



Legislation Text

File #: RES 19-0038, **Version:** 1

ITEM TITLE:

#19-38 - Authorizing a Lease with the Valdez Community Garden for a .69 Acre Portion of Medical Park Subdivision (Postponed from September 3, 2019 Regular Meeting)

SUBMITTED BY: Nicole LeRoy, Planning Technician

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

Approve Resolution #19-38 authorizing a lease with the Valdez Community Garden for a .69 acre portion of Medical Park Subdivision

SUMMARY STATEMENT:

On May 16, 2016, the City of Valdez approved a three year land use permit with the Valdez Community Garden, a local incorporated non-profit organization, for a 1.67 acre portion of Medical Park Subdivision for use and maintenance of the community garden. Their permit expired on May 16, 2019 and the Valdez Community Garden applied to lease a .69 acre portion of Medical Park Subdivision again for a five year term (see attached application) on May 16, 2019. The adjusted .69 acres (approximately 30,000 square feet) more accurately represents the actual land area the garden is utilizing.

Per Valdez Municipal Code 4.08.060, "no application for lease shall be considered unless the land desired to be leased is zoned to permit the use to which the applicant intends to put the land." The parcel where the community garden is located is in the public lands district. Per Valdez Municipal Code 17.12.050 (D), within the public lands district, "commercial farming, stock raising, truck gardening, tree nurseries and greenhouses, agriculture, aquaculture and horticulture including necessary accessory buildings and the storage of required equipment to be used on the land" requires a conditional use permit. Pursuant to this, the Valdez Community Garden applied for, and was granted, conditional use permit 16-01 in 2016. This conditional use permit was a three year permit for the duration of the lease and expired on May 16, 2019.

The Planning Department received a new conditional use permit application 19-04 on April 24, 2019. The Planning and Zoning Commission granted the Valdez Community Garden a new conditional use permit on June 26, 2019 to bring the proposed use into compliance with the permitted uses in the

public lands district.

On May 16, 2019, the Valdez Community Garden applied to lease the land again for \$5.00 annually. Per Valdez Municipal Code Section 4.08.030 - Fair rental value to be used for leases - Exceptions, "the city may lease city lands for less than the fair rental value to any state or federal agency or political subdivision, a public utility, a nonprofit organization, or to a new industry on terms advantageous to the public welfare of the city if the council, by motion passed by not less than six councilmen, determines the lease to be in the best interest of the public." Due to the requested discounted rent, the approval of this lease requires an affirmative vote of not less than six City Council members.

It should be noted that the original agreement between the City and the Valdez Community Garden was a "land use permit." Land use permits were used by former staff in place of leases for some parcels. However, they are not a legal mechanism within Valdez Municipal Code to authorize use of City land. Council approval of this resolution will remedy this violation and allow staff to execute a new lease agreement with the Valdez Community Garden for use of the site.

In 2016, the City covered the Community Garden under the City's general liability insurance under their former land use permit. We generally require all lessees to have \$1,000,000 general liability coverage for third party property damage and bodily harm. However, staff consulted with the City's insurance representative and City attorney, and decided that the use could be covered under the City's insurance policy, waiving that requirement.

On July 10, 2019 the Planning and Zoning Commission voted to approve a recommendation to City Council to authorize a lease with the Valdez Community Garden.

On August 6th, 2019 staff brought this resolution before City Council who elected to postpone a decision until verbiage could be included in the resolution that provided for the termination of the lease by the City at any time with thirty (30 days) written notice to Lessee. Staff has brought this item back to Council and included this condition in the authorizing resolution.

The term of lease shall be for five years, commencing May 16, 2019 and terminating on May 16, 2024. The use of the site will be for the maintenance and operation of the Valdez Community Garden (Karen Davey Stewart Community Garden.) The Valdez Community Garden will be required to meet all conditions of conditional use permit 19-04, approved by the Planning and Zoning Commission on June 26, 2019. They will also be required to apply for any permits required for development at their leased location. Pending Council approval of this resolution, Planning Department staff will work with the City Attorney and the Valdez Community Garden to execute a new lease agreement.

On August 20, 2019 City Council postponed this resolution as only five members of Council were present at the meeting. On September 3, 2019 City Council postponed this resolution as only five members of Council were present at the meeting.