

By: Joe Metzger
Introduced: January 6, 2020
Public Hearing: February 3, 2020
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 20-04

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF 400,000 CUBIC YARDS OF EARTH MATERIAL FROM AN APPROXIMATELY 41-ACRE SITE WITHIN A 71-ACRE PARCEL AT 3429 N. PITTMAN ROAD (TAX ID# 18N02W23B002 and 18N02W23A002); WITHIN TOWNSHIP 18 NORTH, RANGE 2 WEST, SECTION 23, SEWARD MERIDIAN.

WHEREAS, an application has been received from Dan Steiner on behalf of Foremost Construction, LLC for a conditional use permit for the extraction of earth material at 3429 N. Pittman Road, (Tax ID# 18N02W23B002 and 18B02W23A002); within Township 18 North, Range 2 West, Section 23, Seward Meridian; 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 at this time 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 Meadow Lakes Community Council planning area; and

WHEREAS, according to the application material, a 100-foot vegetative buffer will remain in place around the entire mining area; and

WHEREAS, other than through the driveway access point, the operation is not visible from N. Pittman Road; and

WHEREAS, the application material indicates a 14-foot high, 40-foot wide earthen berm will be constructed around the entire 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, according to the application material, slopes will be left at a 5:1 (H:V) slope which meets the standards of MSB 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, the Meadow Lakes Comprehensive Plan identifies four (4) land use goals. Those goals are: (1) Maintain the community's rural character, (2) concentrate and screen commercial development; avoid sprawl along the Parks Highway, (3) Create a pedestrian-oriented, mixed-use town center, (4) Guide location and character development; and

WHEREAS, the Meadow Lakes Comprehensive Plan identifies strategies to concentrate and screen commercial development. These strategies include: encouraging new commercial development to locate in relatively concentrated nodes, and to require retention and/or planting of evergreen buffers, trees and other landscape features so roadside development is attractive; and

WHEREAS, the Meadow Lakes Comprehensive Plan identifies strategies to guide the location and character of development. These strategies include: establish land use standards to minimize the off site impacts of development, discourage certain high impact uses in specific portions of the community, such as sand and gravel operations adjoining stream corridors, and establish a special land use district that requires a conditional use permit for high impact uses and sets rules on the location and magnitude of these activities; and

WHEREAS, the Meadow Lakes Comprehensive Plan recognizes the community wants to maintain the natural, rural character of the community and to protect the quality of residential neighborhoods. At the same time, the community recognizes the value of creating opportunities for employment, and increasing the local tax base through sand and gravel extraction. The balance point between these goals is to accept economic development activities, but also to establish rules to minimize the off-site impacts of such activities; and

WHEREAS, the Meadow Lakes Comprehensive Plan identifies six (6) land use districts on a map named "Land Use Districts" on page 41 of the plan; and

WHEREAS, the subject parcel is located within the "Residential Collector Road Corridors" identified on "Land Use Districts" map on page 41 of the plan.

WHEREAS, the Meadow Lakes Comprehensive Plan identifies "allowed uses" in Residential Collector Road Corridors. Allowed uses include: resource-based activities such as small scale farming, lumber milling or logging, if operations are designed to not impact neighboring residential uses (e.g. through limits on operation hours, noise, smells, etc.) and other resource-based activities, such as gravel extraction already in place at the time of the adoption of this plan, as long as such uses comply with local, and other regulatory standards; and

WHEREAS, the Meadow Lakes Comprehensive Plan identifies "discouraged uses" within the Residential Collector Road Corridors. Discouraged uses include: new, larger scale resource development activities are discouraged in residential areas; and

WHEREAS, the Meadow Lakes Comprehensive Plan identifies development standards for specific uses including "Commercial Sand and Gravel Extraction." The plan indicates the following policies apply to all existing and future operations: (1) An approved Master Plan for operations and reclamation is required prior to commencing

operations. Operators must put up a performance bond ensuring compliance to the master plan and other development standards, (2) Reclamation required - return the land to a useable state, (3) Noise - Minimize noise of operation to portions of the day when adjoining properties can reasonably expect peace and quiet, i.e., evenings, nights, early mornings. If necessary to avoid disrupting neighboring uses, build sound reducing walls around the operation, (4) Use of residential roads by trucks, heavy equipment is a significant community concern and timing of use shall be limited to avoid congestion, noise, dust and safety impacts on community roads; and

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

WHEREAS, parcels within the surrounding area range in size from approximately 1.5 acres to 53 acres; and

WHEREAS, the total area of earth extraction will occur on approximately 41 acres of the 71-acre parcel; and

WHEREAS, the proposed mining area abuts the N. Pittman right of way to the north. The applicant owns the land north of the N. Pittman right of way; and

WHEREAS, the proposed mining area abuts the applicant's property on the east side of the mining area. To the east of the applicant's property there are residential homes; and

WHEREAS, one lot borders the proposed use to the west and it is used for residential purposes; and

WHEREAS, pre-existing legal non-conforming status (grandfather rights) to extract earth materials was granted in 2006 to a parcel approximately 190 feet to the west of the proposed use property line; and

WHEREAS, access is made directly onto N. Pittman Road; and

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

WHEREAS, the proposed hours of operation are 7:30 AM - 5:30 PM, Monday-Saturday; and

WHEREAS, according to the application material, the final year of material extraction is estimated to end in 2059; and

WHEREAS, N. Pittman is a State road and is classified as a minor collector. As such, the road is capable of handling traffic from residential and commercial uses; and

WHEREAS, N. Pittman is a paved road that is approximately 24-feet in width and has a posted speed limit of 45; and

WHEREAS, the driveway access location is mostly flat and provides more than 300-feet of unobscured line of sight looking east or west on N. Pittman; and

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

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

WHEREAS, the vegetative buffer is heavily forested and consists mostly of spruce with a mix of birch and other species; and

WHEREAS, an asphalt / hot mix plant is not proposed as part of this application; 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, according to the site plan, earth material extraction activities will not take place within 100-feet of any identified wetlands or waterbodies; 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, 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, according to the application material, the proposed operation does not anticipate generating traffic in excess of 100 vehicles during the morning or afternoon peak hours or more than 750 vehicles per day; and

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

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

WHEREAS; according to the application material, if lighting is needed, exterior 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. Illumination or other fixtures mounted higher than 20 feet or 150 watts or more will have downward directional shielding; 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 February 3, 2020 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 20-04:

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 consistent with the applicable comprehensive plan (MSB 17.30.60(A)(1)).
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)).
4. The application material has met all of the requirements of this chapter (MSB 17.30.060(A)(3)).
5. The proposed use, with conditions, 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)).

BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the standards of MSB 17.30 and MSB 17.28

and does hereby approve the conditional use permit earth material extraction activities with the following conditions:

1. The owner and/or operator shall comply with all applicable federal, state, and local regulations.
2. A copy of the approved permit shall be provided to each contractor company working at the site.
3. 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.
4. Material extraction shall be limited to the approximate 41-acre area identified in the application material and depicted on the applicant's site plan(s).
5. A 14-foot tall berm shall be constructed around the entire mining area whenever vegetation is disturbed within 300 feet of the property line.
6. The 100-foot vegetative buffer surrounding the proposed mining area and shown on the site plan(s), shall be left undisturbed.
7. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected for leaks at the end of each day.

8. 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.
9. Any hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated.
10. 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.
11. Prior to the commencement of mining activity, an approved SWPPP shall be submitted to MSD Development Services.
12. Prior to the commencement of mining activities, an approved driveway permit from the State of Alaska shall be submitted to MSB Development Services.
13. All track-out sediments from the site shall be removed from the right-of-way daily.
14. The permit holder shall perform dust mitigation techniques as described in the application as-need to minimize dust impacts to the surrounding areas.
15. The operation shall comply with the maximum permissible sound level limits allowed in MSB Code, per the requirements of MSB 17.28.060 - Site Development

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

16. All extraction activities, including all activities that cause noise, dust, or traffic, shall be limited to 7:30 AM to 5:30 PM, Monday through Saturday.
17. Hot mix or asphalt batch plants shall not be operated on the subject property.
18. If cultural remains are found during material extraction activities, the MSB Planning Department shall be contacted immediately so the remains can be documented.
19. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table.
20. 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.
21. The property owner and/or operator shall comply with the reclamation standards of MSB 17.28.067.

22. All junk, trash, and junk vehicles, as defined in MSB 8.50 shall be removed and properly disposed of prior to the completion of reclamation on the subject parcel.
23. A traffic control plan consistent with state regulations shall be in place, prior to generating traffic volumes that exceed the levels specified in MSB 17.61.090.
24. If illumination devices are required, 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.
25. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2030.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 3rd day of February, 2020.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)

YES: *Ortiz, Elder, Madan, and Moskauer*

NO: *Vague, Anderson, and Chestro*