



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: January 6, 2020

File: CUP #19-07

Conditional use: Towing, salvage, recycling, and scrap yard with an associated office and vehicle processing structure

General Information

Applicant: Dunning Enterprises, LLC

Property Owner: City of Valdez (COV)

Street Address: 596 Hobart Street

Legal Description: Lot 1, Block 1, Airport Industrial Subdivision

Property Owner: City of Valdez

Zoning District: Heavy Industrial

Utility Service: No COV water or sewer connection

Existing land use: Undeveloped

Access: Hobart Street

Project Description

Dunning Enterprises intends to operate an auto-towing, recycling, and scrap yard with an associated office and vehicle processing structure at 596 Hobart Street. Lot 1, Block 1, Airport Industrial Subdivision is 7.29 acres. Dunning Enterprises has indicated that they would construct a 30' x 40' building for use as an office, and a staging area to bring in vehicles, drain them of fluids, crush them, and otherwise prepare them to be hauled away. Dunning Enterprises intends to clear, brush, and level the property as needed for their operation. They have indicated on their application they intend to install security cameras and a containment area for their operation. Per the requirements of VMC 17.38.040 G below, a 50 foot setback from Hobart Street is required, as well as to enclose the development with a fence not to exceed six feet in height.

17.38.040 Conditional uses.

In an H-I zone, subject to the conditional use provisions of this title, the following uses and structures may be permitted:

G. Junkyards, auto wrecking and scrap yards conducted within an enclosure, but less than six feet in height and located at least fifty feet from any public street

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 intention of the zoning district, and the conditional uses allowed?

The heavy industrial zoning district, according to VMC 17.38, is intended industrial development, including heavy manufacturing, shipping terminals, natural resource extraction and other processes or operations which involve one or more of the following: employs large numbers of workers, heavy truck traffic, significant environmental effects or large-volume public water or sewer service or storage of hazardous materials under a conditional use permit. Commercial and retail uses are generally not allowed in the H-I district. Residential uses other than accessory uses listed in Section 17.38.030 are prohibited. The project, as proposed by Dunning Enterprises aligns accordingly with the intention of the zoning district. As noted above, auto wrecking and scrap yards conducted within an enclosure are listed as a permitted conditional use in this district.

2. Is the application complete?

Staff believes 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 conditional use permit application is in conformance with Title 17, the City of Valdez land use code. Auto wrecking, scrap, and recycling yards are an allowable conditional use within the heavy industrial zoning district and the proposed use conforms to the intent of the heavy industrial 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 related to the conditional use shall require resubmission to the Planning and Zoning Commission.

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

The proposed use carries inherent public health and safety risk, making it critical that appropriate measures are taken to minimize risk, if conditional use permit #19-07 is approved. As such, the applicant will be required to construct an enclosure surrounding the entirety of the proposed operation at a height of no more than six feet. Staff believes that this height limitation may be an error in the code and that the intention of the code was to require an enclosure greater than six feet. However, the code will be applied as written. The Commission may want to recommend that staff pursues a change to this ordinance. Dunning Enterprises has expressed concern regarding an enclosure of less than six feet in height, but has stated that they will comply with the code. The applicant also intends to install necessary security measures, including cameras to prevent unauthorized access to the property. Staff also recommends that appropriate signage installed in front of the lot to discourage unauthorized entrance be required. These efforts shall be done in coordination with the Planning, Public Works, Police and Fire Departments to ensure that codes are followed and any necessary conditions are met. There should also only be one gate for ingress and egress to the property.

The proposed use carries potential risks of soil and groundwater contamination at the property. Staff believes that it is important for conditions to be placed on this use to mitigate potential hazards and protect the surrounding properties. Dunning Enterprises has described a structure that will be constructed and used to break down the vehicles to be recycled. It is crucial that the draining of fluids from vehicles and any other toxic or hazardous materials be contained to this structure. As stated in the recommended conditions, an appropriate hazardous material disposal plan must be established and followed. Dunning Enterprises has provided some information in the application narrative regarding the handling of hazardous materials.

The Commission should also be aware of the proximity to the City of Valdez community well, positioned within 1,700 feet of the proposed CUP site at 300 Atigun Drive. Staff also received public comment stating there were private wells in the Airport Industrial Subdivision. The ADNRR well finder and City of Valdez land files did not show the locations of private wells on surrounding properties.

Staff recommends that conditions be included to safeguard against groundwater contamination, including the removal of fluids from vehicles and any other hazardous substances to be contained to the proposed structure, the requirement of a hazardous material disposal plan, and only the temporary storage of scrap metal and vehicles, prior to relocating for recycling. Any activity will also be required to comply with Federal, State and City of Valdez regulations, including appropriate ADPES permitting.

While the area is zoned for heavy industrial uses, the nature of a conditional use approval allows the Commission to place conditions to safeguard from environmental and health risks, as necessary.

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 heavy and light industrial uses. The area around the parcel is zoned heavy and light industrial and there are existing longstanding scrapyards and recycling operations nearby. Marine repair, warehousing and indoor/outdoor storage, and several residences and caretaker dwellings are also existing on neighboring lots. Permitted residences in the heavy industrial district are limited to watchman or caretaker dwellings. The light industrial district also allows for mobile home parks as a conditional use. It appears that there are residences in the neighboring area, although there is little information in the City land files regarding these structures. Public comments included as attachments provide detail of some of the neighboring uses. There is also an established mobile home park on Atigun Drive on a parcel zoned for light industrial uses.

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

The proposed CUP #19-07 and the related auto wrecking yard is generally compatible with the existing 2008 Valdez Comprehensive Plan. Please see the relevant goals and objectives from the currently adopted comprehensive plan listed below with comments addressing concerns.

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.

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.

Objective – Require major industrial developments to submit and maintain a current, detailed working plan outlining proposed operating levels, support requirements, and time schedules.

Objective – Dispose of city lands that need to be made available for industrial development projects.

The proposed project will contribute to creating an atmosphere in the community that is conducive to commercial and industrial development and meets the objective of making city lands available for industrial development. Again, staff believes that the proposed conditions limiting the area where vehicles or recycled materials are broken down and requiring oil a hazardous materials response plan from the applicant will allow for the proposed use in conformance with the Comprehensive Plan.

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.

Objective – Encourage the development of lands within the city through regulation and through the disposal of city lands.

The existing land use in the area of the proposed development is mixed heavy and light industrial, with accessory residential uses. The applicant has proposed measures that will protect against

trespassing and vandalism. In addition, staff's conditional recommendation of approval addresses the objective of safe development and disposal of city lands. The potential impacts from this proposed land use could contribute to ground and surface water and soil contamination. Conditions should be included to address these risks and allow for the proposed use in conformance with the Valdez Comprehensive Plan.

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.

The Airport Industrial Subdivision, where the proposed development is located, is zoned heavy and light industrial. The proposed development meets the objective of consolidation of industrial land use activities by keeping with the intent of the district. As stated above, staff believes the proposed conditions requiring APDES standards to be met, and containment of vehicle recycling activities will help control undesirable water emissions associated with the proposed use.

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 the proposed scrap yard to the City of Valdez community well located at 300 Atigun Drive, as well as to the undocumented private wells in Airport Industrial Subdivision resulting in ground and surface water contamination.

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

Public water and sewer are not available at the site. The applicant will be required to install an approved septic system, well, and electricity to the location.

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 #19-07 be approved by the Planning and Zoning Commission with appropriate conditions to safeguard the public and surrounding area. If the Planning & Zoning Commission approves CUP #19-07, staff recommends the following conditions be included:

1. Phase I environmental site assessment is required to be completed prior to lease or sale of the property for conditional use. A Phase II ESA may be required, depending on the results of a Phase I Assessment.
2. Applicant required to install security cameras and signage to deter trespassing.
3. Applicant must maintain all conditional use activities at a 50' setback from the Hobart Street right-of-way. (VMC 17.38.040G)
4. Applicant must maintain an enclosure, no more than six feet in height, surrounding the conditional use area. (VMC 17.38.040G)
5. Applicant required to maintain a hazardous material disposal plan to ensure no contamination from vehicles and materials to be recycled.

6. The deconstruction of materials to be recycled, including the removal of fluids or any toxic or hazardous substances should be restricted the shop structure.
7. Applicant required to install an approved septic system, appropriate for planned building that maintains compliance with Alaska Department of Environmental Conservation (ADEC) regulations and the City of Valdez municipal code.
8. Applicant required to maintain compliance with State of Alaska Department of Environmental Conservation by securing an Alaska Pollutant Discharge Elimination System (APDES) Multi-Sector General Permit (2015-MSGP), establishing an appropriate Storm Water Pollution Protection Plan (SWPP).
9. Conditional use permit #19-07 will only be valid, upon the approval by City Council of a lease or negotiated sale application from Dunning Enterprises.
10. Use of the conditional use permit must commence within twelve months after the effective date of the approval. (VMC 17.06.070)