the applicant who represents the tract along Little Rabbit Creek east of Golden View Drive said ***the landowners would be willing to issue to the MOA a conservation easement to the 170-foot wide creek corridor along the creek, and a public trail easement.*** The applicant's offer is recorded in the Planning and Zoning minutes of the October 8 meeting.

The MOA staff spoke against the opportunity to achieve a public greenbelt and trail with the willing developer.

- Staff said they couldn't ask for a trail easement parallel to the creek because it's not on any adopted plan. However there is no prohibition against negotiations. In fact, there was a willing offer in this case.

- The landowner was offering a trail easement that connected to an existing trail (Golden View Drive). .
 - There are adjoining platted trail easements to the east, which constitute an incomplete trail corridor. Staff did not present this information. There are several adopted policies to complete missing links of trails.
 - Greenbelt trails away from vehicle traffic are recognized in numerous plans and surveys as a highly valued community asset and a boost to property values and community health.
 - Numerous plans and policies direct staff to use public-private collaboration to acquire greenbelts and trails..
 - This location meets some of the highest criteria for trail easements: especially: resolving a public safety issue (pedestrian hazards on Rabbit Creek Road); connecting discontinuous easements; and connecting of community use areas.
- Staff noted that there is a trail easement proposed by the Area wide Trails Plan along 172nd street , which would be parallel to the creek (and therefore this greenbelt trail is not needed)
 - There are numerous trails in the ATP that are not buildable owing to site-specific field conditions that were not understood at the time of plan adoption. Engineers in this case testified that the 172nd road and trail ROW is so steep in sections that it may not ever be constructed as a road link; and this would likely preclude trail construction.
 - There no near- or mid-term plan for construction of any parallel pedestrian facilities on either 172nd or Rabbit Creek Road. There is, therefore, no foreseeable safe east-west pedestrian connectivity between schools and parks and neighborhoods in this area.
 - Staff have re-aligned other ATP trails when development has presented other opportunities. Examples include relocation of the Moen Trail in the proposed Legacy Pointe subdivision. This has not required an ATP amendment.
 - Greenbelt trails are not precluded by nearby roadway trails. They are safer, and offer different values, including high property values.
- Staff said they didn't want the MOA to acquire a conservation easement to the creek corridor.
 - Staff did not raise to the Commission or the public the numerous adopted policies to acquire greenbelt easements along streams, and specifically to acquire additional greenbelt along Little Rabbit Creek.
 - Staff said that a privately-owned stream protection tract is as easy to monitor and enforce as a tract with a publicly-held conservation easement. This is dubious. There are numerous high-impact activities that can take place legally in a private stream protection setback but not a public one, such as off-leash exercising of animals, landscape plantings, etc. And the MOA must rely on self-reporting of violations since the tract in this case is largely out of the public view.
- Staff said that “The Municipality doesn’t acquire conservation easements.”

- This appears false or misleading. The city has been involved in numerous conservation easements and or land trades for conservation purposes, including channeling land and water conservation funds for these purposes. Examples include Klatt Bog and Moose Meadows and Fish Creek estuary..
- Staff supported a condition of approval to *prohibit any trails* within the COE-mandated 170-foot wide stream protection setback.
 - This fails to consider the existence of numerous successful trails near creeks, including on steep slopes, in the Municipality.
 - This was not backed by any field evidence from Watershed Management or any other agency that trails were inappropriate.
 - Trails experts were apparently not consulted.
- Staff opposed P & Z and the Non-motorized Trails Coordinator's requests for connecting east-west trails within the subdivision to link with Rabbit Creek Road and the creek tract (which staff proposed to be held in common private ownership, but the tract was inaccessible to many of the private lots).
 - This ignores Comp Plan policies 55 and 13.
- Staff did not present or consider the recommendations of the Draft Hillside District Plan.
 - Although the Draft HDP has not been adopted, it gives a current reading of public values and future direction. There have been several years of interagency meetings, a balanced citizens' advisory board, and public review of an initial draft in 2008. The draft HDP could be considered valuable supplemental information to the Areawide Trails Plan of 12 years ago. It was not even mentioned by staff until raised by P & Z. Staff usually mentions the new direction of draft plans or code revisions.

APPLICABLE POLICIES

In the Canyon View case presented for public hearing at P&Z, staff did not disclose numerous adopted policies that encourage a well-protected or publicly-owned creek greenbelt and trail along this part of Little Rabbit Creek.

Below, I've cited the specific data, policies, and strategies that I think ought to have been applied—or at least addressed explicitly, with findings as to applicability—in the recent case.

Comp Plan Policies 13 and 55, 65 and 67.

Policies regarding MOA acquisition of public riparian greenbelts

1. Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan (hereafter referred to as the Parks Plan)

There are issues statements, policy statements and specific directives throughout the area-wide Parks Plan that clearly call for innovative actions to acquire public creek greenbelts and trail easements. There is specific direction to protect Little Rabbit Creek. Creek greenbelts and pedestrian trails are acknowledged as community assets, with multiple public benefits, as well as increased private property values.

- P. 14 “Since 1985, we have seen the greatest inability of Anchorage to keep abreast of the need for parks, recreation a, and open space for a rapidly growing population. Pressure from new residential development and the corresponding loss of critical open space has occurred at a record pace.”
- P47, under Park Strategies: “develop an acquisition strategy to secure sufficient and suitable public lands for parks, sports fields, greenbelts, open space, trails and other public facilities based upon ... natural resource function and safe walking distances.”
- P47, under Park Strategies for access and connections: connections between parks---especially large community use areas will be established via the natural resource use areas (greenbelt and linear park systems). [In this case, Golden View Middle School, Bear Valley School, and Section 36 regional park are large community use areas which merit connection by greenbelt trails].]
- P 47, under Park Strategies for access and connections: Acquire lands to complete any gaps in the existing system through land transfers...land purchases, negotiated easements, or new plat easements.”
- Page 51, under Stewardship of Natural Resources:
 - **Greenbelts will be established for all the major creeks in the area, including...Little Rabbit Creek...as they become available.**
 - Acquire land on both sides of all major streams within the Municipality as it becomes available.
 - Important natural areas not owned by the Municipality should be purchased by working with local land trusts and private property owners to acquire conservation easements, development rights...etc.
 - The Municipality shall establish natural resource preservation areas fo the protection for...fish and wildlife habitats, high-value wetlands, riparian **corridors...**
 - **Encourage private-public collaboration methods for natural open space protection.**
 - Promote and encourage the identification and conservation of natural resource spaces, **including minimum impact access improvements to greenbelts**

Page 89 Southeast Park District issues and needs:

- Protect key drainages of the Potter Marsh Watershed.
- **Continue to acquire, enhance, and develop greenbelts** along Rabbit Creek, Potter Creek, Little Survival Creek, and Little Rabbit Creek.

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Page 99, Natural resources strategic actions

- Identify critical missing links in the existing system and work to acquire through land transfer, easements, or purchase.

Map 7 Recreation Trails and Connections, trail 33

Draft Hillside District Plan, October 2008

Pages 2-8 through 2-10 Built/Green Infrastructure approach ...The “green” component of this approach refers to natural features such as stream and wildlife corridors...The “built” component refers to a system of primary roads and trails and some parts of the drainage system that serve multiple subdivision and that can be identified prior to the

development of any single subdivision. This approach increase property values by creating an interconnected rather than a fragmented trail system...

Page 2-10 map

- Little Rabbit Creek from Golden View Drive east through the proposed Canyon View Estates is proposed as a primary trail, funneling into a secondary trail that provides connection non-motorized pedestrian connection from Golden View Middle School to Bear Valley Middle School and Section 36 Regional Park.

Policies regarding MOA acquisition of public pedestrian easements

The following are cited from the Areawide Trails Plan, April 1997.

Chapter 1B-3 – Land Use objectives

- a. Provide for the location of trails designated in the Areawide Trails Plan when dedicating maintenance, sewers, drainage, and stream protection easements.

Chapter 1C. – Policies

Policy 2: The municipal park and greenbelt system should facilitate development of an integrated trail system where it is appropriate to provide trail linkages between neighborhoods, school and park sites, and major areas of public activity.

Policy 7: The Municipality of Anchorage shall actively pursue the dedication of rights-of-way and easements to facilitate access to and continuity within, the system of trails, parks, greenbelts, and open spaces.

Policy 8: In the subdivision process the Municipality shall require provisions for trails and walkways, including direct access to adjoining trails when those trails are part of this Plan and are not located in a dedicated easement or right-of-way.

Chapter 9 – I Methods of Acquisition

- A. Land donations. ...such donations generally have favorable tax advantages. The Municipality would take the necessary legal action to formally dedicate the trail right of way.
- E. Perpetual easements.
- F. Subdivision review procedures. In the subdivision approval process, trail access from or through the subdivision to the areawide trails system should be provided.

Chapter 10, Implementation

IE. The Municipality shall pursue acquisition of private property where necessary to complete a greenbelt system or a planned link in the overall trail system.

IVA. The Department of Cultural and recreational Services presently has a trails function which includes....:

- Help start a program of trail right-of-way acquisition;]

- **Work for trail dedications on private lands...**

IVB. The Department of Community Planning and Development should have the following trail functions...

- Plan for area-wide trails networks;
- Revise the Area wide Trails Plan as needed...
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Appendix 3 – Criteria for prioritizing trail projects

The criteria include:

- Trail represents a missing link to other trails
- Trail provides a connection to another trail
- Trail solves a safety concern
- Trail has significant scenic or aesthetic value
- Trail enhances the geographic mix of trails in the Municipality

POLICY CLARIFICATION IS NEEDED

In brief, I'd like to suggest:

- a meeting with trails and greenbelt advocacy groups, interested community councils, and planning staff to clarify that numerous adopted policies and plans support, and in fact, require active public-private collaboration to achieve greenbelts and trail easements.
- trouble-shooting the reasons why the Municipality may have trouble or internal resistance to acquiring greenbelts and trail easements
- strategizing with the advocacy groups to identify how they can support the Municipal's policies towards acquiring a robust, interconnected trails and greenways systems
- in the case of Hillside creeks, which have very limited public greenbelts, a better inventory of opportunities, and recommendations for riparian greenbelt acquisitions in the next draft of the Hillside District Plan
- an explanation of how citywide greenbelt acquisitions and parklands are being prioritized.

Since the Canyon View case is on-going, I am glad that you intend to take a personal look at the opportunities it presents. I hope that the policies cited in this letter will help planning staff to pursue the opportunities for greenbelts and trails.

Sincerely,
Nancy Pease

Please note: I am writing this as an individual. I would hope that any policy clarifications will eventually be conveyed to staff in the appropriate departments, as well as the Platting Board and Planning Commission and the interested community councils.

