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## Chapter 17.50 CONDITIONAL USES

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### **17.50.010 Generally.**

Within Chapters 17.10 through 17.48, certain uses and structures are specified as conditional uses. These uses are generally compatible with the district in which they are specified, but are of such character that it is necessary to place additional conditions and safeguards upon these uses before permitting them to be developed within the district. The authority for granting permission or denying conditional uses rests with the planning and zoning commission as established by AS 29.33.080(d) and (e) and specified in Chapter 17.06 of this title. (Prior code § 30-42)

### **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. (Prior code § 30-43)

**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. (Ord. 97-11 § 1: prior code § 30-44)

**17.50.040 Gravel extraction as a conditional use.**

A. Gravel extraction outside of the HI-G heavy industrial, gravel extraction zone requires a conditional use permit. Zones that allow gravel extraction as a conditional use are the public lands zone, heavy industrial zone and the light industrial zone. In addition to meeting the requirements of Sections 17.50.010 through 17.50.030, an applicant for gravel extraction as a conditional use shall submit the following:

1. Site plan description, including:
    - a. Drainage,
    - b. Existing and proposed topographical contours (ten-foot contour),
    - c. Work depths,
    - d. Overburden and debris disposition,
    - e. Erosion and sediment control plan,
    - f. Revegetation or restoration plan,
    - g. Water table information,
    - h. Water quality information for work in waterways,
    - i. Floodplain alteration information for all work in the one hundred-year floodplain;
  2. Final site restoration and revegetation plan;
  3. Security plan to prevent casual trespass;
  4. Description of natural resource extraction and processing operations proposed for the site, including:
    - a. Ingress and egress points,
    - b. Hours of operation,
    - c. Estimate of quantities to be extracted and timetable, with supporting calculations conforming to generally accepted engineering principles;
  5. Other materials the director of community development may require.
- B. The planning and zoning commission may approve a gravel extraction conditional use only if the commission finds that the use meets the following standards:
1. The extraction operations will not pose a hazard to the public health and safety;
  2. The extraction operations will not generate noise, dust, surface water runoff or traffic that will unduly affect the surrounding land use;
  3. The permittee assures that after extraction operations cease, the site will be left in a safe, stable and aesthetically acceptable condition.

C. The planning and zoning commission shall attach such conditions to the approval of a gravel extraction conditional use permit as it finds are necessary to conform the use to the standards set forth in subsection B of this section. (Prior code § 30-44.1)

**17.50.050 Applications—Processing.**

Processing of an application for a conditional use shall be the primary responsibility of the planning staff and shall be carried out in accordance with the provisions set forth in Chapters 17.06 and 17.08 of this title. (Prior code § 30-45)

**17.50.060 Standards for planned unit developments.**

A. Purpose. Planned unit developments (PUDs) are intended to encourage the development of parcels of land as integrated units and to allow for flexibility of design. PUDs are allowed as conditional uses within a number of zoning districts and are applicable to either residential or nonresidential uses or a combination thereof.

B. Districts. Planned unit development is allowed in all districts except single-family residential, public and heavy industrial.

C. Preliminary Consultation. A preliminary consultation with the administrative staff and the planning and zoning commission may be held to determine conceptual plan requirements.

D. Concept Plan. In order to determine the possible acceptability of a proposed conditional use, the applicant shall prepare a preliminary concept plan for review by the city. The concept plan shall include the following information:

1. A legal description of the total site proposed for development, including a statement of present ownership.
2. A statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
3. A proposed development schedule indicating the appropriate date when construction of the PUD or stages of the PUD can be expected to begin and be completed.
4. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PUD such as land areas, dwelling units, etc.
5. Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures; approximate gross and net residential densities; total amount of open space (including a separate figure for usable open space); total amount of nonresidential construction (including a separate figure for commercial facilities).
6. The existing site conditions including contours at two-foot intervals, watercourse, floodplains, and any unique natural features.
7. Proposed lot lines and plot designs. The location and floor area size of all existing and proposed buildings, structures and other improvements including maximum heights, types of dwelling units, density per type and nonresidential structures. Preliminary architectural renderings of typical structures and improvements.
8. The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open space, public parks and recreational areas.

9. Existing and proposed automotive traffic circulation systems of major, collector and minor streets including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way including major points of ingress and egress to the development.
10. Existing and proposed pedestrian circulation systems.
11. Existing and proposed utility systems, including sanitary systems, storm sewers, water, electric, telephone and television cable lines.
12. A general landscape plan indicating the treatment of materials to be used for private and common open spaces.
13. The proposed treatment of the perimeter of the PUD, including materials and techniques to be used such as screens, fences and walls.
14. The proposed snow removal plan including description of storage or removal of snow.
15. Any additional information may be required by the review authority necessary to evaluate the character and impact of the proposed PUD.

The staff shall review the applications to determine their completeness. If adequate information is available to allow for planning and zoning commission review, the application will be placed on the commission agenda as a conditional use request. The conditional use request requires notification of adjacent landowners and a public hearing.

#### E. Final Plan.

1. Upon receipt of a PUD final plan, the community development department shall review and prepare a recommendation for action by the planning and zoning commission on the PUD plan. The administration shall give consideration to the conformance of the final plan to the concept plan as well as the criteria governing conditional uses. The final plan shall be filed within one year of concept plan approval. Extensions may be granted by the planning and zoning commission.
2. Before the final plan is approved by the planning and zoning commission, a preliminary subdivision plat may be prepared to be considered in conjunction with the final plan.
3. The final plan shall include all information and maps submitted for the concept plan in their finalized, detailed form. This includes site plans sufficient for recording and detailed engineering drawings, including contours at two-foot intervals. In addition, a statement of methods to be employed to assure maintenance of any common areas and facilities shall be submitted.
4. Upon receipt of the administrative review and recommendation, the planning and zoning commission shall establish a finding that the final plat is consistent with the conditional use, or that it is inconsistent.
5. In the event it is determined that the final plan is consistent with the approved conditional use, the planning and zoning commission shall approve the final plan with the modifications or conditions.
6. If the conditional use application is approved with modifications, the applicant shall proceed with preparation of a final plan. A final plan shall be filed within one year of concept plan approval. Plans shall be prepared by professionals qualified in appropriate fields.

7. If it is determined that the final plan is inconsistent with the approved concept plan, the planning commission shall set a public hearing date, shall give notice, and provide an opportunity to be heard to each of the following:

- a. Any person who is on record as having appeared at the public hearing on the concept plan;
- b. Any other person who has indicated to the planning commission in writing that they wish to be notified. After the public hearing, the planning commission shall approve or disapprove the new conceptual plan.

**F. Residential PUDs.**

1. **Qualifying Conditions.** Public water and sewer facilities or approved on-site facilities shall be available or shall be provided as part of the site development.

2. **Permitted Uses.** The following uses of land and structure may be permitted within a residential PUD:

- a. Residential uses including cluster development, duplex, multiplex condominium and townhouse dwelling units.
- b. Other uses permitted or conditionally permitted within the zoning district in which it is located.

3. **Density.**

- a. Maximum project ground floor area shall not exceed forty percent of the gross land area.
- b. Total open area shall be at least one hundred ten percent of the total ground floor area.
- c. Open area shall not include areas used for parking or maneuvering incidental to parking and vehicular areas or any other structures.

4. **Common Open Space.**

- a. All or a portion of the open area may be set aside as common open space for the sole benefit, use and enjoyment of present and future residents of the development.
- b. For any areas to be held under common partnership, a document showing the future maintenance provisions shall be submitted to the planning commission. These provisions shall include mandatory membership of all property owners in any association designed for maintenance of the common area.

5. **Perimeter Requirements.** If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the planning commission may impose one or both of the following requirements:

- a. Structures located on the perimeter of the planned development must be set back a distance sufficient to protect the privacy of adjacent uses.
- b. Structures on the perimeter must be permanently screened by a fence, wall or planting.

6. **Dimensional Requirements.** 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:

Lot Width. A minimum lot width is intended to prevent the construction of long, narrow buildings with inadequate privacy, light and air. There are situations as in cul-de-sacs, steep slopes or offset lots where, because of lot configuration or topography, narrow or irregular lots provide the best possible design. 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.

**G. Commercial PUDS.**

**1. Qualifying Conditions.**

- a. The PUD site shall have direct access to an arterial street, collector or major thoroughfare.
- b. Utilities, roads and other essential services must be available for the immediate use of occupants purchasing sites in the PUD.
- c. The proposed PUD will be developed with a unified architectural treatment.

**2. Permitted Uses.** All uses permitted within the district for which the PUD is requested.

**3. Requirements.** If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the planning commission may require that one or both of the following requirements be met:

a. Structures located on the perimeter of the planned development must be back a distance sufficient to protect the privacy of adjacent users.

b. Structures on the perimeter must be permanently screened by a fence, wall or planting.

**4. Dimensional Requirements.** Setbacks and distances between buildings within the development shall be at least equivalent to that required by the zoning district in which the PUD is located unless the applicant demonstrates that:

a. A better or more appropriate design can be achieved by not applying the provision of the zoning district;

b. Adherence to the requirements of the zoning district is not required in order to ensure health, safety, and welfare of the users and inhabitants of the development.

**H. Standards for Townhouses.** Townhouses may be conditionally permitted if the following requirements are met:

1. A detailed development plan is submitted with the application for a conditional use, including a site plan drawn to scale. The site plan shall include but shall not be limited to the topography and drainage of the proposed site, the location of all buildings and structures on the site, courts and open space areas, circulation patterns, ingress and egress points, parking areas (including the total number of parking spaces provided) and a general floor plan of the principal buildings, together with such other information required by the planning commission.

2. No more than one townhouse project shall be located any closer than three hundred feet to another townhouse project unless otherwise approved by the planning commission.

3. Minimum lot width of twenty-eight feet for an individual townhouse project unless otherwise approved by the planning commission.

4. Minimum lot area for each townhouse unit shall be two thousand square feet and the townhouse project must conform to the following:
  - a. Total first floor area shall not exceed forty percent of the lot area;
  - b. Total open area shall be at least one hundred ten percent of the total floor area;
  - c. Open area, if provided, shall not include areas used for parking or vehicular access;
  - d. Parking space area shall be provided at the minimum rate of two spaces per dwelling unit exclusive of traffic lanes in parking lots, and street dedications.
5. Each townhouse unit shall have a total yard area containing at least seven hundred square feet. Such total yard area may be reduced to five hundred square feet if common open or common recreational area, not including parking spaces, is available for each unit.
6. Minimum setbacks for townhouse developments shall adhere to the setback requirements of the zoning district within which it is located. (Ord. 05-12 § 7; prior code § 30-46)

**17.50.070 Child care centers as a conditional use.**

A. Child care centers requiring a conditional use permit must show evidence of being capable of meeting the following criteria:

1. All current state of Alaska day care center license requirements.

B. Child care center conditional use permits may be conditionally approved once capability to meet all criteria is evident. Child care center conditional use permits will become effective only upon receipt of a state of Alaska child care center license and so long as the state of Alaska child care license remains valid.

C. Child care center conditional use permits are nontransferable. (Ord. 02-04 § 2)

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**The Valdez Municipal Code is current through Ordinance 14-7, passed December 15, 2014.**

Disclaimer: The City Clerk's Office has the official version of the Valdez Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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