

By: Mark Whisenhunt
Introduced: August 15, 2022
Public Hearing: September 19, 2022
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 22-26

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF APPROXIMATELY 6,390,000 CUBIC YARDS OF EARTH MATERIAL FROM AN APPROXIMATELY 152.3-ACRE SITE WITHIN TWO PARCELS TOTALING APPROXIMATELY 657.5, TAX IDS# 20N04W07A001 AND 20N04W08A001 (NO STREET ADDRESS); WITHIN TOWNSHIP 20 NORTH, RANGE 4 WEST, SECTION 7 AND 8, SEWARD MERIDIAN.

WHEREAS, an application has been received from Emerson Krueger, Natural Resource Manager, on behalf of MSB Land and Resource Management Division for a conditional use permit for the extraction of earth material at Tax IDs# 20N04W07A001 and 20N04W08A001 (No Street Address); within Township 20 North, Range 4 West, Section 7 and 8, 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 property is located within the Willow Community Area planning area; and

WHEREAS, overall Goal 3 of the Willow Area Community Comprehensive Plan States: "Encourage sustainable economic development, balancing private property rights, use of natural resources, and the protection of our natural environment"; and

WHEREAS, Goal 2 of the Willow Area Community Comprehensive Plan States: "Respect existing private property rights while minimizing impacts to neighboring property owners"; and

WHEREAS, Goal 5 of the Willow Area Community Comprehensive Plan States: "Maintain the quality of Willow's natural environment and scenic beauty, while allowing for necessary improvements to support growth"; and

WHEREAS, Goal E3 of The Matanuska-Susitna Borough Comprehensive Development Plan (2005) states: "Create an attractive environment for business investment"; and

WHEREAS, Policy E3-3 of The Matanuska-Susitna Borough Comprehensive Development Plan (2005) states: "Enhance the transportation infrastructure to reduce travel times and improve transport efficiencies and safety"; and

WHEREAS, the Kashwitna IMD abuts the proposed use to the north. The Alaska Railroad abuts the site directly to the west.

The Parks Highway is located further west. All development not associated with the IMD is located to the west of the proposed use and on the other side of the railroad right-of-way; and

WHEREAS, all parcels abutting the subject properties to the northeast, east, southeast, south, southwest, and west, are undeveloped and range in size from 24 acres to 640 acres; and

WHEREAS, the closest residential structure is located west of the Parks Highway and is approximately 1,000 feet from the boundary of the proposed use; and

WHEREAS, the western parcel (20N04W07A001) is approximately 117.5 acres in size and was classified as a future landfill site in 1985; and

WHEREAS, the eastern parcel (20N04W08A001) is approximately 540 acres in size and was classified as watershed land in 2006. This parcel has approximately 300 acres of wetlands. As proposed, there will be a 100-foot undisturbed vegetative buffer from the wetlands; and

WHEREAS, land uses within one-half mile of the site include industrial, residential, commercial, vacant, and recreational; and

WHEREAS, the proposed operation is not visible from the Parks Highway; 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, earthen berms, vegetation, and below-grade excavation will be used as noise mitigation and visual screening; 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, the applicant is not proposing to mine below or within four feet of the seasonal high water table; and

WHEREAS, the application material indicates monitoring wells will be used to monitor groundwater on the subject property; and

WHEREAS, according to the application material, slopes will be left at a 2:1 (H:V) or flatter 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, according to the application material, the proposed hours of operation are expected to be Monday through Sunday from 6:00 a.m. to 11:00 p.m., but may be extended; and

WHEREAS, according to the application material, most material is expected to be transported from the site via railcar, with an estimated 40 vehicle trips per day; and

WHEREAS, according to the application material, the final year of material extraction is estimated to end in 2053; and

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

WHEREAS, the proposed operation will use an existing railroad crossing at Sockeye Avenue; 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 one-half 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, according to the application material, the proposed permanent and semi-permanent structures associated with the proposed use meet setback requirements; and

WHEREAS, noise levels exceeding the levels in MSB 17.28.060 are prohibited; 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 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 September 19, 2022 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 22-26:

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, 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, with conditions, 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 identified. 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. An access permit is in place with the State that allows 30 trips per hour to Sockeye Avenue (MSB 17.28.060 (A) (3)).
10. Visual screening measures such as vegetation and earthen berms will not be required for the proposed operation (MSB 17.28.060 (A) (4)).
11. Noise mitigation measures include proximity alarms, seasonal operation dates and the general location of the

use in proximity to conflicting land uses will 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)).

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 before any alteration or expansion of the material extraction operation.

4. Material extraction shall be limited to the approximate 152.3-acre area identified in the application material and depicted on the applicant's site plan(s).
5. All applicable State of Alaska Department of Transportation permits and all applicable Alaska Railroad permits shall be obtained and provided to the Borough, prior to beginning any earth materials extraction activities.
6. A US Army Corps of Engineers Jurisdictional Determination shall be obtained before developing the access road. If required by the Jurisdictional Determination, a permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344 shall be obtained before operating.
7. 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

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. All track-out sediments from the site shall be removed from the right-of-way daily.
13. The operation shall perform dust mitigation techniques as described in the application as-needed to minimize dust impacts to the surrounding areas.
14. The operation may operate 24 hours per day, seven days per week, however, 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.

15. If cultural remains are found during material extraction activities, the MSB Planning Department shall be contacted immediately so the remains can be documented.
16. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table.
17. 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.
18. The operation shall comply with the reclamation standards of MSB 17.28.067.
19. 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.
20. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2053.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 3rd day of October, 2022.

Patricia Chesbro

STAFFORD GLASHAN, Chair

Patricia Chesbro, vice chair

ATTEST

Karol Riese

KAROL RIESE, Planning Clerk



YES: Glenn, Allen, Chesbro, Rubes, Kendig

NO: