



City of Valdez

**ALASKA**

Planning Department

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## Conditional Use Permit – Proposed Findings and Proposed Conditions

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.

VMC 17.04.420 Planned unit development

“Planned unit development” means a group or combination of dwellings and associated uses developed as a functional unit under conditional use procedures, the plan of which may not conform to the regulations established in any one or more zoning districts with respect to lot size, mixture of uses, density, lot coverage or required open space.

Date: December 22, 2021  
File: CUP 21-04  
To: Planning & Zoning Commission  
From: Bruce Wall, Senior Planner  
Conditional Use: Planned Unit Development

### General Information

Applicant: William P. Harris  
Property Owner: William P. Harris  
Street Address: 1105 W Egan Drive  
Legal Description: Tract P, Port Valdez Subdivision, according to Plat 77-1  
Zoning District: Multiple-Family Residential (R-C)  
Existing Land Use: Vacant  
Adjacent Land Uses: North: Residential  
East: Residential and Elementary School  
South: Vacant and City Well  
West: Mineral Creek  
Access: Egan Drive and Whalen Avenue Right-of-Way

### Project Description

The applicant is requesting a conditional use permit (CUP) for a planned unit development (PUD). The property is 14.127 acres and, after a rezone of a portion of the property earlier this year, is zoned Multiple-Family Residential (R-C). The concept plan indicates that the PUD will consist of 39 residential lots and 2 snow storage lots.

Planned unit developments (PUDs) are intended to encourage the development of parcels of land as integrated units and to allow for flexibility of design.

The application states, “The vision is to create four types of housing: triplex, duplex, zero lot-line, and single-family of mixed affordability.”

The application indicates that there will be between 44 and 79 dwelling units constructed on these proposed 39 residential lots.

### Planned Unit Development Approval Process

The approval of a CUP for a PUD is a two-step process. The application for the planned unit development included a concept plan of the development that contains all of the information required in VMC 17.50.060(D). If the planning and zoning commission approves the concept plan the applicant will have one year to submit a final plan for the planning and zoning commission’s approval. Extensions to the one-year deadline may be granted by the planning and zoning commission. The final plan will include detailed engineering drawings and all of the information included in the concept plan in their finalized, detailed form. It is anticipated that a preliminary subdivision plat will be submitted for the development at the same time as the final plan for the PUD.

### Findings

#### 1. Procedure

- a) On November 22, 2021, the Planning Department received the conditional use permit application for the subject property.
- b) On November 27, 2021, the applicant submitted revised application material that corrected some clerical errors.
- c) Planning staff reviewed the application and accompanying information against the application requirements of VMC 17.06.040, VMC 17.50.030 and VMC 17.50.060 and determined that the application was complete.
- d) A public hearing was scheduled to consider this application for December 22, 2021.
- e) Notice of the meeting was published in the Copper River Record on December 16, 2021.
- f) Notice of the meeting was published in KVAK’s E-Blast Newspaper on December 6, 2021 and December 13, 2021, in accordance with VMC 17.06.060(B)(1).
- g) Notice of the meeting was mailed on December 8, 2021 to the 21 property owners within 300 feet of the subject property, in accordance with VMC 17.06.060(B)(2).
- h) In accordance with VMC 17.50.030(A) Notice of this application was sent on December 8, 2021 to the City public works department for water and sewer and snow removal, City building inspector, State highway department, local electric utility, City fire department, local telephone utility, and cable TV utility.

#### 2. The proposed development is in harmony with the purpose and intent of the zoning ordinance of the City of Valdez, Alaska. VMC 17.06.040(A)

- a) Title 17 of the Valdez Municipal Code is intended to regulate the use of land and improvements by districts in accordance with the city comprehensive plan and to provide for orderly development; to lessen street congestion; to promote fire safety and public order; to protect the public health and general welfare; to provide safe, aesthetic surroundings and living conditions; to prevent overcrowding; and to stimulate systematic development of transportation, water, sewer, school, park and other public facilities. VMC 17.02.020
- b) The R-C (multiple-family residential) district is intended to include lands for urban development which are provided with a full range of public utilities, including sewers, water, electricity and street drains or are intended to be provided with such facilities in the future. VMC 17.18.010
- c) The proposed PUD is located where there are existing city services. Sewer, water, and other utilities are located along West Egan Drive and can be extended to the proposed interior lots via Whalen Avenue. A new City well

is being installed on the adjacent school property. The proposed PUD is adjacent to an existing collector road and adjacent to Hermon Hutchens Elementary School.

3. The proposed development will not be injurious to public health, safety or welfare. VMC 17.06.040(C)
  - a) Notice of the application was provided in accordance with VMC 17.06.060(B) and VMC 17.50.030(A).
  - b) No comments have been received that would indicate that the proposed development will endanger the public health, safety or general welfare.
  - c) Planning staff have reviewed the application and have not found anything to indicate that it will be injurious to public health, safety or welfare.
4. The proposed development will not be detrimental to other properties or uses in the vicinity. VMC 17.06.040(C)
  - a) A residential subdivision is located north of the subject property; Hermon Hutchens Elementary School, school district offices, a city well, and a residential subdivision is located east of the subject property; a city well is located south of the proposed PUD; and a trail is located immediately adjacent to the west side of the property.
  - b) Other uses in the vicinity include residential subdivisions along with some commercial uses along West Egan Drive.
  - c) Residential dwellings are generally considered to be compatible and complementary to the existing uses in the vicinity.
  - d) Nothing in the application indicates that the proposed development will be detrimental to other properties or uses in the vicinity.
  - e) No comments have been received that would indicate that the proposed development will be detrimental to other properties or uses in the vicinity.
5. The proposed development is in accordance with the comprehensive plan. VMC 17.06.040(C)
  - a) The 2021 Valdez Comprehensive Plan designates the place type of the subject property as New Townsite Neighborhood.
  - b) The comprehensive plan states, “The New Townsite Neighborhood place type will continue to reflect its origins as a planned town site, characterized by single-family detached homes. As the area continues to mature, the inclusion of more duplexes, townhomes, accessory dwelling units, and small scale multi-family housing is expected.”
  - c) The proposed PUD’s mixture of single-family dwellings, zero lot line dwellings, and small-scale multi-family dwellings is compatible with the New Townsite Neighborhood place type described in the comprehensive plan.
  - d) Goal 2.1 of the comprehensive plan states, in part, “Prioritizing and concentrating development where facilities, infrastructure, and services have the existing capacity and in areas where the Police and Fire Departments are best able to respond will improve service and reduce operation and maintenance costs.”
  - e) The proposed PUD is located in an area where facilities, infrastructure, and services have the existing capacity. Sewer, water, and other utilities are located along West Egan Drive and can be extended to the proposed interior lots via Whalen Avenue. A new City well is being installed on the adjacent school property. The proposed PUD is adjacent to an existing collector road and the police station and new fire station are less than a mile away.
  - f) Goal 2.3 of the comprehensive plan states, “Quality housing is housing that meets community needs including a range of incomes, housing types, and locations; and is built with longevity in mind.” “Various housing options will enable residents to find suitable local housing regardless of income level.”
  - g) The housing in the proposed development will provide for a range of incomes and various housing types.
  - h) There is no evidence in the record to indicate that the proposed development is in conflict with any provisions of the comprehensive plan.

6. The general criteria set forth for uses specified in Title 17 (Zoning) of the Valdez Municipal Code will be met. VMC 17.50.020

- a) The subject property is zoned Multiple-Family Residential (R-C).
- b) VMC 17.18.020(A) indicates that single-family, two-family and multiple-family dwellings are permitted outright in the Multiple-Family Residential district.
- c) VMC 17.18.040(F) indicates that the Planning and Zoning Commission may grant a conditional use permit for a planned unit development.
- d) VMC 17.18.070 provides for the minimum setbacks within the Multiple-Family Residential district. The submitted concept plan indicates that these minimum setbacks will be met.
- e) VMC 17.18.080 and 17.18.090 provides for maximum lot coverage and maximum building height within the Multiple-Family Residential district. The submitted concept plan indicates that these maximums will be met.
- f) VMC 17.18.070 provides for minimum lot requirements in the Multiple-Family Residential district. Although many of the lots do not meet these minimum lot requirements, a PUD is intended to allow for flexibility of design by allowing lots which may not conform to the regulations established in its zoning districts with respect to lot size.
- g) The submitted concept plan shows that adequate space for off-street parking can be provided in connection with the conditional use in accordance with the requirements set forth in VMC 17.48.100.

7. General evaluation criteria. VMC 17.50.020

- a) Topography and soil stability. Portions of the property have recently been excavated with material stockpiled on site. The topography shown in the concept plan is based on the topography in 2019, prior to the excavation taking place. The map indicates that there is approximately a 1.5% slope across the property with the high point be along the northern property line and the low spot being near the intersection of Whalen Avenue and West Egan Drive. The application indicates that the intent is to import fill from Mineral Creek to raise the entire site from 2 feet to as much as 6 feet. This will allow all streets, sewers, and storm drains to drain toward Whalen Avenue. Because of this imported fill, the building code requires that a soils compaction test be completed prior to the construction of any buildings on the property. Condition number 2 will ensure that this takes place. The proposed plat that accompanied the application indicates an area along the western boundary of the property that contains buried debris. The buried debris has the potential to affect soil stability. Condition number 3 requires that this notation be carried to the final plat.
- b) Utilities and service requirements. The proposed PUD is located in an area where utilities and services have previously been established. Sewer, water, and other utilities are located adjacent to the property, along West Egan Drive, and can be extended to the proposed interior lots via Whalen Avenue. A new City well is being installed on the adjacent school property. The PUD will require a subdivision plat. VMC 16.20.020 requires that water, sanitary sewer, and other facilities be provided to each lot prior to final subdivision plat approval.
- c) Lot characteristics. A PUD is intended to allow for flexibility of design by allowing lots which may not conform to the regulations established in its zoning districts with respect to lot size. The minimum lot width in the Multiple-Family Residential district is 100 feet. The proposed lots in blocks 3, 4, 5 and 6 were designed with a minimum lot width of 80 feet. Lot widths of 80 feet are very common within the city and those lots accommodate both single-family and two-family dwellings. The designed width is suitable for the intended use. The minimum lot area in the Multiple-Family Residential district is 8,800 square feet for one or two units. The proposed lots in block 2 were designed with a minimum lot width of approximately 54 feet and a minimum area of about 5,650 square feet. These lots are intended for zero lot line dwellings. Exhibit F of the concept plan depicts how the structures would be placed on these lots and how the structures would still be well within the minimum setback requirements. The application indicates that the maximum lot coverage and maximum building heights of the Multiple-Family Residential district will be met.
- d) Use characteristics. The proposed PUD is a residential development. No uses are anticipated that would affect adjacent uses.

- e) Community appearance. The proposed use as a residential development is not anticipated to have a visual impact on the community.

8. Specific standards for residential planned unit developments. VMC 17.50.060(F)

- a) Public water and sewer facilities or approved on-site facilities shall be available or shall be provided as part of the site development.
- Public water and sewer facilities are available along West Egan Drive. Exhibit B of the concept plan indicates that water and sewer lines will be provided to each lot within the proposed development via Whalen Avenue. Condition number 4 requires that city water and city sewer be installed prior to final plat or that a bond be filed in accordance with VMC 16.20.030.
- b) The proposed uses within the proposed PUD are permitted uses within the Multiple-Family Residential district.
- c) Maximum project ground floor area shall not exceed forty percent of the gross land area.
- The concept plan indicates that the maximum ground floor area will be 27.7 percent of the gross land area. The concept plan indicates that this requirement will be met.
- d) Total open area shall be at least one hundred ten percent of the total ground floor area.
- The concept plan indicates that the total open area of the development will be at least 193.9 percent of the total ground floor area. This calculation excluded all driveways and parking areas as open area. The concept plan indicates that this requirement will be met.
- e) No common open space for the sole benefit, use and enjoyment of present and future residents of the development is being proposed.
- f) No perimeter screening or additional setbacks are being proposed for the development.
- g) Dimensional requirements may be varied from the requirements of the district within which the PUD is located. All departures from those requirements shall be evaluated against the following criteria. A minimum lot width is intended to prevent the construction of long, narrow buildings with inadequate privacy, light and air. Where the design is such that light, air and privacy can be provided, especially for living spaces and bedrooms, a narrower lot width may be permitted.
- The minimum lot width in the Multiple-Family Residential district is 100 feet. The proposed lots in blocks 3, 4, 5 and 6 were designed with a minimum lot width of 80 feet. These lots are intended for single-family dwellings, two-family dwellings, or zero lot line dwellings. The designed width is suitable for the intended use of single-family dwellings, two-family dwellings, and zero lot line dwellings. The proposed lots in block 2 were designed with a minimum lot width of approximately 54 feet. These lots are intended for zero lot line dwellings. Exhibits F through J of the concept plan depicts how light, air and privacy can still be provided on these lots.

Decision of the Commission

The Planning & Zoning Commission may approve, conditionally approve, or deny the concept plan for the PUD. 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.

VMC 17.50.020 states that the planning and zoning commission may consider any or all of the following criteria and may base conditions or safeguards upon them. 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:

- 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.
- 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.
- 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.
- 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.
- Community appearance, such as landscaping, fencing and screening, depending upon the specific use and its visual impact on the community.

#### Staff Recommendation

Staff recommends that the concept plan for CUP #21-04 be approved by the Planning & Zoning Commission with the following conditions.

#### Conditions

1. The conditional use permit is only effective following Planning and Zoning Commission approval of the final plan for the PUD.
2. Soil compaction tests in accordance with adopted building codes shall be completed prior to the construction of any buildings on the property where native soils have been disturbed or where fill has been placed.
3. The final subdivision plat shall contain a notation prohibiting permanent structures in the area along the western boundary of the property that contains buried debris.
4. City water and city sewer shall be installed prior to each final plat; alternatively a bond may be filed in accordance with VMC 16.20.030.
5. The use must be consistent with the submitted application and plan. Any substantial change to the plans or building proposal shall require resubmission to the Planning and Zoning Commission.
6. The conditional use permit must be 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.