

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Malcolm Pearson
Design
Northern Region

DATE: March 26, 1997

FILE NO:

TELEPHONE NO: 451-5426

FROM: John F. Bennett, PLS
ROW Engineering Supervisor
Northern Region

SUBJECT: Project TEA-0002(75)
McGrath Rd Bike Path
"Green Strips"

Attached is an enlarged portion of the McGrath Estates Portion 2 subdivision which shows the "Green Strip" adjoining McGrath road.

Our last experience with "Green Strips" was on the Laurance Road - Nelson Road project back in 1989. Our area of acquisition included a portion of a "green area" noted on the plat of Seavy Subdivision. The area in question, however, was specifically segregated from the adjoining lots. The Certificate of Ownership and Dedication included language that dedicated "parks and open spaces" to the public or private use (as noted). The green areas were not noted as public or private but they were clearly areas separate from the street dedications and the private lots.

We originally decided that the FNSB was the owner and that we needed to acquire a portion of the green area from them. FNSB responded in writing that they considered the green area to be a part of the road right of way and that we could incorporate it into our project without any conveyance from them.

This, however, is not the situation at McGrath Estates. The "green strip" noted on the plat is clearly within the lots adjoining McGrath road. Note number 4 states "*Clearing of natural vegetation not permitted within 50' of McGrath Road R/W, except for existing power and communication lines.*" My interpretation of this note is that the green strip is not a public area or recreation area subject to the 4F provisions, but more like a restrictive covenant which prevents the individual lot owners from clearing the 50' strip. The next question, which should be answered by the AGO, is whether DOT&PF would be restricted from clearing the strip if we acquired it to expand the McGrath road right of way.

Note No. 7 which discusses additional easements along side and back lot lines is also subject to interpretation. It appears to only apply to side and back lines where no easement is shown on the plat. As the McGrath road side of the lots are subject to a 30' PUE and note No. 4 suggests that there may be power or communications lines in the 50' green strip, I don't believe the additional easements referenced in note 7 apply to the McGrath road boundary of the lots.