

By: Sandra Swanger-Jensen
Introduced: May 15, 2017
Public Hearing: June 5, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-19**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT IN ACCORDANCE WITH MSB 17.30 CONDITIONAL USE PERMIT FOR EARTH MATERIALS EXTRACTION ACTIVITIES, FOR THE EXTRACTION OF 30,000 to 32,000 CUBIC YARDS OF EARTH MATERIAL FROM A 2.42 ACRE SITE WITHIN A SITE AREA OF 245 FEET X 430 FEET, LOCATED WITHIN TOWNSHIP 16 NORTH, RANGE 04 EAST, SECTION 30, AND TOWNSHIP 16 NORTH, RANGE 03 EAST, SECTION 25, TAX ID# 16N04E30C002 & 16N03E25D001, SEWARD MERIDIAN.

WHEREAS, an application for a Conditional Use Permit has been submitted by Chuck Kaucic on behalf of John and Julie Nystrom for earth materials extraction within Township 16 North, Range 4 East, Section 30, and Township 16 North, Range 3 East, Section 25, Seward Meridian, TAX ID# 16N04E30C002 & 16N03E25D001; and

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

WHEREAS, it is the purpose of MSB 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 staff report with respect to standards set forth in MSB 17.30 and 17.28; and

WHEREAS, the application material meets criteria to qualify for a conditional use permit, as established in MSB 17.30.050; and

WHEREAS, the total footprint for earth material extraction activity is 2.42 acres within a site area of 245 feet x 430 feet; and

WHEREAS, earth material extraction activity is expected to begin in May and end in October annually, with the expected final year of extraction to reclamation occurring in October 2022; and

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

WHEREAS, the State of Alaska Department of Natural Resources mining permit is not required for extraction activities that are not on state land; and

WHEREAS, a reclamation plan was accepted by the State of Alaska Department of natural resources, and a financial assurance was not required; and

WHEREAS, the State of Alaska Letter of Intent for gravel extraction activities was determined complete; the proposed gravel extraction is exempt under the provision for small operations; and

WHEREAS, the United States Army Corps of Engineers determined the subject parcels do not contain waters of the United States under Corp jurisdiction; therefore, a permit is not required; and

WHEREAS, the proposed site is located within the South Knik River Community Council and the South Knik River Comprehensive Plan ((SKRCP)(2014)) boundaries; and

WHEREAS, the property guidelines established in the MSB Borough-Wide Plan (2005) does not specifically address earth material extraction activities.

WHEREAS, the approval of this Conditional Use Permit with appropriate conditions is consistent with Goal (LU-3): Encourage commercial and industrial development that is compatible with residential development and local community desires; Policy LU3-1: Develop and implement regulations that provide for non-residential development (Borough-Wide Plan); and

WHEREAS, the Borough Wide Comprehensive Plan (2005 Update) encourages commercial and industrial development that is compatible with residential development and local community

desires. The community does not want large scale mining activities that affect the rural character of the community.

WHEREAS, the South Knik River Comprehensive Plan (2014) identifies three different uses in the area to be residential, commercial, and heavy/light industrial; and

WHEREAS, the SKRCP states the borough has regulations pertaining to the establishment of interim materials district (gravel/natural resource extraction MSB 17.28), conditional use permit for earth materials extraction activities (MSB 17.30); and

WHEREAS, the SKRCP states industrial uses have the ability to provide significant economic benefit to the community. A local gravel source may be beneficial to local infrastructure and the economy. The South Knik River Community does not fit the typical geography of an area sought out for natural resource extraction and industrial activities; and

WHEREAS, the SKRCP states the majority of the South Knik River Community is constrained geographically by water bodies and steep slopes. In a world where our resources are depleting and the cost of shipping is increasing, we are seeing at an exponential rate manufacturing and extracting sites that are smaller and closer to "home." Therefore, the South Knik River Community is no longer excluded and/or protected from future industrial activities; and

WHEREAS, the SKRCP states the community requires notification and an opportunity to be active in the decision making process regarding any proposed heavy or light industrial land uses. The industrial uses will be reviewed by the SKRCC on a case-by-case basis and encourage the mitigation of any negative impacts; and

WHEREAS, the SKRCP states the following recommendations:

Industrial Activities

- The community has no desire to allow or encourage heavy industrial.
- In order to maintain air, water, and land quality, reduce noise, minimize visual impacts and lighting pollution to residential areas and the natural environment.
- For the purpose of the South Knik River Community and this comprehensive plan, it is recommended that activities meeting or exceeding the thresholds below obtain a Conditional Use Permit (CUP) and comply with the corresponding provisions. These uses have been recognized by the community because of the health and life safety risks imposed. Additionally, these activities and those exceeding the thresholds, negatively impact the rural character of the community.

- Signage: Any permanent sign
 - Shall be consistent with the most current version of the Alaska Sign Design Specifications (ASDS) as provided by the State of Alaska Department of Transportation (DOT).
- Noise: Any noise greater than 90 decibels at the source
 - Shall only be allowed during the hours between 8am to 9pm; and

WHEREAS, the SKRCP states the following recommendations:

Natural Resource Activities

- Protect residential neighborhoods and associated property values.
- Identify, protect, and enhance the quantity and quality of the community's watersheds and groundwater.
- Prevent degradation of fish and wildlife habitat, vegetation, and clean air resources.
- Protect natural systems and features from potentially negative impacts of human activities such as natural resource development.
- Provide site restoration if a land surface modification violates borough, state, or federal

regulations or activities do not occur within a reasonable amount of time.

- Protect natural systems and features including water and soils from potentially negative impacts of site restoration and reclamation activities.
- Minimize the impact of natural resource activities on recreational uses in the area.
- Limit construction site run-off.
- Identify and mitigate disturbances and impacts on culturally or historically relevant sites or resources.
- For the purpose of the South Knik River Community and this comprehensive plan, it is recommended that activities meeting or exceeding the thresholds below obtain a Conditional Use Permit (CUP) and comply with the corresponding provisions. These uses have been recognized by the community because of the health and life safety risks imposed. Additionally, these activities and those exceeding the thresholds, negatively impact the rural character of the community.
- Signage: Any permanent sign

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- Noise: Any noise greater than 90 decibels at the source
 - Shall only be allowed during the hours between 8am to 9pm; and

WHEREAS, the SKRCP identifies the following additional recommendations specifically for Gravel Extraction.

- Water Resources - Recommendations:
 - Limit activities in floodplains, wetlands and other water bodies.
 - Monitor water quality and water availability during natural resource activities.
 - Protect and improve steep slopes and erosion along water bodies.
 - Provide a natural, vegetative buffer along water bodies and corridors.
- Soils - Recommendations:
 - Safeguard soils by reducing soil erosion, especially near water bodies.

- Protect steep or erodible slopes.
 - To the extent possible, consider avoiding activities in high risk earthquake zones (fault areas).
- Forest Resources - Recommendations:
 - After natural resource activities, provide restoration of forest resources.
 - Restore native species of vegetation.
- Gravel Extraction - Recommendations:
 - Protect groundwater supplies, water quality, and water availability.
 - Prevent gravel extraction within floodplains and flood hazard areas or near water bodies.
 - Provide visual screening and buffers.
 - Provide noise mitigation.
 - Identify and protect natural and cultural resources
 - After gravel extraction is completed, provide site reclamation and restore native species of vegetation.
- Due to the excess winds of the Matanuska and Susitna Valleys, mitigation of airborne particles is essential to ensure air quality. This can be accomplished

through the maintenance of natural wind breaks, covering un-restored and disturbed land, and covering all loads during transportation; and

WHEREAS, the SKRCP identifies the following: Industrial uses have the ability to provide significant economic benefit to the community. A local gravel source may be beneficial to local infrastructure and the economy. The South Knik River Community does not fit the typical geography of an area sought out for natural resource extraction and industrial activities. The majority of the South Knik River Community is constrained geographically by water bodies and steep slopes. In a world where our resources are depleting and the cost of shipping is increasing, we are seeing at an exponential rate manufacturing and extracting sites that are smaller and closer to "home". Therefore, the South Knik River Community is no longer excluded and/or protected from future industrial activities; and

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

WHEREAS, visual screening measures are existing undisturbed land forms consisting of natural vegetation & topography; and

WHEREAS, no operations will occur closer than 1,000 feet from the neighboring adjacent residential uses; and

WHEREAS, the proposed gravel extraction site is located towards the center of the adjoining property line that straddles

a section line with no reservation; the distance estimated once leaving Knik River Road is about a quarter of a mile to the gravel extraction site; and

WHEREAS, the two subject parcels have gone through a preliminary plat process approving a platted subdivision known as Homestead Hills to become a residential subdivision after the extraction and excavation operation; and

WHEREAS, the plan of operation covers the reclamation final closeout elements: (1) topsoil & overburden stockpile at the top terrace of the excavation will be used to restore disturbed ground to promote natural growth, (2) Natural Best Management Practices will utilize on-site with material to contain surface water for percolation & prevent from migrating off-site, (3) Uniformly level pit floor within the operations area to match existing haul road, (4) Stabilize slopes where possible with horizontal slope track/surface roughening technique, and (5) Remove all equipment, clean-up/dispose of petroleum products & other possible sources of contamination from the site to close out reclamation by October 21, 2022; and

WHEREAS, all of the site plan and site development requirements have been provided; and

WHEREAS, slopes will be graded to attain a maximum 50 percent slope or the natural stabilized angle of repose of the existing earth material: (2) slopes will be graded to blend with

the surrounding undisturbed topography in accordance with MSB 17.28.067(D)(2); and

WHEREAS, according to the application material, the operation will be watered as needed during operations as a dust control measure; and

WHEREAS, a permit was not requested to extract within four-feet vertical separation of the seasonal high water table; and

WHEREAS, impact to surrounding property owners will be kept to a minimum as the size of the extraction area and its central location within the two parcels will confine all project activities well within the property boundaries; and

WHEREAS, natural forest vegetation, landforms, and distance from property lines will provide visual, sound, and dust buffers for both gravel extraction in the pit area and hauling off-site via Knik River Road; and

WHEREAS, all equipment, and scales are sufficiently set back from the property lines to meet setback requirements within MSB 17.55; and

WHEREAS, noise from mining equipment will be mitigated by the retention of the existing vegetation; and

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

WHEREAS, a notice of Intent is not required for this site as it is fully self-contained and does not discharge into waters of the United States; and

WHEREAS, a MSB vicinity map included in the record identifies the surrounding property ownership within half-mile of the two parcels outer boundary lines; and

WHEREAS, a MSB map included in the record identifies the existing land uses, waterbodies, and wetlands within half-mile of the two parcel's outer boundary lines; and

WHEREAS, the subject property surrounding lands are Alaska Native Allotment Lands that are partially undeveloped to the south, east and west. Lands to the north have been developed into subdivisions; and

WHEREAS, the surrounding land to the subject property is publicly owned (Federal, State and MSB lands). Much of the public land will be, or is in the process of being conveyed to Eklutna Inc., an Alaska Native Corporation, which is being conveyed as part of the Alaska Native Claims Settlement Act; and

WHEREAS, the surrounding property to the north and northeast from the two subject parcels is a residential subdivision called The Cedars, gaining access from Knik River Road; and

WHEREAS, the site plan shows the earth material extraction site location, and all phases of mining within the subject parcel; and

WHEREAS, a bare earth MSB map shows the estimated location of the extraction area and the elevations of the bank area where the operation is to take place; and

WHEREAS, the site plan, location map, bare earth & wetland map, development plan map and MSB elevation map show topographic features, vegetation, adjacent properties, and the generally anticipated location of the semi-permanent equipment; and

WHEREAS, the State of Alaska has approved to construct the driveway (#26907) off of parcel C002; a driveway permit will be issued after construction is completed and accepted by the state; and

WHEREAS, the operation plan states the following: trucks entering and leaving the property will do so via the existing access @ MP 8.9 Knik River Road. No subdivision roads will be used in hauling operations. During peak haul periods turnaround times are estimated to range from 3-14 trips per hour to provide personnel/haul/production efficiency. Haul roads will be monitored for maintenance/compliance. Gravel access routes on the Nystrom property will be graded/watered as needed for dust abatement & to ensure a smooth hauling surface. A traffic

control plan will be in place prior to material being exported from the property; and

WHEREAS, the plan of operation identities there will not be any illumination on the site or proposed for future use; and

WHEREAS, the National Wetland Inventory did not identify any wetlands within 100 linear feet of the extraction activity.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby approves the aforementioned findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 17-19:

1. All of the requirements to demonstrate compliance with state and federal law have been met (17.30.055(A)).
2. The conditional use is not inconsistent with the South Knik Comprehensive Plan (MSB 17.30.60(A)(1)).
3. The Goal (E-3) from the comprehensive plan (2005): Create an attractive environment for business investment; and
4. The proposed use with conditions, will not detract from the value, character and integrity of the surrounding area (MSB 17.30.060(A)(2)).
5. The applicant has met all the requirements of MSB 17.30 (MSB 17.30.060(A)(3)).

6. The proposed use with conditions, will not be harmful to the public health, safety, convenience and welfare (MSB 17.30.060(A)(4)).
7. Sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.30.60(A)(5)).
8. The surrounding property ownership, existing land uses, and wetlands and waterbodies within the notification area have been identified (MSB 17.28.060(A)(1)).
9. 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 are anticipated to be located within the required setbacks (MSB 17.28.60(A)(2)).
10. 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)).
11. No operations will occur closer than 1,000 feet from neighboring adjacent private property structures and mining is in the center of the two combined parcels to

meet the visual screening measures required by MSB 17.28.60 (A) (4).

12. Noise mitigation measures include mining in the center of the combined two parcels, back from the property line of 1,000 feet and using existing topography to ensure that sounds generated from earth material extraction activities do not exceed sound levels set forth in MSB 17.28.060 (A) (5). Hours of operation also limit the noise to within certain hours, and noise levels exceeding the levels in accordance with MSB 17.28.060 (A) (5).

13. The applicant meets lighting standards in accordance with MSB 17.28.060 (A) (6).

14. Earth material extraction activities will not take place within 100 linear feet of any identified waterbodies (MSB 17.28.60 (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 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. Failure to comply with any of the requirements in MSB 17.30.055(A) and (B) is a violation of the permit, and is subject to enforcement pursuant to MSB 17.30.140.
3. Material extraction shall stay within the identified site area of 245 feet x 430 feet (2.42 acres) straddling the section line between parcels C002 and D001.
4. All extraction activities, including all activity that causes noise, dust, or traffic, shall be limited to 8:00 a.m. to 9:00 p.m. Monday through Saturday.
5. All permanent, semi-permanent structures shall be in compliance with MSB 17.55 Setbacks of Structures and screening easements.
6. The operation shall comply with the maximum permissible sound level limits allowed in MSB 17.28.060(A)(5).
7. Berms for visual and noise mitigation shall be a minimum of 10-feet in height and shall be constructed where needed to comply with borough code.
8. Existing topography may be used as the visual and noise mitigation buffer, where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary.

9. Vehicular traffic warning signs known as "W8-6 (Truck Crossing)" in the Manual for Uniform Traffic Control Devices (MUTCD) shall be placed 500-feet in each direction from the driveway accessing W. Susitna Parkway while operating. The signs shall be removed while not in operation. The W8-6 signs must be placed in accordance with the MUTCD.
10. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected by the operator for leaks at the end of each day.
11. 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.
12. Any hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated in accordance with federal, state and borough regulations.
13. If the material extraction operation expands or alters, an amendment to the conditional use permit shall be required.
14. Dust mitigation techniques shall be performed as needed to minimize dust impacts to the surrounding areas.

15. All construction exists shall comply with standard Alaska Pollution Discharge Elimination System requirements to minimize off-site vehicle tracking of sediments and discharges to storm water.
16. If cultural remains are found during material extraction activities, the MSB Planning Division shall be contacted immediately so the remains can be documented.
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, with prior verbal or written notice, and at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit.
18. All extraction operations, reclamation of each phase of operation shall comply with MSB 17.28.067 Reclamation Standards.
19. Alaska Department of Natural Resources approved reclamation plan when expires shall be renewed in accordance with state regulations.

20. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table as described in MSB Code 17.28.060(A).
21. Slopes shall be graded to attain a maximum 50 percent slope or the natural stabilized angle of repose of the existing earth material: (2) slopes shall be graded to blend with the surrounding undisturbed topography.
22. If illumination devices are used, they shall not be greater than 20 feet in height, shall utilize downward directional shielding devices, and shall meet the requirements of MSB 17.28.060(A)(6) Lighting standards.
23. Comply with the State of Alaska Best Management Practices for Gravel/Rock Aggregate Extraction Projects Protecting Surface Water and Groundwater Quality (September 2012).
24. Authorization for earth extraction activities approved by this Conditional use Permit shall expire on December 31, 2022.
25. This permit must be approved by the Matanuska-Susitna Borough Planning Commission. The decision may be appealed within 21 days of the date of approval by the Planning Commission in accordance with MSB 15.39 Board of Adjustment and Appeals.

ADOPTED by the Matanuska-Susitna Borough Planning
Commission this 5th day of June, 2017.



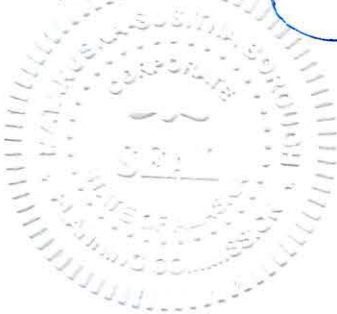
Colleen VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Healy, Chesbro, Elder, Glashan,*
NO: *and Rauchensteir*