



City of Valdez

**ALASKA**

Planning Department

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## **Conditional Use Permit - Proposed Findings & Conclusions**

*VMC 17.04.420 Conditional use.*

*“Conditional use” means a provision which allows for flexibility within this chapter by permitting certain specified uses in zoning districts where such uses are generally considered appropriate, but only after additional conditions and safeguards are applied to ensure their compatibility with permitted principal uses.*

**Date:** April 14, 2020

**File:** CUP #20-02

**To:** Planning & Zoning Commission

**From:** Kate Huber, Planning Director

**Conditional use:** Natural resource extraction – gravel

### **General Information**

**Applicant:** Mega Trucking, LLC

**Property Owner:** City of Valdez

**Street Address:** 2651 Richardson Highway

**Legal Description:** Portion of Tract A, ASLS 79-116

**Property Owner:** City of Valdez

**Zoning District:** Heavy Industrial

**Utility Service:** N/A

**Existing land use:** Vacant land

**Nearby land uses:** Natural resource extraction (gravel) and processing, COV bale fill, COV construction and demolition pit

**Access:** Airport Road through State of Alaska owned land if permitted by State, Glacier Haul Road

### **Project Description**

Mega Trucking, LLC has applied to extract, process, and stockpile gravel on a 73.68 acres portion of Tract A, ASLS 79-116 (see attached exhibit.) The application does not detail a maximum depth of extraction, however Mega Trucking has stated they intend to extract between 10,000 and 20,000 cubic yards of material annually. Excavation will be performed initially with an excavator, and then primarily with front end loaders. The applicant noted that on occasion a dozer may be used. The application states material is to be extracted at the southernmost portion of the area, while the northern portions will be leveled and cleared for stockpiling and processing of raw materials, and

asphalt and concrete manufacturing. Mega Trucking also intends to construct a maintenance building for onsite repairs.

If CUP #20-02 is approved by the Planning & Zoning Commission, the next step for the applicant will be to seek the approval of a lease by City Council for the use of the City owned parcel. The term of the lease will be set during that process, but may not exceed the time allowed under the CUP.

### **Findings**

*Planning department staff shall make findings on an application for a conditional use permit. The Planning & Zoning Commission shall review and adopt the findings unless it finds by a preponderance of the evidence that the findings are in error.*

#### **1. Is the requested permit proper according to the conditional uses allowed in the zoning district?**

The heavy industrial zoning district, according to VMC 17.38, is intended for industrial development, including natural resource extraction, permitted as a conditional use.

#### **2. Is the application complete?**

The applicant addressed each of the questions listed on the application. See application requirements listed below. Staff would prefer greater detail regarding maximum extraction depths.

#### **VMC 17.50.030 Applications—Requirements.**

A. A person intending to apply for a conditional use under this section shall submit the proposed project data to the community development department. The community development department shall contact the applicable agencies and utilities to allow them the opportunity to comment. The agencies to be contacted may include but not be limited to:

1. City public works department for water and sewer and snow removal;
2. City engineering department;
3. City building inspector;
4. State Highway Department, if applicable;
5. Local electricity utility;
6. City fire department;
7. Local telephone utility; and
8. Cable TV utility.

B. It is recommended that the application be accompanied by the following materials:

1. Narrative Documentation.
  - a. A legal description of all properties involved in the projects;
  - b. A statement of the objectives expected to be achieved by the project for the consumer and the public;
  - c. A detailed description of all aspects of the project, including land use, building types and sizes, population density, parking and traffic circulation, building coverage and other information which the applicant feels would assist the planning and zoning commission in making this decision; and
  - d. The community development department shall provide the proposed findings and conclusions for consideration by the planning and zoning commission. The proposed findings and conclusions will include comments and issues presented by the reviewing agencies along with a list of any unresolved issues.
2. Site Plans and Supporting Drawings.
  - a. As appropriate, details of the proposed project showing land use layout, building location, vehicular and pedestrian circulation, open space and recreation area, parking layout, schematic sewer and water layout, and any other information necessary to adequately describe the project;

- b. A preliminary subdivision plat showing proposed lot and dedicated street layout;*
- c. A site grading and drainage plan including existing and proposed topography; and*
- d. Utilities.*

### **3. Does the proposed development follow the other requirements of the City of Valdez land use code?**

This permit application is in conformance with Title 17, the City of Valdez land use code. Natural resource extraction is an allowable conditional use within the heavy industrial zoning district. In conformance with Valdez Municipal Code Section 17.06.070 (B), any conditional use, variance or exception approved by the Planning and Zoning Commission shall be conditional upon the privilege granted being utilized within twelve months after the effective date of the approval. In the event construction work is involved, it must actually commence within the stated period and must be diligently prosecuted to completion; otherwise the approval is automatically voided. The Planning and Zoning Commission may extend the time the construction is to start if satisfactory evidence of planning progress is presented. Any substantial change to the plans or building proposal shall require resubmission to the Planning and Zoning Commission.

### **4. Will the proposed development materially endanger the public health or safety?**

As described in the application, the applicant will install security gates at the northern and southern entrances of the area. The applicant should also install signage deterring unauthorized persons from entering the area. These efforts shall be done in coordination with the Planning Department, Public Works Department and Police Department to ensure that codes are followed and any conditions of the necessary gravel lease are met.

In addition, the applicant has indicated that they will maintain an oil spill response plan and equipment on the property for swift response to a potential spill as a result of asphalt manufacturing or other activities.

The Planning Department is concerned about the possibility of flooding issues in this area. The Valdez Glacier Lake is regularly subject to outburst flooding events due to the formation of ice dams in the upper lake. The level of Valdez Glacier Stream rises significantly during these events and has been shifting its flow towards Glacier Haul Road in recent years. Without further study of the hydrology of this area, staff is concerned that gravel extraction along Glacier Haul road could contribute to future flooding in the area.

### **5. Will the proposed project substantially decrease the value or be out of harmony with the property in the neighboring area?**

The area surrounding the proposed CUP is zoned heavy industrial and there are existing longstanding gravel extraction operations nearby. In addition, the City bale fill, and construction & demolition pit are nearby the property. The proposed use is not out of character with the neighboring area, and is in conformance with the existing heavy industrial zoning.

**6. Will the proposed project be in general conformity with the Valdez Comprehensive Plan or other officially adopted plans?**

The proposed CUP #20-02 is compatible with certain areas of the 2008 Valdez Comprehensive Plan, but in accordance with the adopted plan, consideration should be given to concerns cited regarding public health and safety. Please see the relevant goals and objectives from the comprehensive plan listed below with comments.

***Valdez Comprehensive Plan - 2.2 OVERALL GOAL***

*To create an atmosphere that will encourage stable economic development in Valdez while enhancing the quality of life. Improvements should be made to all elements that give the community its' character. This would include enhancing the economic productivity and diversification of the region to assure continued economic prosperity; providing for public safety and the economic welfare of the community when siting future industrial, commercial, residential, and public land uses; enhancing the scenic beauty, uniqueness and historic significance of the Valdez area; and opening up new land for residential, commercial, and industrial land.*

***Excerpts from 2.3 GOALS AND OBJECTIVES***

***Goal - Lifestyle: Provide for a maximum freedom of choice for people to engage in the cash economy and use local natural resources to supplement their selected economic lifestyles.***

***Objective - Conserve sensitive habitats and enhance the availability of natural resources used and consumed by residents of the community.***

***Objective - Measure expected impacts from proposed land use and transportation development in sensitive resource areas.***

***Objective - Closely monitor and manage any land use and transportation developments in sensitive resource areas.***

The expected impacts from this proposed land use could contribute to ongoing issues in relation to the areas along Valdez Glacier Stream. The extraction of gravel on City of Valdez land over time has created vulnerabilities and exposure to flooding from migrating rivers and has rendered leased land in a condition difficult for redevelopment. As such, gravel extracted from river beds is preferred over uplands extraction.

***Goal - Economic Development: Encourage the development of a broad-based economy in Valdez.***

***Objective - Develop a community plan, which accommodates resource related industrial development that meets the desires of community residents.***

***Objective - Strive to create an atmosphere in the community that is conducive to commercial and industrial development.***

The proposed project will directly contribute to creating an atmosphere in the community that is conducive to commercial and industrial development. Gravel extraction, processing, and concrete and asphalt production is a needed industrial service in Valdez.

**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** - *Provide for the adequate separation of incompatible land uses.*

**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.*

The existing land use in the immediate area is industrial and gravel extraction is compatible.

**Goal - Industrial Land Use:** *Provide for industrial land uses so that they limit impacts on adjacent land uses and the environment, and yet have safe and convenient access to the major transportation facilities they require.*

**Objective** - *Encourage the consolidation of industrial land use activities.*

The proposed use of gravel extraction in this area meets the comprehensive plan objective of encouraging the consolidation of industrial land use activities.

**7. Are any of the following criteria such to materially endanger the public health or safety: topography, slope and soil stability, geophysical hazards, surface and subsurface drainage and water quality?**

As stated above, staff is concerned about the proximity of this site to Valdez Glacier Stream and possible flooding events in the area.

**8. Will the proposed project require the enlargement, upgrading or extending of public utilities or service systems?**

No.

**Decision of the Commission:**

The Planning & Zoning Commission may, regardless of the above findings, conditionally approve or deny the permit. The commissioners' own independent review of information submitted at the public hearing and additional information requested provides the basis for the decision. The decision needs supportive findings based on factors associated with the same questions answered in staff's findings.

***17.50.020 Criteria to be considered.***

*In considering the granting of a conditional use, the planning and zoning commission shall satisfy itself that the general criteria set forth for uses specified in this title will be met. The planning and zoning commission may consider any or all of the criteria listed in this section and may base conditions or safeguards upon them.*

*The planning and zoning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The burden of proof rests with the applicant. The general criteria for considering the conditions, if any, under which permission for a particular conditional use shall or shall not be granted in a district in which that use is specified in the district regulations are as follows:*

- A. Topography, slope and soil stability, geophysical hazards, surface and subsurface drainage and water quality, and the probable effects of the proposed conditional use upon these factors.*
- B. Utilities and services requirements of the proposed conditional use, including sewers, storm drainage, water, fire protection, access and electrical power; the planning and zoning commission may request the assistance of public officials with knowledge of the relevant public utility and service systems in evaluating the probable effects of the proposed use of public systems, and may consider the costs of enlarging, upgrading or extending public utility or service systems for the proposed use in establishing conditions under which the use shall be permitted.*
- C. Lot or tract characteristics, including minimum lot size, minimum yard requirements, maximum lot coverage by all buildings or structures, and maximum height of buildings or structures.*
- D. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, numbers of persons, traffic volumes, off-street parking and loading facilities, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements.*
- E. Community appearance, such as landscaping, fencing and screening, depending upon the specific use and its visual impact on the community.*

**Staff Recommendation:**

As stated above, the Planning Department believes that it is preferable for gravel extraction within the City of Valdez be done within the City's three rivers, and not in upland areas. Upon completion of the Comprehensive Plan, staff would like to pursue a gravel management plan to identify upland areas within the City that are appropriate for gravel extraction.

If the Planning & Zoning Commission approves CUP #20-02, staff recommends the inclusion of the following conditions:

1. Applicant must secure an approved gravel lease with the City of Valdez
2. Temporary CUP issued for 5 or fewer years from lease start date
3. Applicant adjusts site plan moving extraction area to the North of CUP area, closer to Airport Road and stages other operations to the South, closer to Glacier Haul Road. Staff recommends a minimum buffer of 200 feet from Glacier Haul Road for any gravel extraction.
4. Applicant required to include a 60' buffer zone around extraction area on all sides, per recommendation of the State of Alaska DOT & PF.