

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

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 24-04**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF APPROXIMATELY 40,000 CUBIC YARDS OF EARTH MATERIAL FOR 60 YEARS WITHIN A 40-ACRE PARCEL LOCATED AT 9002 NORTH BUFFALO MINE-MOOSE CREEK ROAD, TAX ID# 18N02E03B005.

WHEREAS, Jim Baxter of Northern Gravel and Trucking submitted a conditional use permit application to extract earth material at 9002 North Buffalo Mine-Moose Creek Road, Tax ID# 18N02E03B005; 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 materials, a reclamation plan has been developed as required by the Alaska State Department of Natural Resources (ADNR), pursuant to A.S. 27.19; and

WHEREAS, the applicant provided evidence of acceptance from ADNR (LAS 34868) for the reclamation plan and payment of financial assurance to the state bonding pool; and

WHEREAS, according to the application material, HDL Engineering performed a stormwater evaluation and noted in their report dated August 7, 2023, that the site drains inward from the south, west, and east to a central discharge path along the site access road in the north-central part of the property. Stormwater discharges into a low-lying area where it infiltrates into the ground or evaporates; and

WHEREAS, John Nolin, the neighbor and owner of Tax ID #18N02E03B004, acknowledges that stormwater from the subject property drains towards a low-lying area on his property; and

WHEREAS, according to the application material, the site does not discharge stormwater into the waters of the U.S., including jurisdictional wetlands. Therefore, obtaining Alaska Pollutant Discharge Elimination System (APDES) coverage for site operation is unnecessary; and

WHEREAS, the applicant provided an Alaska Department of Environmental Conservation (ADEC) letter dated June 19, 2023, granting this facility exclusion from permitting under the terms and conditions imposed by the ADEC's Multi-Sector General Permit (MSGP); and

WHEREAS, according to the application material, HDL Engineering conducted a wetland determination and concluded that the mapped wetlands do not meet all the criteria required to be considered wetlands. Therefore, these areas would not come under the jurisdiction of the United States Army Corps of Engineers (USACE) according to the current definition of waters of the U.S. This is because there is no direct surface water connection to any other waters of the U.S; 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 within any identified wetlands, lakes, streams, or other water bodies; and

WHEREAS, the subject parcel is located within the inactive Buffalo Mine/Soapstone Community Council boundaries. The Buffalo Mine/Soapstone 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 2014. A new permit is required to continue the operation; and

WHEREAS, according to the application material, the operation will maintain a minimum 10-foot-tall berm on the north, west, and south boundaries when mining within 300 feet of the boundary line; and

WHEREAS, according to the application material, where the property's topography allows, excavation equipment will operate at an elevation at least ten feet below the surrounding grade, providing for both visual screening and noise mitigation; and

WHEREAS, according to the application material, material processing and staging will remain in the northern portion of the proposed use; and

WHEREAS, the closest residential structure is approximately 1000 feet north of the proposed use; and

WHEREAS, according to the application material, the truck routes will begin from the driveway onto East Mikes Lane. From there, the trucks will head east towards North Buffalo Mine-Moose Creek Road, then south towards the Glenn Highway intersection. Depending on the destination, the trucks will either turn north or south; and

WHEREAS, according to the application material, all excavation equipment and trucks have mufflers installed; and

WHEREAS, according to the application material, the proposed hours of operation are 8:00 a.m. to 8:00 p.m., Monday through Saturday; and

WHEREAS, according to the application material, water trucks will be utilized to control dust during operations; 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 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 the application material, a water monitoring well is installed to monitor groundwater levels; and

WHEREAS, according to the application material, the operation and reclamation plan will level the site for potential residential subdivision development; and

WHEREAS, to the east and northeast of the subject parcel is an 80-acre parcel owned by the applicant, which has a current Earth Materials Extraction Conditional Use Permit (CUP), Permit #10237. The 40-acre parcel directly to the north contains a residential

use and is also bisected by the access road to the subject parcel;
and

WHEREAS, the 160-acre parcel to the south and southeast of the subject parcel is undeveloped. To the west is a 480-acre undeveloped parcel owned by the State of Alaska. Further northwest are residential use lots sized one to 40 acres. Further north and east are undeveloped parcels within the Matanuska Valley Moose Range; and

WHEREAS, the subject parcel is 40 acres and is currently developed as an earth materials extraction site; and

WHEREAS, according to the application material, Northern Gravel & Trucking maintains East Mikes Lane from the operation's driveway to North Buffalo Mine-Moose Creek Road; and

WHEREAS, the State of Alaska Department of Transportation maintains Buffalo Soapstone-Moose Creek Road; and

WHEREAS, according to the application material, water for the water trucks is obtained from nearby creeks through a Temporary Water Authorization #A2023-102 issued by the Alaska Department of Natural Resources (ADNR) on January 1, 2024; and

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

WHEREAS, according to the application material, material processing and staging will remain in the northern portion of the proposed use; and

WHEREAS, according to the application material, the site does not discharge stormwater into the waters of the U.S., including jurisdictional wetlands; and

WHEREAS, according to the site development plan, the proposed permanent and semi-permanent structures associated with the proposed use meet setback requirements; 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 HDL Engineering report, the mapped wetland areas do not meet all wetland determination criteria as defined by U.S. Army Corps of Engineers (USAC) regulation at 33 CFR 328.3(c)(1); and

WHEREAS, the record contains a site plan that shows the earth materials extraction location, the phases of mining within the subject parcel, and the location of the material processing equipment, office, settling pond, scale house, and scales; 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 operation does not anticipate generating traffic in excess of 100

vehicles during the morning or afternoon peak hour or more than 750 vehicles per day; and

WHEREAS, according to the application material, earthen berms, vegetation, and below-grade excavation operations will be used as noise mitigation and visual screening; and

WHEREAS, the earth materials extraction operation on the subject parcel is not visible from the Glenn Highway; and

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

WHEREAS, according to the application materials, when lighting is necessary, portable light plants will be used that will 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 24-04:

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 applicant 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 retaining vegetative buffers and constructing earthen berms, will ensure that sounds 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. 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 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 40-acre area identified in the application material and depicted on the applicant's site plan.
5. The operation shall maintain the earthen berms and vegetative buffers as discussed in the application materials.
6. Vehicles and equipment shall be staged at designated locations, and all equipment shall be inspected for leaks at the end of each day.
7. 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.
8. Any hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated.

9. Equipment shall be maintained to ensure noise reduction features, such as mufflers, are operating properly.
10. 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.
11. All track-out sediments from the site shall be removed from the right-of-way daily.
12. The operation shall employ dust mitigation techniques as described in the application to minimize dust impacts on surrounding areas.
13. The section of Mikes Lane that traverses from the driveway of the extraction site to Buffalo Mine-Moose Creek Road shall be maintained by the permittee during active extraction to keep the road surface free from washboard conditions and potholes.
14. 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.
15. All extraction activities, including activities that cause noise, dust, or traffic, shall be limited to Monday through Saturday, 8:00 a.m. to 8:00 p.m.

16. If cultural remains are found during material extraction activities, the MSB Planning Department shall be contacted immediately so the remains can be documented.
17. A four-foot vertical separation shall be maintained between all excavations and the seasonal high water table.
18. 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.
19. The operation shall comply with the reclamation standards of MSB 17.28.067.
20. 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.
21. Exterior lighting shall 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 have 150 watts, or more wattage shall have downward directional shielding.

22. Authorization for earth material extraction activities approved by this Conditional Use Permit shall expire on December 31, 2084.

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


C.J. Koan, Chair

ATTEST

CORINNE LINDFORS,

Acting Planning Clerk

(SEAL)



SHANE
ALLEN
YES: FERNANDEZ
MCCABE
NO: \emptyset GLENN