

MEETING DATE: 7/5/2016

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**ITEM TITLE:**

Ordinance #16-09

**SUBMITTED BY:** AnnMarie Lain  
Planning \ GIS

Technician

**CITY MANAGER:**

*Jennies Rasdale*

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**FISCAL  
NOTES:**

**Expenditure  
Required:**  
\$0

**Unencumbered  
Balance:**  
\$0

**Funding Source:**  
N/A

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**EXHIBITS ATTACHED:**

Resolution ☐ Ordinance ☒ Other: ☒

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**RECOMMENDATION:**

Approve Ordinance #16-09 Authorizing an Amendment to the Zoning Map to Effect a Change to Lot 2, Blueberry Acres from Public (P) to Multi-Family Residential (RC). Second Reading.

NOTE: With the City now using the Granicus Legislative Management System, the number of this Ordinance has changed from 16-06 to 16-09.

**SUMMARY STATEMENT:**

The City of Valdez received a 2<sup>nd</sup> request from James M. Williams on April 18<sup>th</sup>, 2016 for a rezone of Lot 2, Blueberry Acres (445 Blueberry Hill Road). The land is currently zoned Public and Mr. Williams would like to rezone it to Multiple-Family Residential to allow for the construction of multiple-family dwellings. The intent of the current zoning is outlined below.

**7.12.010 Intent.**

The P (Public Lands) district is intended to contain major open space areas, watershed management areas and major public and quasi-public, recreational, educational and institutional uses, including private lands and uses that are essentially public in character and of specific value to the entire community.

In 2004, City Council passed and approved Resolution # 04-15 authorizing the negotiated land sale of Lot 2, Blueberry Acres to James M. Williams. The following section from Resolution #04-15 explains the negotiated land sale based on the fair market value purchase price and the conformance of development plans to the existing zoning and Comprehensive Plan.

Section 1: As provided for in Section 4.04.050 of the Valdez Municipal Code, the City Council has found that it is not in the public interest to offer the property at public sale as

~~Strikeout Indicates Deletion~~/Redline Indicates New Language

the purchasers have agreed to pay fair market value for the property, and their development plans are in conformance with the existing zoning district and the Comprehensive Plan.

The purchase agreement effectuating the sale of the parcel states that development must be in conformance with the existing zoning.

Condition: (B) Purchaser must be satisfied that the current zoning of the property is satisfactory for Purchaser's purposes.

Mr. Williams first approached the City about this idea in the Spring of 2014. At that time staff contacted then City Attorney Bill Walker about the matter, he stated that neither the wording in the purchase agreement or the resolution precludes the property from being rezoned.

The Comprehensive Plan offers little to no specificity with regard to land zoned Public. There are goals and objectives that provide some guidance. Only those relevant to the specific zoning change are listed below.

**Goal – Land Use:** Provide a community land use pattern that is compatible with existing land use patterns in the community, which is physically safe, environmentally sensitive, and consistent with the provision and requirements of the Valdez Coastal Management Program. The Coastal Management Program no longer exists.

**Objective –** Provide for the adequate separation of incompatible land uses.

The immediate surrounding land to the east is vacant and owned by the University of Alaska; to the north is Public and privately owned currently being used for storage; to the south is Public, vacant and currently owned by the City; and to the west is Blueberry Hill Road and Mineral Creek. Within the vicinity land uses include single-family residential on Blueberry Hill; single-family residential in Cottonwood Subdivision; and a mix of multi-family, single-family and small commercial along Homestead Road. The Mineral Creek and Homestead area is also widely used recreationally in both summer and winter for trail access.

**Objective -** Prohibition of the location/construction of structures in hazardous or environmentally sensitive areas.

This rezone application was first proposed prior to the release of the new preliminary FEMA flood maps and had previously been identified as being in a flood zone. Whereas FEMA regulations allow floodplain managers to make decisions base on best available data, **development on this parcel will not require a floodplain development permit from the City of Valdez. The new preliminary FEMA flood maps remove this parcel from a flood zone.**

**Objective -** Provide development standards for lands that require special physical or environmental attention before they can be safely used or developed.

**Flood development standards will not apply to the development of this land, as described above.**

**Objective** - Encourage the development of lands within the city through regulation and through the disposal of city lands.

In 2004, City Council passed and approved Resolution # 04-15 authorizing the negotiated land sale of Lot 2, Blueberry Acres to James M. Williams.

**Goal/Residential Land Use** - Provide safe, convenient, and attractive residential areas that protect and enhance property values while encouraging economies in necessary community expenditures for required community infrastructure and utilities.

**Objective** - Encourage the location of residences in areas that will not be burdened with unnecessary traffic, noise, or environmental problems that might be associated with commercial or industrial land uses.

The location of this development would put the multi family development in a quiet area not burdened by commercial or industrial land uses. This development will add density and traffic to the existing area.

**Objective** - Encourage residential construction and expansion in those areas of the community where necessary community facilities and utilities are already in place and/or can easily be extended.

Both City water and sewer are available at the corner of West Egan and Blueberry Hill Road. This property is in close proximity to public utilities.

**Goal - Housing:** Provide lands for adequate and available housing for all residents of Valdez. This zoning change would allow for the development of multi-family housing, diversifying the housing stock available in the area.

**Objective** - Increase the availability of land for residential development in Valdez through the use and disposal of city lands.

The City approved the sale of this land in 2004, albeit for the purpose of development in conformance with Public Zoning. The Comprehensive Plan speaks to the desire to develop lands for residential purposes.

**Section 2.5.1** (Land Use Policies) of the Comprehensive Plan identifies thirteen different land use designations. Public is not listed, the two designations that speak to this rezone are Community Open Space/Green Belts and Multi-Family Residential Areas.

**Community Open Space/Green Belts** - These areas are set aside to provide for public use activities such as hiking, cross country skiing, watershed protection, etc. Many of these designations contain less desirable developable lands (e.g., floodplains, liquefaction areas, etc.). They are also to serve as "holding areas" for alternative future land use designations as growth and demand might necessitate."

Staff recommends that there should be a separation buffer between multi-family and single-family zoning districts. To that end, staff recommends the Council to retain Lot 3, Blueberry Acres in perpetuity as City-owned, Public zoned land.

**Multi-Family Residential Areas-** These areas are meant to accommodate the higher density tri-plex, four-plex, and apartment complexes in Valdez. And, while it may be possible to design on-site water and/or sewer systems to serve tri-plex and four-plex land uses, most of these areas will require public water and sewer to accommodate the higher residential densities."

Although Lot 2 is well suited to small scale multi-family development, it is not an ideal location for large-scale multi-family development. Mr. Williams has indicated a strong interest in developing condominiums which requires approval of a conditional use permit to ensure appropriateness of development. However, the Multi-Family zoning district allows for the development of apartment complexes of any size, without any additional permitting, except those for Building. It is important to remember, when considering a zoning change, the use of that property in perpetuity needs to be considered. It is possible Mr. Williams may choose to sell the property to someone who desires a higher population density development.

In 2015 when this zoning change came before the Council for action, the Council shared the same concerns. At the time, staff said they would be bringing an ordinance change to Council to amend the zoning code requiring a conditional use permit for multi-family units over a certain size. Given all the transition that occurred last year staff was unable to accomplish that task. Staff will be moving forward with development of that ordinance at this time. However, it may not be in place prior to development on this property should Mr. Williams, or another potential owner decide to begin building multi-family housing apartments in the next few weeks, unlikely as it may be.

**Section 2.62** of the Comp Plan defines Collector/Business Streets. Blueberry Hill Road is listed as such.

**Blueberry Hill Road** - This street is proposed to provide access to and through the Blueberry Hill area as these properties are subdivided and developed." Blueberry Hill Road is defined in the Comp Plan as a Collector Street which means it is sufficiently sized to handle traffic from increased density.

The adjacent land to the east of Lot 2 is owned by the University of Alaska. Previously there was concern about the floating easement retained by the University of Alaska thru Lot 2 as the location of the easement has yet to be determined. However, staff has been in contact with University land managers who have agreed to meet with the City and Mr. Williams to determine the easement location prior to development.

Staff finds the rezone request is in conformance with zoning change requirements and the Comprehensive Plan. Chapter 17.54 of the Valdez Municipal Code governs amendments to zoning districts.

**Section 17.54.020(C) Minimum Area** states: "Except for the extension of existing district boundaries, no change in any use district classification or an official zoning map shall be considered which contains an area less than two acres, not including street or alley rights-of-way."

Lot 2, Blueberry Acres is over 2 acres for a total of 5.47 acres. This rezone request meets the Minimum Area code requirement. The development is adjacent to an appropriately sized Collector Street. There is close access to public water and sewer utilities. The multi-family zoning is not out of character with uses in the vicinity, although the majority is admittedly single family residential. There is no immediately-adjacent land use with which this is incompatible.

**Section 17.54.020(D) Resubmissions** states: "The planning and zoning commission and the city council shall not consider any proposed amendment to the zoning map which is substantially the same as any other proposed amendment submitted within the previous twelve months which has been rejected."

The same rezone application for Lot 2 was submitted to City Council for amendment on March 3<sup>rd</sup>, 2015; therefore, this rezone request meets the Resubmission code requirement.

**Section 17.54.040 Public Hearing** states: "The planning and zoning commission shall hold at least one public hearing before considering any change or amendment to the provision of this title or the boundaries of the districts."

The Public Hearing held on May 11<sup>th</sup>, 2016 meets the Public Hearing code requirement.

**Section 17.06.060(B1) Notification Requirements** states: "A notice shall be posted and published. The notice shall be published at least once a week for the two consecutive weeks prior to the date of the public hearing in a newspaper of general circulation. The last date of publication shall not be less than three days before the date of the public hearing."

Notification was posted on the City Hall bulletin board located at 212 Chenega Avenue on April 29<sup>th</sup>, 2016. Notification was published in the Valdez Star on April 27<sup>th</sup> and May 4<sup>th</sup>, 2016.

**Section 17.06.060(B2) Notification Requirements** states: "A notice shall be also be sent by mail at least ten days prior to the public hearing to each owner of property within a distance of three hundred feet of the exterior boundary of the lot or parcel of land described in the application for the requested action."

Notice was sent to all property owners within 300 feet of Lot 2, Blueberry Acres Subdivision on April 28<sup>th</sup>, 2016. Upon staff discretion, notice was also sent to all property owners on Blueberry Hill on April 28<sup>th</sup>, 2016.

**Section 17.54.030 Report from Planning and Zoning Commission** states: "The planning and zoning commission shall report in writing to the city council on any proposed change or amendment, regardless of the manner in which such change is initiated. Such report shall include:

A. Findings as to the need and justification for a change or amendment;

B. Findings as to the effect a change or amendment would have on the objectives of the comprehensive plan;

C. Recommendations as to the approval or disapproval of the change or amendment.

Planning and Zoning took action on the public hearing on May 26<sup>th</sup>, 2016. There were several residents in attendance that voiced their opinions for the rezone and against. The Planning and Zoning Commission voted five to one in favor of the recommendation to City Council to approve the rezone. The Planning and Zoning Commission passed a motion to amend the recommendation to include Condition 1, requiring that the adjacent Lot 3, Blueberry Acres be held in perpetuity as City-owned, Public zoned land. The motion failed by five votes against the motion with one vote in favor. The Planning and Zoning Commission passed a motion to amend the recommendation to include Condition 4, requiring the City to install No-Thru Traffic signage along Blueberry Road. The motion failed by four votes against the motion and to two votes in favor. Therefore, the recommendation from the Planning and Zoning Commission is to approve the rezone without any additional conditions. The Planning and Zoning Commission Rezone Proposed Findings & Conclusions report has been attached for your review.

**Section 17.54.050 Council Action** states: The city council shall consider an application or planning and zoning commission recommendation for change in the boundary of a district or any other planning and zoning commission recommendation proposing a change in this chapter, together with the report of the planning and zoning commission, at its next regular meeting after receipt of such report. If, from the facts presented and by the findings of the report of the planning and zoning commission, it is determined that the public necessity, convenience, general welfare, modification of the comprehensive plan or good zoning practice requires change or amendment or any portion thereof, and that the change or amendment is in accordance with the comprehensive plan, the city council, by ordinance, shall effect such amendment, supplement, change or reclassification. (Prior code § 30-76)

#### **RECOMMENDATION SUMMARY:**

Staff and the Commission recommend the City Council authorize the rezone of Lot 2, Blueberry Acres from Public (P) to Multiple-Family Residential.

Four conditions (as follows) were considered by the Commission and ultimately failed to be added as conditions associated with the rezone.

Condition 1: Lot 3, Blueberry Acres be held in perpetuity as City-owned, Public zoned land.

Condition 2: The floating easement held by the University be turned into a fixed easement at a location mutually agreed upon by the University, Mr. Williams and the City of Valdez.

Condition 3: Prior to development of multi-family housing on this property a development plan must be submitted to, and approved by, both the Planning & Zoning Commission and the Valdez City Council.

Condition 4: Street signs shall be installed by the City on Blueberry Hill Road providing adequate notice the street is a dead end and there is no turn-around.

Although staff acknowledges it is likely not the best vehicle to address some of these items as conditions of the rezone, it is important they be addressed as separate matters and staff would like to have Council input regarding Conditions 1, 2 and 4. Staff does not recommend continuing with Condition 3.

The residents of the Blueberry Hill area have expressed two major concerns (of several). The first is a buffer zone between multi-family and single family zoning. In response to that staff is recommending Lot 3, Blueberry Acres (which is located between Mr. William's parcel and Blueberry Hill) be held in City ownership in perpetuity and maintained under the Public Zoning. The parcel can be deed restricted to reflect these requirements. Second, is the increase in traffic multi-family development will have in the area. Many people already drive up to the end of Blueberry Hill Road just to see what can be seen. More traffic in the area may result in additional traffic up to the end of the road. To help discourage this traffic staff is recommending the City install signage indicating Blueberry Hill Road is a dead-end and there is no turn-around at the end of the street.

Finally, the City, Mr. Williams, the other owner of private property adjacent to Mr. Williams, and the University need to meet to determine a fixed location for the currently floating easement.

CITY OF VALDEZ, ALASKA

ORDINANCE #16-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AUTHORIZING AN AMENDMENT TO THE ZONING MAP TO EFFECT A CHANGE TO LOT 2, BLUEBERRY ACRES FROM PUBLIC TO MULTI-FAMILY RESIDENTIAL

WHEREAS, James M. Williams is the owner of Lot 2, Blueberry Acres; and

WHEREAS, Mr. Williams desires to rezone said property from Public (P) to Multi-Family Residential (R-C) for the purpose of developing multi-family residential housing; and

WHEREAS, a rezone may only be effectuated if the subject parcel is a minimum of two acres in size, or if the adjacent zoning is the same as the desired zoning; and

WHEREAS, the subject parcel is 5.3 acres; and

WHEREAS, the Planning and Zoning Commission held a public hearing on this matter on May 11<sup>th</sup>, 2016; and following public input and discussion, approved a recommendation to Council to approve this rezone on May 25<sup>th</sup>, 2016 and

WHEREAS, city staff and the Planning and Zoning Commission find this rezone to be in conformance with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that

Section 1: The Zoning Map is amended to effect a change to Lot 2, Blueberry Acres from Public to Multi-Family Residential.

Section 2: This rezone will take effect immediately upon passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF VALDEZ, ALASKA

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Ruth E. Knight, Mayor



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ATTEST:

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Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

First Reading:  
Second Reading:  
Yeas:  
Nays:  
Absent:  
Abstain:

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Brena, Bell & Clarkson, P.C.