



## Agenda Statement

**File #:** 19-0377 **Version:** 1  
**Type:** New Business **Status:** Passed  
**File created:** 7/31/2019 **In control:** Planning and Zoning Commission  
**On agenda:** 8/28/2019 **Final action:** 9/11/2019  
**Title:** Approval to Sell by Negotiation a 2,750 Square Foot (.06313 acre) Parcel of City Owned Land within Lot 25A, Block 1 Fireweed Hill Subdivision (Plat # 2014-14) to Mary Helen Stephens.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2014 COV Letter to Mary Helen Stephens.pdf, 2. #19-02 Aerial Image of Lot 25A BLK 1 MCS-Stephens.pdf, 3. #19-02 Wellhouse #1 Proximity Map.pdf, 4. Plat of Firewed SUBD 2014-14.tif, 5. #19-02 Stephens Negotiated Landsale Application.pdf, 6. VMC 4.04.070-Negotiated Sale of City owned property.pdf

Date	Ver.	Action By	Action	Result
9/11/2019	1	Planning and Zoning Commission	approved	Pass

### **ITEM TITLE:**

Approval to Sell by Negotiation a 2,750 Square Foot (.06313 acre) Parcel of City Owned Land within Lot 25A, Block 1 Fireweed Hill Subdivision (Plat # 2014-14) to Mary Helen Stephens.

**SUBMITTED BY:** Paul Nylund - Senior Planner/GIS Technician

### **FISCAL NOTES:**

Expenditure Required: N/A  
Unencumbered Balance: N/A  
Funding Source: N/A

### **RECOMMENDATION:**

The Planning Department recommends that the Planning and Zoning Commission approve a recommendation to City Council to sell by negotiation a 2,750 square foot piece of City of Valdez owned property within Lot 25A, Fireweed Hill SUBD, if they determine that the sale conforms to VMC 4.04.070.

If approved, the Planning Department requests that a plat note or an easement precluding hazardous materials on the subject parcel be a requirement of the sale in order to provide adequate protection for our municipal drinking water source. Also, the removal of the snow storage dedication for the 2,750 square foot portion should be noted on the new plat.

## **SUMMARY STATEMENT:**

Mary Helen Stephens has submitted an application for purchase of city owned land (sale by negotiation) for 2,750 square foot of City of Valdez owned land located in Township 8S, Range 6W, Copper River Meridian, also described as Lot 25A, Block 1, Fireweed Hill Subdivision. The reason for this purchase as stated in Mary Helen's application is that "this would finalize the conversation we had with the City of Valdez in 2014." This conversation is encapsulated in the attached "COV 2014 Letter to Mary Helen Stephens."

The 2,750 square feet requested for purchase in this application is a portion of Lot 25A as illustrated in the attached #19-02 Aerial Image of Lot 25 BLK 1 MCS-Stephens. A driveway on the subject parcel which provides access to the house has existed for 30+ years, and she hopes to formally add the driveway to their lot prior to selling it. This issue has been brought to the City numerous times, dating back to the 1970s.

### **Background / History of Project**

Mr. Delbert Welch, the previous owner of Lot 24 MCS North, requested to buy the land numerous times since 1978. Each time the land request was supported by Planning and Zoning and City Council but issues kept coming up that stopped the process. Because of the confusion and series of approvals and later denials, many people involved in the process thought it was completed. The property was sold in 1998 to Stan and Mary Helen Stephens without the ownership issue with the driveway being resolved.

The ownership of the land underneath the driveway came back to light in May of 2013, during the surveying and delineation of lot line locations for the snow lots on Lot 25 and Lot 19 of Block I, Mineral Creek Subdivision. An appraisal was ordered, and a survey arranged. A Negotiated Landsale Application and Subdivision Application form was provided to Mary Helen Stephens by the Planning Department (see attached COV 2014 Letter to Mary Helen Stephens).

No paperwork has been submitted, nor progress made on this land transaction since this letter went out in 2014. Now the Stephens are beginning the process once again, with the hopes of adding this piece of land to their property before selling the house. They have turned in the "Sale by Negotiation" application and have met with Planning Department staff to go over the process.

### **Requirements for Negotiated Sale**

Currently, Lot 25A is a designated snow storage lot. One condition that must be met in order for a piece of City owned property to be put up for sale is that it must not be designated for public use.

### **VMC 4.04.040 Sale by public auction or by sealed bids-Authorized.**

Real property, not dedicated to any public use, may, at the option of the council, be initially offered for public sale and sold by auction or by sealed bid to the highest responsible bidder or by the sealed bid procedures set forth in Section 4.04.050.

### **VMC 16.16.055 Design-Snow storage**

A. Snow storage areas shall be dedicated to the city. The size of the snow storage shall be equal to one square foot for every square foot of constructed street area, including sidewalks, with a minimum street width of thirty feet. The snow storage lots shall not be located more than one thousand feet apart. The location and layout of snow storage lots shall be designated after consultation with the public works director and approved by the commission.

**VMC 4.04.070 - Sale by Negotiation** (attached) states that “should the city council decide that the disposal of real property or any interest therein at public sale is not in the public interest, the city council may authorize the city manager to negotiate a sale of such real property or interest therein and shall prescribe the terms therefor. Such authority shall be provided by resolution, passed by not less than six affirmative votes of the city council.”

The City of Valdez Public Works Department has been consulted on this matter, and they have no objection to this portion of Lot 25A being subtracted from their snow storage capacity. The driveway has existed for over 30 years, and they have not been using that portion of Lot 25A as long as anyone remembers. The removal of the dedication will need to be noted on the new plat.

When looking at a negotiated sale, we have to consider if the property would be useable or desirable to anyone else, or if it is appropriate for the transaction to only be discussed between the City and the Applicant. In this case, staff sees no reason why this 2,750 square foot parcel of land would be of interest to another party if it becomes available for purchase. It is too small to be considered a parcel on its own, since the minimum lot size allowed in the single family residential district is 8,800 square feet.

The Planning Commission should be cautious, in that this action could be setting a precedent of selling off slivers of city-owned land in order to accommodate the encroachment of private uses/improvements from neighboring parcels. This is especially true for snow storage lots which are often used for various non-official uses during the summer months, and are a valued city asset during the winter. All negotiated sales should be considered and decided on a case by case basis.

### Planning Considerations

The subject property is part of City of Valdez owned Lot 25A, which is in somewhat close proximity to a City of Valdez municipal well on the neighboring Lot 19B (see #19-02 Wellhouse #1 Proximity Map). The City of Valdez is required to keep a certain minimum separation distance around the drinking water source, 100' or 200' depending on the potential source (18 AAC 80.020). The act of selling this parcel to the homeowner would not immediately violate this buffer, but the City would be losing control of the property and the fear is that there could possibly be contaminants used/stored on the property in the future.

The Alaska Department of Environmental Conservation (AK DEC) has been consulted regarding this matter and they have issued the following statement:

“I would recommend recording some kind of wellhead protection easement on the property that says there should be no uses incompatible with a public water system, and listing a few examples. That way it is tied to the property and the next owner would find it on a title search

or when researching the property and it would likely be shown on as-builts done on the property in the future. It's not possible to list all the potential issues in regulations but there are a lot of things that we wouldn't want done on that property. We have seen people put dog-lots near water sources, turn areas near the wellhead into retention ponds, floor drain oil separators etc. although those are fairly unlikely for a lot as small as this."

Roy Robertson, P.E.  
Engineer II  
Drinking Water Program  
Alaska Department of Environmental Conservation

Planning Department staff recommends that a plat note or an easement precluding hazardous materials on the subject parcel be a requirement of the sale in order to provide adequate protection for our drinking water source.

If executed in conformance with the recommended conditions, the selling of this property is in accord with the **City of Valdez Comprehensive Plan** currently in effect.

**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 provisions and requirements of the Valdez Coastal Management Program.

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

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

### **Staff Summary**

The Planning Department recommends that the Planning and Zoning Commission approve a recommendation to City Council to sell by negation a 2,750 square foot piece of City of Valdez owned property within Lot 25A, Fireweed Hill SUBD, if they determine that the sale conforms to VMC 4.04.070. The two main issues that have derailed this process in the past, the proximity to the City well and the snow storage designation, have been addressed and we have received statements from the departments with jurisdiction over the matters which assuage these concerns.

If approved, the Planning Department requests that the following conditions be implemented:

A plat note or an easement precluding hazardous materials on the subject parcel be a requirement of the sale in order to provide adequate protection for our municipal drinking water source.

The removal of the snow storage dedication for the 2,750 square foot portion noted on the new plat.

If the Planning and Zoning Commission approves this recommendation to Council, and Council approves this land sale, the purchaser would cover the cost of the survey and the appraisal, in addition to the cost of the land at fair market, appraised value. The City purchases title insurance and pays half of the closing costs.