



City of Valdez, Alaska
Planning & Zoning Commission
Rezone
Proposed Findings & Conclusions

Chapter 17.54 of the Valdez Municipal Code governs the amendments to the zoning districts. **Section 17.54.020(C) Minimum Area** states: “Except for the extension of existing district boundaries, no change in any use district classification or an official zoning map shall be considered which contains an area less than two acres, not including street or alley rights-of-way.” Tracts 2, & 3, Alpine Village, are over 2 acres; therefore, this rezone request meets the Minimum Area code requirement.

Date: August 19, 2016
File No.: REZONE #16-06
To: Planning & Zoning Commission
From: Keri Talbott, Planning Technician
REZONE: From R-C (Multi-Family Residential) to L-I (Light Industrial) & C-R Commercial Residential.

General Information

Applicant: Dwain Dunning
Property Owner: Dwain Dunning
Property Address: 4671 Richardson Highway
Legal Description: Tract 2, & 3, Alpine Village
PIDNS: 7099-002-000-0, 7099-003-000-0
Parcel Size: 2.38 acres, 3.74 acres
Zoning: From Multi-Family Residential (RC) to Light Industrial (LI) & Commercial Residential (CR)
Utility Service: CVEA Electric, CVTC or GCI Telephone, CGI Cable
Existing Land Use: Multi-Family Residential & Junk Car Storage
Access: Richardson Highway
Surrounding Land Use: North: Municipal Entitlement
South: Unclassified
East: Multi-Family Residential
West: Municipal Entitlement

Project Description and Background Summary

This zoning amendment has been requested because the current zoning does not provide for the new regulations on marijuana cultivation. The existing zoning does not provide for any

cultivation in residential areas. This can only be allowed if the zoning change is approved from multi-residential to light industrial. The proposed amendment has no impact on the goals or objectives of the Comprehensive Plan.

Findings

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 Rezone Uses for the zoning district?

Yes. In the Light Industrial Zoning District marijuana cultivation is an allowable use. The applicant is proposing to establish a Marijuana Cultivation business on Lot 3. Lot 2 is being proposed for a zoning change to Commercial Residential (CR) which will provide a buffer zone to the adjacent Multi-Family Residential area. However, Lot 2 is currently not being used in conformance with the existing zoning (Multi-Family), nor will the current use be in conformance with the proposed Commercial Residential zoning. The property has a multi-family dwelling on it, but it is primarily being used as a storage lot for junk vehicles.

2. Is the application complete?

Yes. The application was complete prior to the public hearing. Mr. Dunning provided all required documentation associated with the rezone for the marijuana cultivation outlined below in the Permitted accessory uses and structures.

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

For Lot 3 the answer is yes. The land use code for the City of Valdez is Title 17 Zoning of the Valdez Municipal Code. Title 17 was just amended on May 18 to allow for commercial marijuana cultivation as a permitted use within the Light Industrial zoning district. For Lot 2 the answer is no. The use of the property for the storage of junk vehicles is not in conformance with the land use code.

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

With regard to Lot 3, concerns have been raised by the adjacent property owner that the proximity of a marijuana cultivation operation will not be conducive to residential dwelling unit nearby that house both children and members of the US Coast Guard. The Marijuana Control Board regulates all commercial marijuana operations. In staff's opinion, the State regulations guiding marijuana cultivation are sufficient to mitigate any conflicts. As for Lot 2, the property is primarily used to store junk vehicles. This has been the case for many years. A member of the public has expressed concern that fluids from the vehicles are potentially polluting nearby anadromous fish streams. Tests have not been taken and staff cannot confirm or deny this claim.

Given the number of vehicles, and the number of years the property has been used in this manner it is possible there is contamination at the property. Testing is necessary to confirm this.

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

Yes and No. The property to the south is currently zoned unclassified, but other properties adjacent are zoned multi-family residential and used for residential purposes. The intended use of marijuana cultivation should have little to no impact, however future permitted uses may. To that end staff is recommending all future use changes require the owner/applicant to go through the conditional use permit process, to include permitted uses. This same condition was assigned to the last rezone from Commercial Residential to Light Industrial to protect the other adjacent Commercial Residential zoned property. Additionally, Lot 2 is currently being used to store junk vehicles. This is obviously not a use change, but it certainly does decrease the value of neighboring property (no matter what the zoning is) and it is out of harmony with the existing area.

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

Staff finds this application to be generally in conformance with the Comprehensive Plan as reviewed below (with the exception of the junk vehicle storage currently taking place on Lot 2):

The Comprehensive Plan offers goals and objectives that provide guidance on general land use, economic development, and commercial-business land use, and industrial land use. Only those relevant to the specific zoning change are listed below.

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.

The immediate surrounding land to the North and South is vacant land and zoned Municipal entitlement and unclassified.

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.

Objective - Provide buffers between industrial and other land uses as a means to restrict the hazardous and/or nuisance aspects of industrial uses.

Objective - Control undesirable air and water emissions of industrial land uses.

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?

There is potential that the junk vehicle storage is contributing to pollution in the area. Only testing of the soil and water bodies in the area will tell this for sure. This is not a new use, but continuation of an existing use in violation of both the existing and proposed zoning of Lot 2.

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

No.

Decision of the Council

The Council may, regardless of the above findings conditionally approve or deny the permit. The Councils' own independent review of information submitted at the public hearing 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.

Planning and Zoning Recommendation

Approve Recommendation to City Council to Authorize the Rezone of Tract 2 & 3, Alpine Village, from Multi-Family Residential (RC) to Light Industrial (L-I) and Commercial Residential (C-R) with one Condition:

Condition 1: Any future change in the use to the property will require the property owner/applicant to go through the conditional use permit process to include permitted uses. A document requiring this will be recorded to the property.