

By: Joe Metzger
Introduced: July 15, 2019
Public Hearing: August 5, 2019
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 19-21**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION SUPPORTING DENIAL OF A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF 1,000,000 CUBIC YARDS OF EARTH MATERIAL FROM A 23.5 ACRE SITE WITHIN A 41.2 ACRE PARCEL AT 56218 SOUTH PARKS HIGHWAY (TAX ID# 22N04W06B003); WITHIN TOWNSHIP 22 NORTH, RANGE 4 WEST, SECTION 6, SEWARD MERIDIAN.

WHEREAS, an application has been received from Emily McDonald on behalf of Don Jean Pit for a conditional use permit for the extraction of earth material at 56218 S. Parks Highway, (Tax ID# 22N04W06B003); within Township 22 North, Range 4 West, Section 6, Seward Meridian; and

WHEREAS, MSB 17.30.060(A) requires the commission to make the following finding when granting a conditional use permit:

- (1) That the use is not inconsistent with the applicable comprehensive plan; and

WHEREAS, three of the commissioners found that the resolution was not consistent with the comprehensive plan, specifically Goal 2 and Goal 4; and

WHEREAS, three of the commissioners found that the use does not preserve the value, spirit, character, and integrity of the

surrounding area, as the surrounding areas are undeveloped, residential or recreational properties; and

WHEREAS, it is the intent of the 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 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 lands 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, MSB 17.30.020(E) requires a conditional use permit for the annual extraction of more than 2,000 cubic yards of earth materials; and

WHEREAS, an Alaska State Department of Revenue mining 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, a reclamation plan has been developed as required by Alaska State Department of Natural Resources (ADNR), pursuant to

A.S. 27.19, and has been submitted as part of this application;
and

WHEREAS, the application material indicates a qualified person has determined a storm water pollution prevention plan (SWPPP) is not required as there is no reasonable potential to cause a discharge of storm water into any water of the United States; 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 Susitna (formerly Y) Community Council planning area. The Y Community Council Area Comprehensive Plan was adopted in 2007; and

WHEREAS, according to the application material, a vegetative buffer of 50-feet will remain to the north and east, while a vegetative buffer of 100-feet will remain between the conditional use and the neighboring Falcon's Ridge subdivision to the south and a 210-foot buffer shall remain intact to the west; and

WHEREAS, the application material indicates 10-foot tall earthen berms will be constructed and maintained on the north, south, and east side of the mining area; and

WHEREAS, according to the application material, water trucks will be used as needed during operations as a dust control measure; and

WHEREAS, earthen berms and vegetative buffers have been incorporated into the operation plan as visual and sound mitigation measures; 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, reclamation slopes will be no steeper than 3:1 (H:V) slope, which meets the standards of MSB code 17.28.067(D) that requires a maximum 50 percent (2:1) slope or the natural stabilized angle of repose of the existing earth material; and

WHEREAS, three of the commissioners found that the use is not consistent with Goal Two of the Y Comprehensive plan: "Protect the scenic quality and environmental quality of land along the Parks Highway and Spur Roads, by encouraging future commercial development to locate in clustered centers, and screening development along the highway. Large scale commercial and heavy industrial uses are discouraged along these highways and in rural residential areas; home-based business, small scale residential-compatible commercial, and established commercial businesses are encouraged"; and

WHEREAS, three of the commissioners found that the use is not consistent with Goal Four of the Y Comprehensive plan: "Guide location and character of development with significant off-site impacts to minimize impacts on environmental and community quality, particularly industrial activities and natural resource development, e.g. coal-bed methane, logging, gravel extraction, etc. Encourage forms of development that create economic opportunity and help sustain the area's rural character, including agriculture and timber harvesting"; and

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

WHEREAS, the application material indicates that reclamation will occur immediately after the resource has been mined out and is expected to be completed by June 2029; and

WHEREAS, parcels in the surrounding area range from .9 to 45 acres in size; and

WHEREAS, according to the application material and depicted on the site plan, up to two access points are proposed for the use. Option #1 would access directly to the Parks Highway, while option #2 would access Falcon Road before accessing the Parks Highway; and

WHEREAS, the application material indicates if a batch plant, rock crusher and/or screening plant is used for the operation, it will occur in the proposed primary equipment staging area or the

proposed secondary equipment staging area as depicted in the site plan; and

WHEREAS, the proposed locations of the batch plant, rock crusher and/or screening plant is located approximately 500 feet from the closest residential structure; and

WHEREAS, the proposed hours of operation are 7:00 AM to 7:00 PM, Monday through Saturday, unless construction requirements necessitate work outside these times; and

WHEREAS, the application material indicates if illumination devices are needed, they shall not be greater than 20 feet in height and will utilize downward directional shielding devices; and

WHEREAS, according to the site development plan, permanent and semi-permanent structures associated with the proposed use meet setback requirements; 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, maps are included in the record identifying surrounding property ownership, existing land uses, wetlands, 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 application material indicates that during high activity within the pit, the maximum number of truck trips during a 12-hour workday is estimated to be 250; and

WHEREAS, noise levels exceeding the levels in MSB 17.28.060 are prohibited; and

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

WHEREAS, the Planning Commission conducted a public hearing on August 5, 2019 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 denial of Planning Commission Resolution 19-18:

1. All of the requirements to demonstrate compliance with state and federal laws have been met (MSB 17.30.055(A)).
2. The proposed use, with conditions, is not consistent with the applicable comprehensive plan (MSB 17.30.60(A)(1)).

3. The proposed use, with conditions, will detract from the value, character and integrity of the surrounding area (MSB 17.30.060(A)(2)).
4. The application material has met all of the requirements of this chapter (MSB 17.30.060(A)(3)).
5. The proposed use will not be harmful to the public health, safety, convenience and welfare (MSB 17.30.060(A)(4)).
6. Sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.30.60(A)(5)).
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)).
8. The area to be mined, 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)).
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)).

10. Existing vegetation and earthen berms will be used to meet the visual screening measures (MSB 17.28.60(A)(4)).
11. Noise mitigation measures include retaining vegetative buffers and constructing earthen berms to ensure that sounds generated from earth material extraction activities do not exceed sound levels set forth in MSB 17.28.060(A)(5)(a). Noise levels exceeding the levels in 17.28.060(A)(5)(a) are prohibited.
12. The proposed use meets lighting standards in accordance with MSB 17.28.060(A)(6).
13. The operation will not conduct earth material extraction activities within 100 linear feet of any identified wetland, stream, river or other waterbody and the operation will not mine below or within four feet of the seasonal high water table (MSB 17.28.60(A)(7)(a - b)).

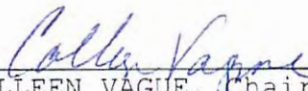
ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 5th day of August, 2019.

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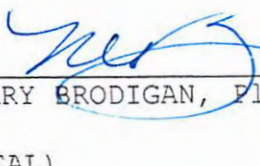
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COLLEEN VAGUE, Chair

ATTEST


MARY BRODIGAN, Planning Clerk
(SEAL)

PASSED UNANIMOUSLY: Vague, Anderson, Chesbro, Elder, Glashan, and
Mossanen.