



City of Valdez

ALASKA

Planning Department

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: March 13, 2019

File: CUP #19-01

To: Planning & Zoning Commission

From: Kate Huber, Senior Planner

Conditional use: Natural resource extraction – gravel

General Information

Applicant: Roger Kipar

Property Owner: City of Valdez

Street Address: 1500 Airport Road

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: Shooting range, natural resource extraction, recreation

Access: Airport road and shared use of City of Valdez Police Department Shooting Range driveway

Project Description

Mr. Roger Kipar intends to extract gravel in the area east and northeast of the police shooting range. The applicant marked an area using Google earth that appears to be approximately 37 acres. In his application, Mr. Kipar estimates that he would remove 5,000 yards of gravel per season and is planning to only clear enough land to allow extraction for one season. The material would be extracted with heavy equipment, including excavators and/or front end loaders and work depth would range from six to twelve feet.

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 as a conditional use.

2. Is the application complete?

There are some areas of the application that staff would prefer greater detail, but we believe that the applicant addressed each question listed on the application. See application requirements listed below.

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 post placards/signs, and install a locked gate. The applicant intends to berm the area towards the gravel road to prevent unauthorized access and post signs along the gravel road to warn and discourage people from entering. 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. There should only be one gate for ingress and egress as described in the application.

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. Without further study of the hydrology of this area, and given the existing recreational uses surrounding the Valdez Glacier Lake, staff believes that new gravel extraction operations should not be established in this area until a gravel management plan can be developed that takes into account flooding concerns, as they relate to public health and safety.

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 has a variety of uses. The area is zoned heavy industrial and there are existing longstanding gravel extraction operations nearby. In addition, many Valdez residents move through the surrounding area for recreation year-round. The Valdez Glacier Campground is located nearby, as well as the public and City of Valdez Police Department shooting ranges. Valdez Glacier Lake is an area used by kayakers, bikers and hikers. The Planning Department is looking to the forthcoming Comprehensive Plan to provide a vision for this area, whether that is for industrial or recreational uses.

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

The proposed CUP #19-01 and the related gravel extraction plan is compatible with certain areas of the 2007 Valdez Comprehensive Plan, but staff has some concerns about areas of the

comprehensive plan that present a conflict. 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 and Lake. 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, the City of Valdez should extract gravel from river beds instead of City owned uplands.

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.

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 area of the proposed development is mixed. There is existing resource extraction in the area, but also recreational uses. The applicant has proposed measures that will provide a buffer between the industrial and nearby public uses. However, to align with the objective to provide development standards for lands that require special physical or environmental attention, staff should pursue a gravel management plan and study to ensure that development projects in the areas near Valdez Glacier Stream and Lake are safe for the community.

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.

As stated above, the existing land use in this area is mixed. The applicant has provided ways to buffer this industrial use from nearby recreational uses. Staff is eager to have an updated comprehensive plan that will detail the vision for this area in the future.

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 the Valdez Glacier Lake 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, it will not.

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:

Staff recommends that CUP #19-01 be denied by the Planning and Zoning Commission. If the Planning & Zoning Commission approves CUP #19-01, staff recommends that the following conditions be included:

1. Applicant must secure an approved gravel lease with the City of Valdez
2. CUP approved area be restricted to 5 or less acres
3. Temporary CUP issued for 2 or fewer years from lease start date