

HB


147

# Municipality of Anchorage

## MEMORANDUM

DATE: February 7, 1977

TO: Ted Berns, Legal

FROM: Tom Nelson, Planning 

SUBJECT: House Bill No. 147

This is just a brief outline of our concern over actions taken by the Alaska State Highway Department that do not comply with Municipal land use regulations such as the Zoning Ordinance and Subdivision Regulations which everyone else must and do comply with. Specific cases of Highway Department actions that have created problems and conflicts will be presented at a later date when more time is available to gather the information together.

The primary cause of most land use problems created by the Highway Department is the creation of non-conforming lots following land acquisition for additional right-of-way. In several instances the Highway Department acquired a portion of a lot or tract and left the owner with a relatively useless parcel. In doing so, resulting land use patterns are ignored. Thus, access problems develop; either normal access is shut off on the front of the lot and thence, alleys become thoroughfares, or every little non-conforming lot remaining has its own access onto the arterial being up-graded. The end result is additional traffic circulation and safety problems.

In several instances the Highway Department has split lots, but filed no plat, thus leaving no record after land was taken. Land is subdivided without filing a plat. The Highway Department may know better, but as long as they can ignore local land use regulations they'll try to get by with it.

These types of actions present problems to land owners and developers. Tax inequities result when owners are taxed for useless land, and Municipal government loses tax revenue when relief is given to the owner because of the non-conformity-- all or most of which could have been prevented through adherence to local regulations. In addition, developers are severely limited by problems with access and setbacks for structures.

Another problem that has arisen in regard to highway projects is the Highway Department's source of gravel materials. They have had a practice to buy gravel from private landholders. The private landholder in that case is responsible for getting a Special Exception to extract gravel. However, the Highway Department may not always inform the landholder of that when entering an agreement for the gravel. If the Highway Department decides to extract gravel itself, it can presently do so, without any regulations on such operations. This may be a possibility in the Eagle River/Chugiak area where the Highway Department plans to utilize gravel resources for the construction of Minnesota Drive Extension. In such an instance there is no way the neighboring residents could be protected from noise, dust, traffic, or hazards from such activity.

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The purpose of having Special Exceptions, platting procedures, along with all the other land use regulations is to "protect the health, safety and welfare of the public." This responsibility is entailed to the Anchorage Municipality, yet little protection can be offered from actions taken by the Highway Department.

These problems also create unnecessary and costly administration problems with requests for zone changes and variances, not to mention the litigation that has been leveled against the Municipality.

These problems will continue until the Highway Department is forced to abide by the same rules as everyone else. It is this department's firm belief that the Highway Department does not deserve to have any privilege status in regard to local land use regulations. As with other State agencies, if there is a clearly demonstrated over-riding State interest, a waiver from the local compliance requirements may be granted by the governor.

Dave Doris, a member of the Platting Board, is quite familiar with the practices of the Highway Department here in Alaska and similar problems in other states. I would suggest having him testify on this Bill. He would strongly support our stand and has indicated a willingness to help.

February 24, 1977

TO: LISA  
FROM: JUDITH

RE: HB 147

I spoke with Mr. Constantine of the Department of Highways this morning at 9:40 a.m. and dictated verbatim the proposed changes. We discussed them briefly and he didn't feel that said changes would be any problem whatsoever for the department.

I informed him that in light of his approval a committee substitute would be drafted and brought before our committee on Friday, February 25, 1977.

PUBLIC WORKS/HIGHWAY PROJECTS--PLANNING

Current Law

AS 35.10.020, as amended by the Ninth Legislature, requires that the construction of a "public works" be commenced only after consultation with municipal planning and zoning authorities and compliance with local planning and zoning ordinances. However, this statute is ambiguous in terms of its affect on highway construction projects and the Department of Highways. The construction or modification of a state highway often poses serious problems for municipal planning programs and should therefore be commenced only after consultation with local planning authorities. Of course, if an overriding state interest in a highway project is demonstrated, a state agency should possess the ability to override local planning and zoning ordinances. This, however, does not detract from the need to incorporate local planning and zoning review into the design and construction of state highway projects.

Proposed Bill

The proposed legislation would clarify the scope of AS 35.10.020 to require consultation with municipal planning authorities and compliance with local planning and zoning ordinances prior to the construction of "any building,

structure, public works, or highway project and prior to commencement of extraction activities in a municipality".

In addition, the bill would maintain the state's present authority to override local planning and zoning ordinances to serve overriding state interests in construction projects.