

By: Mark Whisenhunt
Introduced: August 16, 2021
Public Hearing: October 18, 2021
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 21-22**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF 1,800,000 CUBIC YARDS OF EARTH MATERIAL FROM AN APPROXIMATELY 61.9-ACRE SITE WITHIN PARCEL C3, TAX ID# 17N02W02C003 (NO SITE ADDRESS); WITHIN TOWNSHIP 17 NORTH, RANGE 2 WEST, SECTION 2, SEWARD MERIDIAN.

WHEREAS, an application has been received from the Natural Resource Manager for the Matanuska-Susitna Borough for a conditional use permit to extract earth material at Tax ID# 17N02W02C003 (No Site Address); Parcel C3, within Township 17 North, Range 2 West, Section 2, 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 the site will be developed to contain storm water runoff. Prior to beginning operations, a contractor will be required to develop a detailed storm water pollution prevention plan (SWPPP); 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, the subject parcel is located within the Meadow Lakes Community Council boundaries and is subject to the Meadow Lakes Comprehensive Plan; and

WHEREAS, the Matanuska-Susitna Borough Comprehensive Development Plan (2005) applies to all parcels within the Matanuska-Susitna Borough; and

WHEREAS, Meadow Lakes Comprehensive Plan shows the subject parcel within the "rural residential" area. However, the plan specifically mentions the subject parcel and the need to retain Borough lands for public purposes; and

WHEREAS, Meadow Lakes Comprehensive Plan shows the subject parcel within the "rural residential" area. However, the plan specifically mentions the subject parcel and the need to retain Borough lands for public purposes; and

WHEREAS, Land Use Goal Four of the Meadow Lakes Comprehensive Plan states: "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, for example, 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. This goal focuses on uses with significant impacts, such as large-scale resource

development like coal-bed methane and gravel extraction, but is also intended to limit impacts of more modest uses such as auto storage/junk yards"; and

WHEREAS, Meadow Lakes Comprehensive Plan outlines "Standards for commercial, industrial, or other development with significant off-site impacts (for uses ranging from large scale sand and gravel operations to smaller-scale commercial)"; and

WHEREAS, a development standard within the Meadow Lakes Comprehensive Plan states: "Impacts On Environment - Activities creating off site impacts on surface and subsurface water quality and quantity, and air quality are not permitted"; and

WHEREAS, Meadow Lakes Comprehensive Plan, in multiple locations, identifies the need and priority to maintain the quality of surface and drinking water within the community; and

WHEREAS, Goal LU-1 of the Matanuska-Susitna Borough Comprehensive Development Plan states: "Protect and enhance the public safety, health, and welfare of Borough residents"; and

WHEREAS, Policy LU1-1 of the Matanuska-Susitna Borough Comprehensive Development Plan states: "Provide for consistent, compatible, effective, and efficient development within the Borough"; and

WHEREAS, Goal LU-2 of the Matanuska-Susitna Borough Comprehensive Development Plan states: "Protect residential neighborhoods and associated property values"; and

WHEREAS, Policy LU2-1 of the Matanuska-Susitna Borough Comprehensive Development Plan states: "Develop and implement regulations that protect residential development by separating incompatible uses, while encouraging uses that support such residential uses including office, commercial and other mixed-use developments that are shown to have positive cumulative impacts to the neighborhood"; and

WHEREAS, the subject parcel is classified for material extraction through Assembly Ordinance 04-167; and

WHEREAS, Assembly Ordinance 04-167 requires a minimum 50-foot vegetative buffer along the boundaries where adjacent activity is not resource related; and

WHEREAS, Informational Memorandum 04-243 details the involvement of the Meadow Lakes Community Council with Assembly Ordinance 04-167; and

WHEREAS, the applicant has worked directly with the Meadow Lakes Community Council to establish measures to minimize or eliminate off-site impacts of the proposed use; and

WHEREAS, Meadow Lakes Community Council submitted a letter of non-objection to the Borough on August 17, 2021; and

WHEREAS, according to the application material, a 200-foot vegetative buffer and 10-foot tall earthen berm will be between the proposed use and the sport fields, Senior Center, and residential developments to the east and north; and

WHEREAS, according to the application material, the eastern 40 acres of the subject parcel will remain open space. An additional 25-foot vegetative buffer and 10-foot tall earthen berm will remain between this 40 acres and the proposed use; and

WHEREAS, according to the application material, material processing and staging will remain in the southern 20 acres of the proposed use to provide a greater separation from the adjacent uses that are not material extraction; and

WHEREAS, the closest residential structure is approximately 400 feet north of the proposed use; and

WHEREAS, according to the application material, access and truck routes will remain on the south end of the parcel and are prohibited from using roads on the north side of the subject parcel; and

WHEREAS, according to the application material, the proposed hours of operation are 6:00 a.m. to 10:00 p.m., Monday through Saturday; and

WHEREAS, the application material indicates the site will be developed to contain storm water runoff. Prior to beginning operations, a contractor will be required to develop a detailed storm water pollution prevention plan (SWPPP); and

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

WHEREAS, Alaska Department of Environmental Conservation has produced a user manual of best management practices for owners and operators of gravel/rock extraction operations to protect surface water and groundwater quality in Alaska; and

WHEREAS, Alaska Department of Environmental Conservation Best Management Practices Manual states: "DEC has established drinking water protection areas and recommended buffer zones for public water system (PWS) sources, which can be found at <http://dec.alaska.gov/das/GIS/apps.htm>. There are also PWS sources for which drinking water protection areas have not yet been delineated. For those PWS sources, it is recommended that the buffer zone be considered a 1,000-foot radius around the source area. It is recommended that excavation limits be restricted to areas outside any PWS source buffer zone. Equipment storage, maintenance, and operation should be as limited as possible within designated buffer zones, and appropriate BMP's should be used to prevent water contamination (see Chapter 6)"; and

WHEREAS, Alaska Department of Environmental Conservation Best Management Practices Manual states in part: "Some of the best ways to prevent mining impacts to surface and groundwater quality are to maintain distance between mining operations and the water to be protected, and to monitor water quality. This chapter presents recommended setbacks for mining operations from public water system (PWS) source areas, surface water bodies, and the

groundwater table. Where proposed mining is closer to these waters than the recommended setbacks, it is recommended that a detailed hydrogeologic study be performed by a qualified person to evaluate potential impacts and design effective mitigation alternatives"; and

WHEREAS, the proposed use will not operate within any "protection areas" for community drinking water wells; and

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

WHEREAS, according to a Hydrogeology Report by James Munter, Certified Professional Geologist, the proposed use will have no observant effect to groundwater; and

WHEREAS, according to the application material, water-monitoring wells will be installed to monitor groundwater levels; and

WHEREAS, according to the application material, the operation and reclamation plan will leave the site suitable for future public facilities and/or open space; and

WHEREAS, parcels to the north range in size from 1.5 acres to 40 acres. Those parcels are a mix of residential developments and vacant land; and

WHEREAS, two parcels totaling approximately 6 acres are located to the northeast. The two parcels are owned and developed by Meadow Lakes Seniors, Incorporated. Also to the northeast is a

33-acre parcel owned by the Meadow Lakes Community Council. It is developed with a children's park and sports fields; and

WHEREAS, an 80-acre parcel is to the east. Approximately 16 acres of it has been developed with a mobile home park. The remainder is largely undeveloped, though there is a small material extraction area used for road maintenance within the mobile home park; and

WHEREAS, to the south and west are six large parcels, which are used for material extraction. They total approximately 348 acres in size; and

WHEREAS, an undeveloped 80-acre parcel lies to the northwest; and

WHEREAS, according to the application material, the estimated final year of extraction is 2038; and

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

WHEREAS, maps are included in the record identifying surrounding property ownership, existing land uses, wetlands, and waterbodies within one-half 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, 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 site development plan, proposed permanent and semi-permanent structures associated with the proposed use meet setback requirements; 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, according to the site plan, earth materials extraction activities will not take place within 100-feet of any identified wetlands or waterbodies; 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 October 18, 2021 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 21-22:

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 plans (MSB 17.30.60(A)(1)).
3. The proposed use, with conditions, will not detract from the value, spirit, 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 utilized and maintained 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 operation 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 61.9-acre area identified in the application material and depicted on the applicant's site plan(s).
5. The earthen berm and vegetative buffer shown on the site plan(s) within the application material shall be maintained.
6. A qualified wetlands delineator shall identify the edge of all wetlands at the site. The 100-foot undisturbed vegetative buffer surrounding the identified wetlands adjacent to the extraction site shall be identified and marked by a professional land surveyor, licensed to operate in the State of Alaska, prior to beginning extraction activities.
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 the Matanuska-Susitna Borough.
12. Prior to the commencement of any extraction activities within the section line easement, written approval must be obtained from the State of Alaska, and a copy of said approval shall be submitted to the Matanuska-Susitna Borough.
13. All track-out sediments from the site shall be removed from the right-of-way daily.
14. The operation 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 Monday through Saturday, 6:00 am to 10:00 pm.
17. If cultural remains are found during material extraction activities, the MSB Planning Department shall be contacted immediately so the remains can be documented.
18. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table.
19. 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, 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.
20. The operation shall comply with the reclamation standards of MSB 17.28.067.
21. 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.
22. 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.

23. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2038.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 18 day of October, 2021.


COLLEEN VAGUE, Chair

ATTEST


KAROL RIESE, Planning Clerk

(SEAL)



YES: 7 COMMISSIONER Anderson, Vague, Allen, mossanen, Elder,
Glashan, Chesbro

NO: 0