

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER**

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in an Organized Borough
Riverwood Subdivision – ADL 419921**
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTION(S):
None Proposed

This Final Finding and Decision complements and updates the Preliminary Decision dated February 18, 2014. The preliminary decision has had the required public review.

Attachment I: Preliminary Decision

I. Recommended Action(s)

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales and Contract Administration Section (LSCAS) recommends offering for sale State-owned land for private ownership within the Riverwood project area (ADL 419921), as described in Attachment I: Preliminary Decision. Surveyed parcels will be offered for future sale by a method under AS 38.05.045 Generally [Land for Sale].

For the purposes of providing land for settlement in the Fairbanks/North Pole area, if deemed feasible, DNR may develop a subdivision of no more than 8 parcels varying in size, no smaller than 3 acres. DNR may create additional tracts to retain as public lands which may be smaller than 3 acres. This project area is located within the Fairbanks North Star Borough and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and offered in phases.

There are no related actions with this proposal

II. Authority

DNR has the authority under AS 38.05.045 Generally [Sale of Land] to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by AS 38.05.035(e) Powers and Duties of the Director.

III. Traditional Use Findings

In accordance with AS 38.05.830 Land Disposal in the Unorganized Borough, a traditional use finding is required for project areas that are located within the Unorganized Borough. This project area is within an organized borough; therefore no Traditional Use Finding is required.

IV. Summary of Public Notice and Comments

Pursuant to AS 38.05.945 Notice, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <http://notice.alaska.gov> and was posted on the DNR DMLW LSCAS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

The notice was also posted within the project area, and mailed to individuals in the vicinity of the offering. Notices were mailed to the Fairbanks North Star Borough per AS 38.05.945 (c) (1), as well as Doyon, Limited regional corporation per AS 38.05.945 (c) (2)-(3). Additionally, notices and a request to post for 30 days were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, March 26, 2014 in order to ensure consideration and eligibility to appeal. For more information, refer to Attachment I: Preliminary Decision.

DNR DMLW LSCAS received comments from the Alaska Department of Fish and Game, Fairbanks North Star Borough, and two private individuals. All comments received during the public comment period are summarized below.

Alaska Department of Fish and Game (ADF&G) Comment: ADF&G has no additional comments on the Preliminary Decision to offer lands within the Riverwood Subdivision.

DNR DMLW LSCAS Response: Thank you for your review of the proposal.

Fairbanks North Star Borough (FNSB), Parks and Recreation Comment: FNSB Parks and Recreation Department has reviewed the preliminary decision and has no comment.

DNR DMLW LSCAS Response: Thank you for your review of the proposal.

Comment: Both individuals voiced general opposition to the offering; one noted that the project area is used by local residents for recreation, and expressed that the area would be more valuable to the public as a local "park". It was recommended that if DNR does move forward with the offering, 1 acre parcels would be too small, noting that parcels in the vicinity are presently approximately 5 acres in size. One comment recommended that parcels should be no smaller than 10 acres, the other recommended parcels be 4-5 acres minimum.

DNR DMLW LSCAS Response: DNR recognizes that this parcel, as with any public land, sees a variety of recreational uses. The land is designated and classified settlement, and it is appropriate that settlement lands are developed. During field inspections of the area, it appeared the project area received fairly minimal recreational use, though the area to the north of the project area (not included in this proposal) appeared to receive some regular recreational use. DNR is considering multiple subdivision designs. The proposal of up to 15 parcels is to allow for flexibility in subdivision design and survey. As described below, the proposal has been modified to reduce the number of parcels, and increase minimum parcel size. The proposed subdivision is located within the Fairbanks North Star Borough (FNSB), and as such it is subject to FNSB platting authority. The project must adhere to the FNSB platting process, and will undergo a separate public process for approval of the subdivision. As this process may alter the design of the project, DNR must allow flexibility in both parcel numbers and size.

Comment: One comment also addressed concerns with the access road leading into section 4 to the north, and indicated that the access road was/is in fact authorized via a permit (LAS 22212). The comment noted that the area does not serve as a boat launch, but rather as a boat landing. The comment indicated that the existing road should be retained in its current unaltered location, and noted that the section line is not practical for access to the river or to lands in section 4. In addition, the commenter recommended that State maintenance be extended to North Freeman Road and Steamboat Landing subdivision.

DNR DMLW LSCAS Response: The access road into section 4 does in fact appear to be unauthorized in that there is no current authorization, reservation, or access protection for that road. LAS 22212 was a short term authorization which allowed the clearing and placement of fill along the western 50 feet of the section line between sections 9 and 10. The constructed road appears to extend nearly 200 feet from the section line near the northerly boundary of the project area (well outside of the 50-foot section line easement per LAS 22212). There does not appear to be any authorization for any road within section 4. As noted in the Preliminary Decision, DNR intends to reserve access to lands north of the project area. As design and platting is not yet complete, it is uncertain how access will be reserved (i.e. via easement, dedicated Right-Of-Way, etc.). In order to conform to FNSB platting standards DNR may alter the location of the access as necessary.

State road maintenance is managed by DOT, and is beyond the scope of this decision. However, per conversation with DOT staff, if local residents want North Freeman to be a State maintained road they may make the request to DOT. This would require residents to acquire funding for the maintenance, and would likely require the upgrade of North Freeman Road including any driveways or intersections accessing North Freeman Road.

Comment: Both commenters indicated concern that parcels in the subdivision will become “junk yards,” and recommended that parcels be created as large as possible to avoid junk/contaminated yards. One commenter also recommended that a covenant be placed on the property disallowing junkyards or contamination.

DNR DMLW LSCAS Response: DNR purchase contracts provide that purchasers shall use and occupy the parcel in compliance with all applicable laws, regulations, ordinances, including those relating to pollution and sanitation control. Contracts also provide that the purchaser may not commit waste to the land. DNR does not control post-patent use and cannot monitor or enforce uses of a parcel once patented. However, as with any private property, landowners are subject to laws regarding pollution and contamination, such as those regulations of the Alaska Department of Environmental Conservation.

DNR also does not create or enforce covenants. Covenants are the prerogative of a homeowners association if organized and active. Additionally, the borough has the right to control zoning of private property. Any subsequent land owners may establish a homeowners association and create covenants and/or petition the borough to modify zoning.

Comment: One commenter noted that in spite of the 100-year flood plain, the area does flood a little bit every year and severely in some years along Freeman Road. The commenter

recommended that potential purchasers be informed of the flood risk and of the potentially contaminated parcel adjacent to the project area.

DNR DMLW LSCAS Response: The flood zone information referenced in the Preliminary Decision is from the Federal Emergency Management Agency, Flood Insurance Rate Maps (FIRM). This information depicts that the majority of the project area is outside of the 500-year flood plain. A portion of the project area along Carl Crossman Way and potentially a small portion within the southwest corner appear to be within Flood Zone AO, with flood depths to 2 feet. Additionally the FIRM depicts that a portion of the easterly end of Freeman road is within Flood Zone A (no base flood elevations determined). Field inspection observations agreed with FIRM data. Silt deposits and vegetation disturbance was observed near Carl Crossman way, but not within the majority of the project area. Potential purchasers will be informed of the flood information.

V. Modifications to Decision and/or Additional Information

Pursuant to public comment and design parameters, the original proposed action(s) described in Attachment I: Preliminary Decision has been modified as follows: The proposal has been modified to create no more than 8 parcels, no smaller than 3 acres in size. DNR may create additional tracts to retain as public lands which may be smaller than 3 acres.

Recommendation and Approval of the Final Finding and Decision follow.

VI. Final Finding and Decision

The Department recommends proceeding with the proposed action as described in Attachment I: Preliminary Decision and as supplemented, amended, changed, or deleted herein. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State's goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945 Notice and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action(s) as described and referenced herein.

/s/

Recommended by: Kathryn Young
Section Manager
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

April 30, 2014

Date

/s/

Approved by: Brent Goodrum
Director
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

April 30, 2014

Date

Appeal Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.