

By: Mark Whisenhunt  
Introduced: July 18, 2022  
Public Hearing: August 1, 2022  
Action: Adopted

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. PC 22-24**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF 42,000 CUBIC YARDS OF EARTH MATERIAL FROM AN APPROXIMATELY 4-ACRE SITE AT 4637, 4563, 4612, AND 4552 EAST FRONTIER PLAZA DRIVE, TAX IDS# 8102B01L002, 8102B01L003, 8102B02L001, AND 8102B02L002; WITHIN TOWNSHIP 18 NORTH, RANGE 1 EAST, SECTION 31 SEWARD MERIDIAN.

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WHEREAS, an application has been received from John Sommer of AK Frontier Rentals, LLC for a conditional use permit to extract earth material at 4637, 4563, 4612, AND 4552 East Frontier Plaza Drive, Tax IDs# 8102B01L002, 8102B01L003, 8102B02L001, and 8102b02l002; within Township 18 North, Range 1 East, Section 31, 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 letter from Alaska State Department of Natural Resources (ADNR) indicates the applicant has submitted all required information to ADNR in accordance with A.S. 27.19, Reclamation; and

WHEREAS, the application material indicates the site is developed to contain storm water runoff. As such, detailed storm water pollution prevention plan (SWPPP) is not required 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 North Lakes Community Council boundaries. The North Lakes community has not adopted a comprehensive plan; and

WHEREAS, the Matanuska-Susitna Borough Comprehensive Development Plan (2005) applies to all parcels within the Matanuska-Susitna Borough; 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, according to Rutgers Noise Technical Assistance Center, heavy trucks produce approximately 90 decibels (dB) when operating, which falls in the "very loud" category; and

WHEREAS, according to Rutgers Noise Technical Assistance Center, a quiet to noisy home produces sound around 30-60 decibels (dB), which falls in the "faint" and "moderate" categories; and

WHEREAS, MSB 8.52.010(A) declares: "Loud noise and amplified sounds have an adverse effect on the psychological and physiological well-being of persons"; and

WHEREAS, earth material extraction activities are an industrial use that can cause excessive noise, dust, and heavy truck traffic; and

WHEREAS, according to the application material, 10-foot tall earthen berm will encompass the proposed use, minus the access points; and

WHEREAS, the closest residential structure is approximately 100 feet south of the proposed use; and

WHEREAS, according to the application material, access and truck routes will be on Frontier Plaza Drive and go west onto Northgate Place and then on to Seldon Road; and

WHEREAS, according to the application material, the proposed hours of operation are 7:00 a.m. to 6:00 p.m., Monday through Saturday; 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 applicant is not proposing to mine below or within four feet of the seasonal high water table; and

WHEREAS, According to the application material, the operation and reclamation plan will leave the site suitable for commercial development; and

WHEREAS, Seldon Road abuts the site to the north. Parcels on the north side of Seldon Road range from 5 to 18 acres in size. Those parcels have a mix of residential uses and vacant land; and

WHEREAS, the intersection of Bogard Road and Seldon Road abuts the Frontier Plaza Subdivision to the northeast. Commercial and industrial uses are on the northeast and southeast corners of the intersection. Bogard Road and Seldon Road have a mix of commercial, industrial, and residential uses on their frontages; and

WHEREAS, large subdivisions with residential developments make up the majority of the area east and north of the Bogard Road; and

WHEREAS, parcels to the west range from 1 to 30 acres in size. Those parcels include a church, residential, and commercial uses; and

WHEREAS, parcels to the south range from 1 to 38 acres in size. Those parcels are a mix of vacant land, an old gravel extraction site, residential, and commercial uses; and

WHEREAS, according to the application material, the estimated final year of extraction is 2030; and

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

WHEREAS, according to the application material, all stormwater will be contained onsite; 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 parcels; 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, according to the application material, equipment will be maintained to ensure noise reduction features, such as, mufflers, are operating properly; and

WHEREAS, earthen berms are 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 August 1, 2022 on this matter.

NOW, THEREFORE, BE IT RESOLVED, 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 22-24:

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 17.30.060(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 17.30.060(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 17.28.060(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 17.28.060(A)(3)).
10. Existing vegetation and earthen berms will be utilized and maintained to meet the visual screening measures (MSB 17.28.060(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 17.28.060(A)(7)(a - b)).

BE IT FURTHER RESOLVED, 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 for earth material extraction activities with the following conditions:

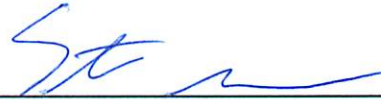
1. The operation shall comply with all applicable federal, state, and local regulations.
2. A copy of the approved conditional use permit shall be provided to each contractor and/or company working at the site.
3. All aspects of the operation shall comply with the description detailed in the application 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 4-acre area identified in the application material and depicted on the applicant's site plan(s).

5. The earthen berm shown on the site plan(s) within the application material shall be maintained.
6. The 1,000-foot Preliminary Protection Area identified by the ADEC Drinking Water Protection Area map shall be identified and marked by a professional land surveyor, licensed to operate in the State of Alaska, prior to beginning extraction activities.
7. Earth material extraction is prohibited within the 1,000-foot Preliminary Protection Area identified by the ADEC Drinking Water Protection Area map.
8. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected for leaks at the end of each day.
9. 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.
10. Any hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated.
11. 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.

12. Prior to the commencement of mining activity, all MSB driveway permits for access onto Frontier Plaza Drive shall be finalized.
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-needed 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, 7:00 a.m. to 6:00 p.m.
17. Rock-crushing activities shall be limited to Monday through Friday, 8:00 a.m. to 5:00 p.m.
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.

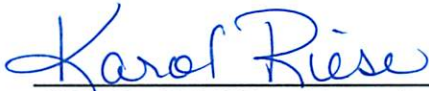
20. Borough staff shall be permitted to enter onto any portion of the property to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring, with prior verbal or written notice, and at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit.
21. The operation shall comply with the reclamation standards of MSB 17.28.067 - Reclamation Standards.
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. 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.
24. 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 1<sup>st</sup> day of August, 2022.



STAFFORD GLASHAN, Chair

ATTEST



KAROL RIESE, Planning Clerk



(SEAL)

YES: 7 Glashan, Chesbro, Glenn, Allen, Kendig, Glenn, Rubco

NO:  $\emptyset$