

By: Mark Whisenhunt
Introduced: December 3, 2018
Public Hearing: December 17, 2018
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 18-33**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
ADOPTING FINDINGS OF FACT AND CONCLUSIONS OF LAW TO SUPPORT DENIAL
OF RESOLUTION 18-30.

WHEREAS, Resolution 18-30 was for approval of a conditional
use permit to allow the operation of a junkyard/refuse area,
located at 7430 West Sunrise Drive (Tax ID#: 6405000L006); within
Township 18 North, Range 2 West, Section 33, Seward Meridian; and

Whereas, the planning commission conducted a public hearing
on December 17, 2018 on this matter; and

Whereas, the Planning Commission's vote on the motion failed
to garner a majority vote on December 17, 2018; and

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna
Borough Planning Commission denied the conditional use permit for
the operation of a junkyard/refuse area located at 7430 West
Sunrise Drive (Tax ID#: 6405000L006); within Township 18 North,
Range 2 West, Section 33, Seward Meridian, based on the following
findings of fact and conclusions of law:

1. A 10-acre parcel with a residential home abuts the
subject parcel to the east. An undeveloped 40-acre
parcel abuts the subject parcel to the south. Parcels to
the west, northwest, and north of the subject parcel,

range from one to 2.3 acres in size and are developed with residential homes.

2. A total of 23 lots, excluding the subject lot, are within the notice area. Of which, 5 lots are undeveloped and 16 lots are used for residential purposes. The remaining two have a residential home and store commercial vehicles on site.
3. The vast majority of the area is used for residential purposes.
4. According to the applicant, he has been operating a junkyard/refuse area at this location since approximately 2004.
5. Per MSB 17.60.040(B) operating a junkyard/refuse area without a permit is declared a public nuisance.
6. The Borough Development Services Division received a complaint about the subject property and proposed use on September 12, 2016.
7. Between November 2016 and September 2018, a Borough Code Compliance Officer conducted nine site visits at the property. Eight of which revealed the applicant was storing junk vehicles within the public right-of-way, on West Sunrise Drive.
8. A photograph dated June 20, 2018, taken by a Borough Code Compliance Officer shows at least six junk vehicles

and the applicant's two tow trucks being stored within the public right-of-way, on West Sunrise Drive.

9. During a site visit on November 16, 2018, staff found the subject property to be full. As a result, the applicant was still storing one junk vehicle within the public right-of-way.
10. During a site visit on November 16, 2018, staff found that all three driveways were littered with oil and grease spills. The driveway near the shop was the most contaminated. So much so, that the odor of motor oil was apparent while walking down the driveway.
11. During a site visit on November 16, 2018, staff found that two 55-gallon drums which the applicant stated were used for the collection of used oil were sitting on the gravel driveway about 20 feet from the shop facility.
12. Topographical information for the area shows the property slopes down from the northwest to the southeast.
13. Wetlands and a creek abut the property's southeast corner.
14. Per MSB 11.10 - Encroachment Permits, the storage of objects, such as junk vehicles, within the public right-of-way requires an Encroachment Permit.

15. Junk vehicles stored within the public right-of-way without an Encroachment Permit are deemed unauthorized encroachments.
16. Per MSB 11.10.030(C), unauthorized encroachments shall be deemed a public nuisance.
17. During a site visit on November 16, 2018, staff found that there was no space for customers to park on site.
18. During a site visit on November 16, 2018, staff found all three driveways and the area on the site plan labeled as "customer parking" were completely occupied by junk vehicles and personal vehicles used by the applicant and his two employees.
19. There are three driveways which access West Sunrise Drive from the subject property. According to Borough records, there are no applications or permits on file for any of the three driveways.
20. Per MSB 11.10 - Encroachment Permits, constructing a driveway within the public right-of-way without an Encroachment Permit is deemed an unauthorized encroachment.
21. MSB 17.55 - Setbacks and Screening Easements, requires structures to be placed at least 25 feet from a public right of way.

22. According to the application material, the connex structures located within the center driveway are approximately 10 feet from the public right-of-way. This is a violation of the minimum setback requirements of MSB 17.55.
23. In November 2016, a Borough Code Compliance Officer issued Written Warning #0717 to the applicant for: 1) Operating a junkyard without a permit per MSB 17.60 - Conditional Uses, 2) Causing a public nuisance per MSB 8.50 - Junk and Trash, and 3) Unauthorized Encroachment by storing junk vehicles within the public right-of-way per MSB 11.10 - Encroachment Permits.
24. In July 2017, a Borough Code Compliance Officer issued Citation #P00444057 to the applicant for operating a junkyard without a permit per MSB 17.60 - Conditional Uses.
25. According to the State of Alaska records, the applicant entered a "no contest" plea on October 4, 2017 for Citation #P00444057, operating a junkyard without a permit per MSB 17.60 - Conditional Uses.
26. As a part of this application, the applicant notes he has a conditional use permit (17602003-0001) for a separate junkyard operation on Machen Road.

27. The narrative also notes a lack of incident at the Machen site, other than being told by the Borough to construct a fence and a "few cars were too close to the road," which were removed "immediately."
28. In March 2017 while inspecting the applicant's junkyard operation on Machen Road, a Borough Code Compliance Officer found that junk vehicles were viewable from and within the public right-of-way. The applicant resolved these issues by May 2017.
29. In July 2017 while inspecting the applicant's junkyard operation on Machen Road, a Borough Code Compliance Officer again found that junk vehicles were viewable from and within the public right-of-way.
30. In August 2017, a Borough Code Compliance Officer found the junk vehicles were still within the public right-of-way and tagged 14 vehicles with impound notices. The applicant removed the vehicles which were tagged for impound within two days.
31. In October 2017, a Borough Code Compliance Officer again found the applicant to be storing junk vehicles within the public right-of-way. This time the issue wasn't resolved until November 2017.
32. Between March 2017 and November 2017, a Borough Code Compliance Officer conducted six site visits at the

Machen Road property. Four of which revealed the applicant was storing junk vehicles within the public right-of-way on Machen Road which is a violation of conditional use permit #17602003-0001.

33. Since March 2016, Borough staff has observed the applicant violating Borough code 13 times. Nine of which were at the proposed use on West Sunrise Drive, and four of which were at the applicant's junkyard operation on Machen Road.
34. The proposed use will detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).
35. The proposed use will be harmful to the public health, safety, convenience and welfare (MSB 17.60.100(B)(2)).
36. Sufficient setbacks, lot area, buffers and other safeguards are not being provided (MSB 17.60.100(B)(3)).
37. The application material has met all of the requirements of this chapter (MSB 17.60.100(B)(4)).
38. The applicant is not suitable to establish, maintain, or operate the proposed use under the requirements of this chapter (MSB 17.60.110(C)).
39. There are not adequate controls in place to prevent contamination of soil, surface water and groundwater (MSB 17.60.110(D)).

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 17th day of December, 2018.



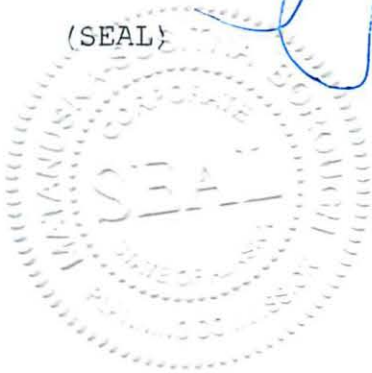
COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



APPROVED UNANIMOUSLY: Vague, Anderson, Patterson, Chesbro,
Elder, Glashan, and Mossanen