

By: Mark Whisenhunt  
Introduced: March 7, 2016  
Public Hearing: March 21, 2016  
Action: Approved

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 16-12**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT IN ACCORDANCE WITH MSB 17.30 - CONDITIONAL USE PERMIT (CUP) FOR EARTH MATERIALS EXTRACTION ACTIVITIES, FOR THE EXTRACTION OF 1,300,000 CUBIC YARDS OF EARTH MATERIAL FROM A 20 ACRE SITE WITHIN an 80 acre PARCEL, LOCATED WITHIN TOWNSHIP 18 NORTH, RANGE 2 EAST, SECTION 3, TAX PARCEL B2 (18N02E03B002), SEWARD MERIDIAN.

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WHEREAS, an application for an Conditional Use Permit was submitted by Gary Robles (dba Moose Pit) to remove earth materials from 8870 North Buffalo Mine Moose Creek Road (MSB Tax ID# 18N02E03B002); located within Township 18 North, Range 04 West, Section 3, Seward Meridian; and

WHEREAS, it is the intent of the Matanuska-Susitna Borough 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, the Planning Commission has reviewed this application, associated materials, and the staff report, with respect to standards set forth in MSB 17.28; and

WHEREAS, the total footprint for earth material extraction activity is 20 acres; and

WHEREAS, earth material extraction activity is expected to begin in April and end in November annually, with the expected final year of extraction occurring in 2035; and

WHEREAS, an Alaska State Department of Revenue 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, an ADNR reclamation plan was accepted by ADNR for the project site, and a financial assurance was not required by ADNR for this project site; and

WHEREAS, Multi-Sector General Permit (MSGP) (AKR060000) has been issued by Alaska Department of Environmental Conservation for this site as it is fully self-contained and does not discharge into waters 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, the proposed site is located within the Buffalo-Soapstone Community Council planning area. A Community Council Comprehensive Plan has not been adopted for this area; and

WHEREAS, the Buffalo-Soapstone Community Council did not submit comments; and

WHEREAS, the property reverts to the guidelines established in the MSB Comprehensive Plan (2005 Update). The Plan does not specifically address earth material extraction activities; and

WHEREAS, the use is consistent with Goal (E-3): *Create an attractive environment for business investment*; Policy E3-3: Enhance the transportation infrastructure to reduce travel times and improve transport efficiencies and safety; and

WHEREAS, the Matanuska-Susitna Borough Economic Development Strategic Plan, Strategy 1G in part states: *"Promote the sustainable development of Mat-Su's natural resources for economic development. The MSB should support sustainable natural resource development and the natural resource industries with an emphasis on meeting local needs and local value-added product manufacturing, as well as ensuring compatibility with other*

*parts of the local economy. Indeed, natural resource development is a high priority for the Borough Assembly. The main natural resources in Mat-Su, in addition to agricultural land, include coal, gravel, timber, some gold mining and some metallic mineral potential.”; and*

WHEREAS, the use is consistent with Goal (CQ1-2): “*Manage activities affecting air, vegetation, water, and the land to maintain or improve environmental quality, to preserve fish and wildlife habitat, to prevent degradation or loss of natural features and functions, and to minimize risks to life and property.”; and*

WHEREAS, the applicant's reclamation plan shows the mining will be generally flat with 2H:1V slopes from adjacent terrain, preparing it for residential use upon completion of the mining operation; and

WHEREAS, according to the application material, earthen berms 10-feet in height will be constructed in combination with existing topography to screen the conditional use from North Buffalo Mine Moose Creek Road and adjacent parcels; and

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

WHEREAS, lands abutting the site contain undeveloped, industrial and one residential use; and

WHEREAS, according to the application material, the proposed project will mine down an existing hill to a usable flat surface with 2H:1V slopes to adjacent terrain; and

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

WHEREAS, according to the application material, slopes will be left at 2H:1V as required by MSB code 17.28.067(D); and

WHEREAS, according to the applicant, the operation will be watered as needed during operations as a dust control measure; and

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

WHEREAS, according to the site plan submitted with the application, the proposed mining site is setback 45 feet from North Buffalo Mine Moose Creek Road, 50 feet from the eastern property line, approximately 575 feet from the southern property line, and approximately 200 feet from the western property line; and

WHEREAS, the Alaska Department of Transportation has issued driveway permit #25375 for approval to construct access from the site to North Buffalo Mine Moose Creek Road; and

WHEREAS, according to the applicant, accessing is being constructed in a manner that will allow truck traffic from the

use to enter the road way without crossing into the oncoming lane; 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, and waterbodies within ½ 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, adjacent properties, and the generally anticipated location of the semi-permanent equipment; and

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

WHEREAS, the earth material will be available to the public at large. Therefore, trucks will enter North Buffalo Mine Moose Creek Road and may proceed north or south, depending on the customer location; and

WHEREAS, according to the applicant, the proposed business hours are 7am to 8pm, Monday through Saturday, and when necessary on Sundays; and

WHEREAS, the operation shall comply with the maximum permissible sound level limits allowed in MSB Code, per the requirements of MSB 17.28.060(A)(5)(a) - Site Development Standards and MSB 8.52 - Noise, Amplified Sound, and Vibration; and

WHEREAS, noise levels exceeding the levels in MSB 17.28.060(A)(5)(a) are prohibited; and

WHEREAS, the applicant is not proposing to use illumination devices.

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 16-12:

1. The application meets the criteria to qualify for a Conditional Use Permit for Earth Material Extraction Activities (MSB 17.30.050(A)); and
2. All of the requirements to demonstrate compliance with state and federal law have been met (17.30.055(A)); and

3. The conditional use is not inconsistent with the applicable comprehensive plan (MSB 17.30.60(A)(1)); and
4. The proposed use with conditions, will not detract from the value, character and integrity of the surrounding area (MSB 17.30.060(A)(2)); and
5. The applicant has met all of the requirements of this chapter. (MSB 17.30.060(A)(3)); and
6. The proposed use with conditions, will not be harmful to the public health, safety, convenience and welfare (MSB 17.30.060(A)(4)); and
7. Lot area, buffers or other safeguards are being provided (MSB 17.30.60(A)(5)); and
8. 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)); and
9. Phases of proposed mining activities, 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 related to the conditional use are anticipated to be located within the required setbacks (MSB 17.28.60(A)(2)); and

10. 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)); and
11. Earthen berms and natural topography will be used to meet the visual screening measures (MSB 17.28.60(A)(4)); and
12. The proposed use with conditions, meets the noise standards in accordance with MSB 17.28.060(A)(5); and
13. The applicant meets lighting standards in accordance with MSB 17.28.060(A)(6); and
14. Earth materials extraction activities will not take place within 100-feet of any identified wetlands or waterbodies in accordance with MSB 17.28.060(A)(7); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby finds this application does meet the standards of MSB 17.30.060 and does hereby approve the conditional use permit for the earth material extraction activities with the following conditions:

1. The operation shall comply with all other applicable federal, state, and local regulations.
2. 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.
3. Material extraction shall be limited to the areas identified in the applicant's site plan with the revision date of January 18, 2016.
4. Visual screening shall be achieved and maintained by using a combination of earthen berms 10-feet in height and maintaining the topographical buffer as described in the application material.
5. Prior to operating, the earth material extraction boundary shown in the applicant's site plan with the revision date of January 18, 2016, shall be located and marked on the property by a surveyor licensed to operate in the State of Alaska. Said markers shall be maintained in a visible condition to ensure extraction activities stay within the extraction area boundary.
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. Said markers shall be maintained in a visible condition through the life of this permit

7. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected for leaks daily.
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. All 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 beginning any mining operations, the ADOT driveway permit for access to the site shall be finalized and a copy shall be provided to the Matanuska-Susitna Borough Planning Department.
12. Dust control shall be achieved at the gravel pit, rock screener, crusher, and roads as necessary.

13. The operation shall comply with the maximum permissible sound level limits allowed in MSB Code, per the requirements of MSB 17.28.060(A)(5)(a) - Site Development Standards and MSB 8.52 - Noise, Amplified Sound, and Vibration.
14. All extraction activities, including all activities that cause noise, dust, or traffic, shall be limited to 8am to 7pm, Monday through Saturday, except asphalt, rock crushing, and screening activities are limited to 8am to 5pm, Monday through Friday.
15. If cultural remains are found during material extraction activities, the MSB Cultural Resources Division 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 reclamation information is updated with the State of Alaska, Department of Natural Resources, the applicant shall provide a copy of the updated information to the MSB Planning Department.
20. 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.
21. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2035.
22. Prior to gravel extraction activities, the applicant shall resubmit a revised site plan that provides dimensions of the project boundary and clarifies proposed vegetative buffering that includes all hatched areas outside of phased gravel extraction areas.

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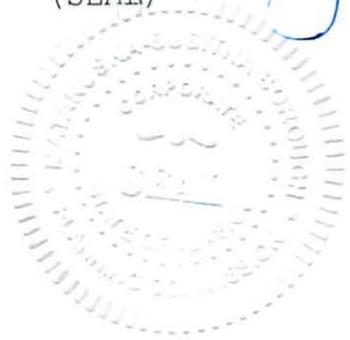
ADOPTED by the Matanuska-Susitna Borough Planning Commission this 4<sup>th</sup> day of April, 2016.

  
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JOHN KLAPPERICH, Chair

ATTEST

  
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MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Klapperich, Andersons, Healy, Vague, Kendig, Adams, and Rauchenstein*  
NO: