



Agenda Statement

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File created: 7/12/2016 **In control:** Planning and Zoning Commission
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Title: CUP #16-03: Approval of Conditional Use Permit for Four (4) Rental Cabins on Lot 9, USS 5670 and Two (2) Rental Cabins on Lot 10, USS 5670. Applicant: Josh Swierk.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Swierk Rental Cabins F&C_7_13_16.pdf, 2. Attorney Letter.pdf, 3. Aerial Lots 9 & 10, USS 5670_CUP#16-03.pdf, 4. Swierk CUP#16-03 Appl.pdf, 5. VMC Chapter 17.26_CR.pdf, 6. Chapter 17.06 VMC.pdf, 7. Chapter 17.50 VMC.pdf, 8. Proceed on Cabin Rentals CUP#16-03_email Reply.pdf, 9. Complaint letter #2 Swierk Cabin Rentals CUP 16-03-HANDOUT AT MTG.pdf, 10. Complaint ltr for CUP#16-03 Swierk_Cabin Rentals.pdf, 11. CUP attorney determination.pdf

Date	Ver.	Action By	Action	Result
8/31/2016	1	Planning and Zoning Commission	adopted	Pass
8/31/2016	1	Planning and Zoning Commission	amended	Pass
7/27/2016	1	Planning and Zoning Commission	postponed (time specific)	Pass
7/27/2016	1	Planning and Zoning Commission	adopted	

ITEM TITLE:

CUP #16-03: Approval of Conditional Use Permit for Four (4) Rental Cabins on Lot 9, USS 5670 and Two (2) Rental Cabins on Lot 10, USS 5670. Applicant: Josh Swierk.

SUBMITTED BY: Lisa Von Bargaen, CED Director

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

Approve CUP #16-03: Conditional Use Permit for Four (4) Rental Cabins on Lot 9, USS 5670 and Two (2) Rental Cabins on Lot 10, USS 5670 with the conditions outlined in the Findings & Conclusions.

SUMMARY STATEMENT:

Action on this item was postponed for two meetings pending Staff's ability to check on four items: 1) Building Inspection of the Cabins on the property intended to be used under the CUP; 2) The status of the existing septic system on the property and cabin sewage disposal; 3) Fire Code safety of the

cabins; and 4) Legal interpretation of adding conditions to this CUP regarding alleged violations on other/adjacent property under ownership by the applicant.

- 1) City staff inspected the properties on Wednesday, August 24th. Lot 9 contains the house that was originally built on the property, and one cabin. Lot 10 remains undeveloped at this time. The Building Inspector was out of town on this date, but she will be dispatched to inspect the single cabin on Lot 9 upon her return. The cabin is set up very similarly to those at Eagle's Rest RV Park. The cabin is on a chassis on wheels and is blocked. This type of cabin nearly meets the City's definition of a Recreational Park Trailer which is "Recreational park trailer" means a unit designed for use as temporary or seasonal nonpermanent overnight accommodations that is built on a single chassis, mounted on wheels, and is permanently towable by a light duty vehicle. It may not exceed four hundred square feet in the set-up mode when measured at the largest horizontal projections. The unit must be certified by a manufacturer complying with ANSI standard A 119.5 and must be registered in the state in which it is domiciled." The cabin may also be able to meet the draft regulations the City has for MHR or Mobile Home Replacement Dwelling. Rusty Hansen will inspect this cabin when she returns. If the CUP is approved she will inspect all other cabins as they are installed. The cabin has been occupied from time to time.
- 2) During the field visit the location and area of the existing septic system on the property was inspected. The system is only used to serve the existing home on the property. There was no odor or effluent noted in the area. Upon speaking with the adjacent property owner he still maintains there is effluent leaching off the property. During the field inspection it was noted the system may be closer than it should be to a slope. As with all existing systems, Community Development will work with the applicant to determine if a fix is required. This should be separate from the cabin CUP as the sewage from the existing cabin is going into its own holding tank which will be regularly pumped. The current, and all subsequent cabins will be equipped with macerating toilets and individual holding tanks. The tanks will be inspected to ensure they meet proper regulations.
- 3) As stated earlier, there is one cabin on the property. It will be fully inspected upon return of the Building Inspector. Fire Code items, as applicable will be included in the inspection.
- 4) The land attorney used by the City has been contacted regarding the Commission's ability to take other alleged violations on adjacent property into consideration under this CUP. His answer is:

The remainder of this agenda statement remains the same from the second meeting in July.

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' in 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 Valdez Municipal Code, Section 17.50.020 (Criteria to be considered [for a CUP] states the following:

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.

Mr. Swierk will be required to provide slope and soil stability, and drainage conditions for the parcels.

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.

Mr. Swierk has provided documentation that each of the units will have separate, self-contained potable water and sewer tanks. No additional well and septic service will be required on the lot at this time. Mr. Swierk will be required to submit a written sewage disposal plan as it may be impossible for a pump truck to reach the properties in either summer, but especially winter. The sewage disposal plan will need to explain how Mr. Swierk intends to properly dispose of the waste off-site. There are no public utility services in the area.

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.

Lot 9 is .92 acres or approximately 40,075 square feet. Lot 10 is 1.62 acres or 70,567 square feet. The minimum lot size in a Commercial Residential zoned district is 11,000 square feet for up to four units, plus an additional 1,500 square feet per additional unit. The acreage of both lots far exceeds the minimum lot size given the intended use of four cabins on Lot 9 and two cabins, plus an existing house on Lot 10. The maximum lot coverage is 50 percent. At 192 square feet per cabin, on Lot 9 the coverage will be

$192 \times 4 = 768 / 40,075 = 2\%$ coverage. On Lot 10, the lot coverage by the cabins will be $192 \times 2 = 384 / 70,567 = .05\%$ coverage. There is an existing home on the property which needs to be factored in to the total lot coverage. That footprint is not known, but to exceed coverage it would have to be a 35,000 square foot home. It is not. The maximum building height is 35 feet. These structures are far shorter than that.

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.

Given the cabins are single rooms and 192 square feet, it can be anticipated at full capacity the volume of traffic each day will not exceed 12 vehicles (6 arriving and 6 departing). Most likely not more than 2-4 persons can be accommodated in each cabin. Maximum number of persons each day at full capacity could range at the low end 24 (12 arriving and 12 departing) to 48 (24 arriving and 24 departing). Lake View Drive is not an improved section of road, and may not be accessible in winter by emergency response vehicles. Mr. Swierk will be required to post notice in the cabins advising guests of this issue. Mr. Swierk will be required to submit a solid waste disposal plan. Mr. Swierk will be required to submit an update site plan showing off-street parking accommodations and on-site snow storage locations on the lots.

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)

Staff is not recommending any landscape requirements associated with this permit.

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)

The public hearing notice was posted in the Valdez Star on March 2 and 9, 2016. Copies of the public hearing notice were mailed to property owners within a 300-foot radius on February 26, 2016. A public hearing was held on March 9, 2016. Adjacent property owners, Dean and Karen Cummings expressed concern and asked that the CUP be denied on the basis rental cabins are expressly prohibited by the subdivision covenants. At the meeting staff explained covenants are a private matter and the Commission may not take them into consideration when making a decision. However, to confirm, the City's land attorney was queried on this matter and confirmed staff's opinion on the matter. A copy of the attorney's letter is attached for the Commission's reference.

Two letters from the public (Cummings and an unknown person) against the permit are attached for the Commission to review.

Staff recommends in favor of the Conditional Use Permit 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.

