

By: Mark Whisenhunt
Introduced: March 20, 2017
Public Hearing: April 3, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-11

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT IN ACCORDANCE WITH MSB 17.30 - CONDITIONAL USE PERMIT (CUP) FOR EARTH MATERIALS EXTRACTION ACTIVITIES, FOR THE EXTRACTION OF 500,000 CUBIC YARDS OF EARTH MATERIAL FROM A 17.5 ACRE SITE WITHIN A 155 acre PARCEL, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 3 WEST, SECTION 14, TAX PARCEL D13 (17N03W14D013), SEWARD MERIDIAN.

WHEREAS, an application for a Conditional Use Permit was submitted by Knik Construction Company, Inc. to remove earth materials from 1880 S. Smyth Drive (Tax ID# 17N03W14D013) within Township 17 North, Range 3 West, Section 14, Parcel D13, Seward Meridian; and

WHEREAS, it is the intent of the Matanuska-Susitna Borough to recognize the value and importance of promoting the utilization of natural resources within its boundaries; and

WHEREAS, it is the purpose of MSB Chapter 17.30 to allow resource extraction activities while promoting the public health, safety, and general welfare of the Borough through the regulation of land uses to reduce the adverse impacts of land uses and development between and among property owners; and

WHEREAS, it is further the purpose of MSB 17.30 to promote orderly and compatible development; and

WHEREAS, the Planning Commission has reviewed this application, associated materials, and the staff report, with respect to standards set forth in MSB 17.30 and MSB 17.28; and

WHEREAS, the total footprint for earth material extraction activity is 17.5 acres; and

WHEREAS, earth material extraction activity is expected to begin in spring when the site has thawed through fall when the site freezes, with the expected final year of extraction occurring in 2024; and

WHEREAS, an Alaska State Department of Revenue license is not required for this application because Alaska law was amended in 2012 and rock, sand and gravel quarries are now exempt from the requirement; and

WHEREAS, an Alaska State Department of Natural Resources (ADNR) mining permit is not required for this application because the extraction activities will not take place on state land; and

WHEREAS, an ADNR reclamation plan with financial assurance was accepted by ADNR for this project site; and

WHEREAS, multi-sector general permit (MSGP) #AKR06AE56 and the associated storm water pollution prevention plan (SWPPP) have been provided with the application material; and

WHEREAS, a United States Army Corps of Engineers permit pursuant to Section 404 of the Clean Water Act is not required

for this application as the applicant is not proposing any extraction activity to take place within any identified wetlands, lakes, streams, or other waterbodies; and

WHEREAS, this property is located within the Big Lake Community Council planning area; and

WHEREAS, according to the application material, a 20-foot vegetative buffer with 10-foot tall berm will encompass the mining area on the north, east, and west sides. A vegetative buffer of greater than 2,000 feet will remain to the south; and

WHEREAS, the subject property is located within the boundary of the Big Lake Comprehensive Plan, updated and adopted in August, 2009; and

WHEREAS, in the Land Use and Environment Goals section of the Big Lake Comprehensive Plan it states: *"The overarching goal of this plan is protect Big Lake's special character as a place to live and visit while accepting and even encouraging growth. Without guidance, as the area grows, the community risks losing these qualities that makes Big Lake a distinctive place - its undeveloped open spaces, good views, wildlife, and out-the-door access to recreation. At the same time, growth in the community can bring many benefits, providing new places for people to live, creating new opportunities for local employment, and generally leading to a more vital community."*; and

WHEREAS, the intent of the Comprehensive Plan is to identify and encourage a general pattern of development that best meets the community goals and to "accommodate growth while holding onto characteristics that make Big Lake a good place to live and visit."; and

WHEREAS, in the Land Use and Environment Goals section of the Big Lake Comprehensive Plan it states: "Provide for Freedom to Enjoy our Properties - The plan supports a balance of freedom to use property as individuals chose up to that point where one person's use limits the rights of neighbors to enjoy their property. Responsible land use should be in harmony with surrounding land use without damaging the health, safety and welfare of adjacent property."; and

WHEREAS, in the Strategies to Achieve Land Use Goals section, Strategy 1 states: "Develop a land use "roadmap" setting out general intentions for the location and intensity of development - to provide for growth, protect Big Lake's environment and rural character, encourage concentrated commercial development, and allow for the efficient provision of community infrastructure."; and

WHEREAS, earthen berms and vegetative buffers have been incorporated into the operation plan as noise mitigation measures; and

WHEREAS, the haul route is identified as: direct access onto Smyth road, then to Creek Frontage, then east or west onto Big Lake Road to the project site; and

WHEREAS, according to the application material, dust palliative will be applied to gravel haul routes as a dust control measure; and

WHEREAS, according to the application material, a dampening system is attached to the mobile rock crusher which will greatly reduce dust associated with this process; and

WHEREAS, according to the application material, Knik Construction intends to seek permits to construct Smyth Road to directly access Big Lake Road. If successful, Knik Construction will also pave Smyth Road at their expense; and

WHEREAS, the applicant is not proposing to mine below or within four feet of the seasonal high water table; and

WHEREAS, according to the application material, the applicant will have monitoring holes to ensure the operation does not mine below or within four feet of the seasonal high water table; and

WHEREAS, according to the application material, slopes will be left at 2:1 (H:V) which meets the standards of MSB code 17.28.067(D) that requires a maximum 50 percent (2:1) slope; and

WHEREAS, the uses closest to the site and along the haul route are commercial and industrial in nature; and

WHEREAS, the proposed operation will mine a portion of a ridge down to the adjacent grade; and

WHEREAS, Borough reclamation standards and the timelines detailed in the application will help return disturbed areas back to green landscape; and

WHEREAS, the applicant has indicated they plan to make residential lots upon completion of mining; and

WHEREAS, land uses within one-half mile of the site contain a mixture of undeveloped, commercial, industrial, and residential uses; and

WHEREAS, the applicant is not proposing to operate a hot mix asphalt plant at the site; and

WHEREAS, according to the site plan, earth material extraction activities will not take place within 100-feet of any identified wetlands or waterbodies; and

WHEREAS, as per MSB 17.30.055(B), the operation shall comply with State and Federal laws pertaining to: air quality, water quality, and the use and storage of hazardous materials, waste and explosives; and

WHEREAS, according to the site development plan, proposed permanent and semi-permanent structures associated with the proposed use meet setback requirements; and

WHEREAS, maps are included in the record identifying surrounding property ownership, existing land uses, and waterbodies within ½ mile of the proposed site; and

WHEREAS, a site plan is included in the record showing the location of the earth materials extraction site, including phases of mining within the subject parcel; and

WHEREAS, a topographic contour map, bare earth map, and aerial photography are included in the record. These items show topographic features and vegetation of the subject property and adjacent properties; and

WHEREAS, the applicant does not anticipate traffic levels to exceed 100 vehicles during the morning or afternoon peak hour or more than 750 vehicles per day; and

WHEREAS, noise levels exceeding the levels in 17.28.060(A)(5)(a) are prohibited; and

WHEREAS, according to the application material, the proposed hours of operation are 7:00 a.m. to 7:00 p.m., Monday through Saturday; and

WHEREAS, according to the application material, lighting will be located and shielded to direct the light towards the ground, in order to minimize light spillage onto adjacent properties and upward into the night sky; and

WHEREAS, according to the application material, prior to the start of any mining activities, the wetlands located at the

site will be delineated in order to preserve the 100 linear foot setback requirement; and

WHEREAS, the Planning Commission conducted a public hearing on April 3, 2017 on this matter.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby adopts the aforementioned findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 17-11:

1. All of the requirements to demonstrate compliance with state and federal law have been met (17.30.055(A)); and
2. The conditional use is not inconsistent with the applicable comprehensive plan (MSB 17.30.60(A)(1)); and
3. The proposed use with conditions, will not detract from the value, character and integrity of the surrounding area (MSB 17.30.060(A)(2)); and
4. The applicant has met all of the requirements of this chapter. (MSB 17.30.060(A)(3)); and
5. The proposed use with conditions, will not be harmful to the public health, safety, convenience and welfare (MSB 17.30.060(A)(4)); and

6. Sufficient setbacks, lot area, buffers and other safeguards are being provided (MSB 17.30.60(A)(5)); and
7. The surrounding property ownership, existing land uses, and wetlands and water bodies within the notification area have been identified (MSB 17.28.060(A)(1)); and
8. Phases of proposed mining activities, description of the topography and vegetation, and approximate time sequence for the duration of the mining activity have been determined. No permanent, semi-permanent, or portable equipment related to the conditional use are anticipated to be located within the required setbacks (MSB 17.28.60(A)(2)); and
9. The proposed traffic route and traffic volumes have been identified. Traffic generated from the proposed use will not exceed 100 vehicles during the morning or afternoon peak hours or more than 750 vehicles a day, as specified in MSB 17.61.090, Traffic Standards (MSB 17.28.60(A)(3)); and
10. Visual screening has been achieved through existing vegetation and earthen berms (MSB 17.28.60(A)(4)); and
11. The proposed use with conditions, meets the noise standards in accordance with MSB 17.28.060(A)(5); and

12. The applicant meets lighting standards in accordance with MSB 17.28.060(A)(6); and

13. Earth materials extraction activities will not take place within 100-feet of any identified wetlands or waterbodies in accordance with MSB 17.28.060(A)(7).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the applicable standards of MSB 17.30 and 17.28 and does hereby approve the conditional use permit for the earth material extraction activities with the following conditions:

1. The owner and/or operator shall comply with all other applicable federal, state, and local regulations.
2. All aspects of the operation shall comply with the description detailed in the application material and an amendment to the Conditional Use Permit shall be required prior to any alteration or expansion of the material extraction operation.
3. Material extraction shall be limited to the areas identified in the applicant's site plan(s) dated October 16, 2016.
4. The 10-foot tall earthen berm on north, east, and west sides of the mining area identified on the site plan(s) dated October 16, 2016, shall be maintained.

5. The vegetative buffer surrounding the proposed mining area shown on the site plan(s) dated October 16, 2016, shall be maintained.
6. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected for leaks daily.
7. On-site maintenance of vehicles shall be done in an area where all leaks can be contained with drip pans or other discharge prevention devices.
8. Any hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated.
9. All construction exits shall comply with standard Alaska Pollutant Discharge Elimination System requirements to minimize off-site vehicle tracking of sediments and discharges to storm water.
10. Dust control shall be achieved at the gravel pit, rock screener, crusher, Creek Frontage Road and S. Smyth Road as necessary.
11. Creek Frontage Road and S. Smyth shall be maintained so that they are free of "potholes" and "washboard" conditions.
12. The operation shall comply with the maximum permissible sound level limits allowed in MSB Code, per the requirements of MSB 17.28.060(A)(5)(a) - Site

Development Standards and MSB 8.52 - Noise, Amplified Sound, and Vibration.

13. All extraction activities, including all activity that causes noise, dust, or traffic, shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday.
14. As indicated in the application material, a batch plant or hot mix plant shall not be used at the site.
15. If cultural remains are found during material extraction activities, the MSB Planning Division shall be contacted immediately so the remains can be documented.
16. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table.
17. Borough staff shall be permitted to enter onto any portion of the property to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring and/or with prior verbal or written notice, and/or at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit.
18. The operation shall comply with the reclamation standards of MSB 17.28.067.

19. If reclamation information is updated annually with the State of Alaska DNR, a copy of the updated information shall be provided to the MSB Development Services Division.
20. If illumination devices are required, they shall not be greater than 30 feet in height, shall utilize downward directional shielding devices, and shall meet the requirements of MSB 17.28.060(A)(6) Lighting Standards.
21. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2024.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 3rd day of April, 2017.


COLLEEN VAGUE, Chair

ATTEST


MARY BRODIGAN, Planning Clerk
(SEAL)

YES: *Vague, Andersson, Healey, Chesbro, Glashan, and Rauchenstein*
NO: