

By: Peggy Horton  
Introduced: April 15, 2024  
Public Hearing: May 6, 2024  
Action: **APPROVED**

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. PC 24-06**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF 400,000 CUBIC YARDS OF RIP RAP AND PROCESSED MATERIAL WITHIN A PORTION OF A 20-ACRE PARCEL AT 16556 EAST BACK ACRES AVENUE, TAX ID# 17N02E23A017.

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WHEREAS, Jim Psenak, of Psenak Construction LLC submitted a conditional use permit application to extract earth material at 16556 East Back Acres Avenue, Tax ID# 17N02E23A017; 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 land 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 operation 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 occur on state land; and

WHEREAS, according to the application material, the ADNR accepted the applicant's Non-State Land Letter of Intent and stated no bond is required; and

WHEREAS, according to the application materials, an Alaska Certified Erosion and Sediment Control Lead (CESCL), Sandy Childs, stated there is no danger of the discharge of storm waters leading to water(s) of the U.S; and

WHEREAS, this application does not require a United States Army Corps of Engineers permit pursuant to Section 404 of the Clean Water Act, as the applicant is not proposing any extraction activity within any identified wetlands, lakes, streams, or other waterbodies; and

WHEREAS, the subject parcel is located within the Butte Community Council area. The Butte community has not adopted a comprehensive plan; and

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

This plan does not explicitly address earth material extraction activities; and

WHEREAS, Goal E-3 of the MSB Comprehensive Development Plan states, "Create an attractive environment for business investment;" and

WHEREAS, Policy E3-1: Provide reasonable economic and financial incentives for business retention and expansion; and

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

WHEREAS, Policy LU1-1: Provide for consistent, compatible, effective, and efficient development within the Borough; and

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

WHEREAS, Policy LU2-1: 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, Goal LU-3 of the MSB Comprehensive Development Plan states, "Encourage commercial and industrial development that is

compatible with residential development and local community desires;" and

WHEREAS, Policy LU3-1: Develop and implement regulations that provide for non-residential development; 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, this property has been operating under a conditional use permit for earth material extraction since 2013. A new permit is required to continue the operation; and

WHEREAS, Alaska Department of Environmental Conservation (ADEC) 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, ADEC Best Management Practices for Gravel/Rock Aggregate Extraction Projects Manual includes the recommended drinking water buffer zones for public water system (PWS) sources; and

WHEREAS, the quarry operation is not located within any "protection areas" for community drinking water wells or PWS sources; and

WHEREAS, Butte Salvage, a junkyard, is an industrial use directly west of the subject parcel. Other land uses adjoining the subject parcel on the north, east, south, and west are either residential or undeveloped; and

WHEREAS, within a half-mile radius of the subject property, there are a variety of land uses, including residential, commercial, recreational, undeveloped, and industrial. The lot sizes range from 0.45 to 140 acres; and

WHEREAS, the closest residential structure is approximately 375 feet south of the quarry; and

WHEREAS, Bodenbug Creek traverses the southwest corner of the parcel at an elevation of approximately 114 feet; 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 applicant plans to dig a hole on the property sometime between late April and early May to monitor seasonal high groundwater levels; and

WHEREAS, according to the application material, the property may be used for housing development once the property is mined to 120 feet, the floor level of the quarry; and

WHEREAS, according to the application material, the parcel's western half is vegetated with cottonwood, birch, and spruce, which will remain undisturbed; and

WHEREAS, the quarry operation is not visible from the South Old Glenn Highway; and

WHEREAS, according to the application material, water trucks will be used as a dust control measure when needed during operations; 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 earth material extraction activity takes place on the eastern half of a 20-acre parcel; and

WHEREAS, according to the application material, Bodenbug Creek lies over 500 feet from the extraction activity; and

WHEREAS, according to the application material, slopes created by extracting rip rap will be maintained and must follow Mine Safety and Health Administration (MSHA) requirements, which require 45-degree slopes and 15' wide benches. This eliminates the possibility of a tall cliff face; and

WHEREAS, according to the application material, the proposed hours of operation are expected to be Monday through Saturday from 7 a.m. to 7 p.m.; and

WHEREAS, this operation is a granite quarry and includes blasting as part of the earth material extraction process; and

WHEREAS, according to the application material, blasting is performed on an as-needed basis; and

WHEREAS, according to the application material, blasting will occur only after 10 a.m. and before 5 p.m., Monday through Friday; and

WHEREAS, the existing driveway onto East Back Acres Avenue received a driveway permit #D18316 on December 30, 2021; and

WHEREAS, according to the application material, the peak operating hour will be 9 a.m. to 10 a.m., with a maximum of ten trucks loaded with rip rap and processed materials; and

WHEREAS, according to the application material, the extracted rip rap will be loaded into highway trucks and hauled on East Back Acres Avenue to South Old Glenn Highway, then to the different project locations; and

WHEREAS, according to the application material, the final year of material extraction is estimated to end in 2044; and

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

WHEREAS, according to the application material, blasting is done in compliance with MSHA regulations, including notification of property owners within the blast area; and

WHEREAS, according to the application material, the operation focuses on large granite boulders for rip rap, so the blasts are small and targeted; and

WHEREAS, according to the application material, the blasting area is far enough from the surrounding property lines to prevent flying rocks from landing on adjacent roads or residences; 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 subject property; 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 permanent and semi-permanent structures associated with the quarry meet the setback requirements; and

WHEREAS, according to the application, the operation will not generate traffic in excess of 100 vehicles during morning or afternoon peak hours or more than 750 vehicles per day; and

WHEREAS, according to the application, the operation will use exhaust mufflers on equipment to help reduce engine noise; and

WHEREAS, according to the application material, work will be performed during daylight hours; and

WHEREAS, according to the application material, if lighting is necessary, it will consist of downward directional and shielded lighting and not produce glare onto neighboring residential properties; 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 May 6, 2024, 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 24-06:

1. All the requirements to demonstrate compliance with state and federal laws have been met (MSB 17.30.055(A)).
2. The proposed use is consistent with the applicable comprehensive plans (MSB 17.30.060(A)(1)).
3. The proposed use 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 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 17.30.060(A)(5)).
7. The surrounding property ownership, existing land uses, wetlands, and water bodies within the notification area have been identified (MSB 17.28.060(A)(1)).
8. Phases of proposed mining activities, 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 is expected 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 use will not exceed 100 vehicles during the morning or afternoon peak hours or more than 750 vehicles a day (MSB 17.28.060(A)(3)).
10. The operation will make use of earthen berms, vegetation, and below-grade excavation to provide visual screening measures (MSB 17.28.060(A)(4)).
11. Noise mitigation measures, including using 10-foot tall berms, maintaining vegetative buffers, and excavating below the surrounding grade, will ensure that sound levels generated during earth material extraction activities will not exceed the levels specified 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 satisfies the lighting standards (MSB 17.28.060(A)(6)).
13. The operation will not conduct earth material extraction activities within 100 linear feet of any 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. Prior to operation, the applicant must provide the Planning Staff with the outcome of the test hole excavation that assesses the depth of the seasonal high water table. The report shall include any necessary modifications to the operation that arise due to the test hole findings.
2. The operation shall comply with all applicable federal, state, and local regulations.
3. A copy of the approved conditional use permit shall be provided to each contractor or company working at the site.
4. 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.
5. Material extraction shall be limited to the granite hill identified in the application material and depicted on the applicant's site plan.
6. The operation shall maintain the earthen berms and vegetative buffers as discussed in the application materials.

7. Vehicles and equipment shall be staged at designated locations, 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. Equipment shall be maintained to ensure noise reduction features, such as mufflers, are operating properly.
11. All site exits shall comply with standard Alaska Pollutant Discharge Elimination System requirements to minimize the off-site vehicle tracking of sediments and discharges to stormwater.
12. All track-out sediments from the site shall be removed from the right-of-way daily.
13. The operation shall employ dust mitigation techniques as described in the application to minimize dust impacts on surrounding areas.
14. All extraction activities, including activities that cause noise, dust, or traffic, shall be limited to 7 a.m. through 7 p.m., Monday through Saturday.
15. Blasting operations shall be limited to 10 a.m. to 5 p.m., Monday through Friday.

16. The operation shall comply with the maximum permissible sound level limits allowed in MSB 17.28.060 - Site Development Standards and MSB 8.52 - Noise, Amplified Sound, and Vibration.
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 excavations 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, 2044.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 6 day of May, 2024.

 for-  
C.J. Koan, Chair

ATTEST

  
CORINNE LINDFORS

Acting Planning Clerk

(SEAL)



YES: ALLEN, SHAWNE, FERNANDEZ, MCCABE

NO: Ø