



City of Valdez, Alaska
Planning & Zoning Commission
Conditional Use Permit
Proposed Findings & Conclusions

VMC Section 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. (Ord. 03-15 § 1 (part); prior code § 30-8(b) (part))

Date: July 13, 2016
File No.: CUP #16-03
To: Planning & Zoning Commission
From: Lisa Von Barga
CUP: Rental Cabins

General Information

Applicant: Josh Swierk
Property Owner: Josh Swierk
Property Address: 5312 & 5318 Lake View Drive
Legal Description: Lots 9 & 10, USS 5670

PIDN: 56700090000 & 56700100000
Parcel Size: .92 Acres & 1.62 Acres
Zoning: Commercial Residential
Utility Service: Onsite Water & Sewer, CVEA Electric, CVTC or GCI Telephone, CGI Cable
Existing Land Use: Undeveloped & Residential
Access: Cummings Way to Lake View Drive
Surrounding Land Use: North: Residential & Lodge & Undeveloped
South: Residential & Undeveloped
East: Residential & Undeveloped
West: Residential & Undeveloped

Project Description and Background Summary

The City of Valdez received a request from Joshua Swierk for a Conditional Use Permit for the placement of four rental cabins on Lot 9, USS 5670 and two rental cabins on Lot 10, USS 5670. The property is currently zoned Commercial Residential (CR) and rental cabins are a conditional use within that zoning district (Section 17.26.040 (39) VMC).

Section 17.04.1235 defines rental cabins as, "...a single-family dwelling that does not exceed seven hundred square feet in total area and contains no more than one sleeping room or area, and is available for rent on a limited or long term basis." Mr. Swierk has provided information that the cabins are 12' x 16' is size, or 192 square feet. This is far below the maximum square footage allowed for a rental cabin.

There is currently a residential cabin (single family dwelling) existing on Lot 10 that was constructed prior to the purchase of the property by the current owner and this will not be used as one of the rental cabins. Mr. Swierk would like to place rental cabins on Lots 9 & 10 for the purpose of providing lodging for his growing business. Josh states that the rental cabins will be hill top lots with views of their existing lodge (Robe Lake Lodge).

At one point during the review of the application Mr. Swierk asked if he could pursue a combination permit for both rental cabins and an RV Park. The reason for this request is that Mr. Swierk's cabins are very similar to those cabins used at both Eagle's Rest RV Park and the Totem Inn. Mr. Swierk ultimately decided to move forward with the CUP for rental cabins only. In staff's opinion this is a good decision as the requirements for an RV Park are very cumbersome and it is possible the property might not be suitable to meet the minimum requirements. A copy of that email chain is attached to this agenda statement along with other items.

The following addresses the requirements of The Valdez Municipal Code, Section 17.50.020 for a CUP:

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. (Prior code § 30-43)

Findings

The Director of Community & Economic Development shall make findings on an application for a conditional use permit. The Planning and Zoning Commission shall review and adopt the findings unless it finds by a preponderance of the evidence that the findings are in error. The director's findings are:

1. Is the requested permit proper according to the Conditional Uses for the zoning district?

Yes, in the Commercial Residential zoning district Rental Cabins is an allowed conditional use.

2. Is the application complete?

Yes. There are some additional site plan materials being required of the applicant prior to issuance of a permit including, soil stability and drainage and parking and snow removal.

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 & Economic Development Department. The Community & Economic 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 project;
- 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. (Ord. 97-11 § 1: prior code § 30-44)

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

The land use code for the City of Valdez is Title 17 Zoning of the Valdez Municipal Code. This permit is being pursued in conformance with Title 17 as a Conditional Use Permit, and this is an allowable conditional use in the Commercial Residential Zoning District.

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

No.

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

This is a subjective question. The area is certainly more rural in nature, with larger lots and lends itself to rustic cabins. One of the first uses of the area was the Lake House B&B (now a private residence). And, the Swierks have Robe Lake Lodge on an adjacent property. Accommodations

have been, and are an existing use. The area also has amazing views and challenging topography which could lead to high-end architecturally developed homes, which don't yet exist in the area. Much of Valdez is a mix of housing/uses within the developed areas. The zoning is Commercial Residential, which outright allows for permitted uses as diverse as a pawn shop or frozen food locker, in addition to residential development. Given the wide range of allowable uses in the zoning district, the addition of rental cabins is in harmony with the surrounding area, especially given that much of it is undeveloped.

6. Will the proposed project be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

This question is more properly worded, "Will the proposed project be in general conformity with the Valdez Comprehensive Plan, or other officially adopted plans?" To staff's knowledge, the only plan governing this area is the Comprehensive Plan. As the request is in conformance with the existing zoning, it is in conformance with the Comprehensive Plan.

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?

Prior to issuance of a permit the applicant will be required to submit a soil stability and drainage plan.

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

No.

Decision of the Commission

The Planning and 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 work meeting provides the basis for the decision. The decision needs supportive findings based on factors associated with the same questions answered in the Director's Findings.

Staff Recommendation

Staff recommends Conditional Use Permit #13-03 for Rental Cabins be approved by the Commission with the following conditions:

1. Lot 9 is permitted for four (4) rental cabins, each 192 square feet in size and each self-contained with separate potable drinking water and sewer tanks.

2. Lot 10 is permitted for two (2) rental cabins, each 192 square feet in size and each self-contained with separate potable drinking water and sewer tanks.
3. Each cabin must be posted with a sign advising guests emergency response vehicles may not be able to access the property in the event of an emergency. Proof of posted signage must be provided to the Community Development Department annually.
4. Slope and soil stability and drainage conditions must be provided to the Community Development Department prior to the permit becoming effective.
5. A site plan showing off-street parking and on-site snow storage areas on the lots shall be provided to the Community Development Department prior to the permit becoming effective.
6. A solid waste disposal plan shall be submitted to the Community Development Department prior to the permit becoming effective.
7. A sewer waste disposal plan shall be submitted to the Community Development Department prior to the permit becoming effective.
8. Any changes to this permit regarding the size or number of cabins requires approval of the Planning & Zoning Commission by amendment to this permit.
9. In conformance with Section 17.06.070B Use Within Twelve Months Required. 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.