

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2026-12
KENAI RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site under Type I and II Endorsements for the parcel described as T 7N R 12W SEC 35 SEWARD MERIDIAN KN E1/2 NE1/4 NW1/4, Kenai Recording District, Third Judicial District, State of Alaska.

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel, or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.29 provides that a conditional land use permit (CLUP) is required for earth materials extraction, which includes Type I and II Endorsements for earth materials extraction over 5 acres and material conditioning or processing, respectively; and
- WHEREAS,** on December 17, 2025, permittee M&M Gravel LLC submitted to the Borough Planning Department a CLUP application on KPB Parcel 01516017, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on January 21, 2026, to the 16 landowners or leaseholders within 1,000 feet of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the project was posted in accordance with KPB 21.25.060; and
- WHEREAS,** this item was presented at the February 5, 2026 meeting of the Nikiski Advisory Planning Commission who recommended _____;
- WHEREAS,** a public hearing was held at the Monday, February 9, 2026, meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the land use and operations are described and shall be conducted on KPB Parcel Number(s) 01516017, T 7N R 12W SEC 35 SEWARD MERIDIAN KN E1/2 NE1/4 NW1/4. The total area to be disturbed under this activity is approximately 19.5 acres.

Section 2. Findings of Fact:

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel, or material site once a CLUP has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a CLUP is required for material extraction that disturbs 5 or more cumulative acres, processes material, or extracts below the water table.
4. KPB 21.29.005 states that the purpose of KPB 21.29 is to provide a land use permitting process to regulate the operation, scope, and duration of earth materials extraction and processing within the borough while promoting the public health, safety, and general welfare of the KPB, including

the health of aquatic systems that support salmon. It is the further purpose of KPB 21.29 to promote compatible, orderly development.

5. This item was presented at the February 5, 2026 meeting of the Nikiski Advisory Planning Commission who recommended _____
6. A public hearing of the Planning Commission was held on Monday, February 9, 2026, and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060, KPB 21.11, and KPB 1.08.180(B).
7. The 2019 KPB Comprehensive Plan outlined the need to update KPB 21.29 to address recurring land use conflicts for gravel extraction. A rewrite of KPB 21.29 was adopted by the KPB Assembly in October 2023.
8. Goal 2 of the 2019 KPB Comprehensive Plan sets out the objective to proactively manage growth to provide economic development opportunities on the KPB while preserving what residents and visitors value about the area's natural features. It further sets out objectives that KPB should establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems, and support individual land use freedoms.
9. The proposed cumulative disturbed area within the parcel is approximately 19.5 acres, including the buffer areas.
10. The permittee has provided a reclamation plan that is consistent with KPB 21.29.
11. The application indicates that groundwater is greater than 25 feet below the existing grade, and the lowest depth of excavation will be approximately 23 feet below the existing grade.
12. The site plan indicates that there is one (1) monitor well located within 300 feet of the proposed excavation area that is associated with a nearby industrial site, and no wells are located within 100 feet of the proposed excavation area.
13. The permittee has proposed a 50-foot vegetated buffer on all sides of the material site. This buffer will be replaced with a 6-foot earthen berm when excavation activities near the 50-foot buffer delineation.
14. Ingress and egress to the site will be located on the northern property line, with the material haul route traveling west within the Section Line Easement to Robert Walker Lane. From there, the haul route will continue west to the Kenai Spur Highway.
15. The permittee has indicated that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the north, east, and south parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the west property boundary. Earth materials crushing equipment and blasting may only be operated between 8:00 am and 7:00 pm AKST. Additionally, the site plan indicates processing activities will be outside the 1,000-foot Special Impact Zone.

Section 3. Permit Conditions

Requirements Prior to Excavation

Prior to beginning excavation activities, the following conditions must be implemented and proof provided to the Planning Department:

1. The permittee must install and maintain one (1) observation well at least two (2) feet below the lowest level of excavation, per 10 acres of excavated area. Elevations will be established for: top of well casing, ground elevation, and groundwater in the well, if any.
2. The permittee must have the area of excavation, buffers, and any easements or rights-of-way abutting the proposed CLUP area staked at sequentially visible intervals. Field verification and

- staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.
3. Within 90 days of the issuance of the Notice of Decision and prior to excavation, the permittee must provide proof of bonding related to the reclamation plan that was submitted with the application. Failure to do so will render this permit invalid. The bond must be maintained for the life of the permit.
 4. The permittee must obtain an Alaska Department of Natural Resources (ADNR) temporary use authorization if the permittee intends for water to leave the site.
 5. The permittee must obtain a mining permit as required by ADNR if extraction activities are to take place on state land.
 6. The permittee must submit a notice of intent for a construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Alaska Department of Environmental Conservation pursuant to the Alaska Pollutant Discharge Elimination System requirements.
 7. The permittee must obtain a United States Army Corps of Engineers (USACE) permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity requires USACE approval.
 8. The permittee must submit an application or obtain a permit from any other applicable state or federal agency with regulatory authority over mining activities or earth materials extraction.

General Conditions

9. The permittee must reclaim the site as described in the reclamation plan for this parcel.
10. The permittee must conduct all activity in compliance with state or federal regulations governing the items listed in KPB 21.29.045(B)(1-3). Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement.
11. The permittee must operate in accordance with the application and site plan as approved by the Planning Commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a CLUP modification is required in accordance with KPB 21.29.070.
12. This CLUP is subject to annual review by the Planning Department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the CLUP may be revoked pursuant to KPB 21.50 if the permittee fails to comply with the provisions of this chapter or the conditions of the permit.
13. Once effective, this CLUP is valid for five years. A renewal application must be submitted at least 90 days prior to the expiration of the CLUP.
14. At the time of CLUP renewal, every 5 years, the permittee must have all missing boundary stakes replaced before the renewal certificate can be issued. Field staking will require the services of a professional land surveyor.
15. Failure to comply with any of the conditions is a violation of the CLUP and is subject to enforcement pursuant to KPB Chapter 21.50.
16. This CLUP is not transferable unless a written transfer request is submitted to the Planning Department, an inspection is performed, and approval is issued. Note that CLUP transfers cannot be approved if the permittee is in violation of its CLUP conditions or KPB code.

Buffer Zone

17. The permittee must maintain the buffers between the area of excavation and the parcel boundaries as shown in the approved site plan and application. The permittee will maintain a

minimum 50-foot vegetated buffer along all parcel boundaries, to be replaced by a 6-foot high earthen berm when the excavation nears the 50-foot buffer delineation. In any location where the vegetated buffer has been denuded, the applicant will place a 6-foot earthen berm.

18. The permittee must not allow buffers to alter natural drainage features.

19. The permittee must not allow a buffer to overlap an easement.

Water Source Separation

20. The permittee must not extract material below or within two feet of the seasonal high-water table.

21. The permittee must not conduct off-site excavation dewatering.

22. The permittee must not extract material within 100 linear feet of any water source existing prior to original CLUP issuance, as defined in KPB 21.29.130.

Roads

23. Operations that impact borough roads must be conducted in accordance with the requirements and remedies of KPB 14.40.

Dust Control

24. The permittee must provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.

Hours of Operation

25. The permittee must conduct material extraction activities, including equipment operation, between the hours of 6:00 a.m. and 9:00 p.m. Alaska Standard Time (AKST).

Groundwater Elevation

26. Prior to excavation, the permittee must install and maintain at least one (1) observation well at least two (2) feet below the lowest level of excavation, one (1) well per 10 acres of excavated area. Elevations will be established for: top of well casing, ground elevation, and groundwater in the well, if any.

Setback

27. Material site excavation areas must be 250 feet from the property boundaries of any existing public school ground, private school ground, college campus, licensed childcare facility, multi-purpose senior center, assisted living home, or licensed health care facility.

Permit Boundaries

28. The permittee must have the area of excavation, buffers, and any easements or rights-of-way abutting the proposed permit area staked at sequentially visible intervals. Field verification and staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.

Fuel Storage

29. The permittee must ensure that fuel storage containers larger than 50 gallons will be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller will not be placed directly on the ground, but will be stored on a stable impermeable surface. Double-walled fuel storage tanks are allowed for secondary containment.

Ingress and Egress

30. Ingress and egress to the site will be located on the northern property line, with the material haul route traveling west within the Section Line Easement to Robert Walker Lane. From there, the haul route will continue west to the Kenai Spur Highway.

Surface and Groundwater Protection

31. Surface and groundwater protection measures are not required for this site as there are no wetlands or surface waters within, or adjacent to, the property boundaries.
32. The permittee must not excavate in a way that causes off-site dewatering.

Public Campgrounds

33. There are no public campgrounds within 1,000 feet of the site operations, and therefore, no added conditions apply.

Type II Endorsement: Processing

34. Setback. Equipment that conditions or crushes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement or allow a lesser distance in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
35. The applicant requests a waiver from the 300-foot processing distance on the west property boundary.
36. Hours of Operation. Earth materials crushing equipment and blasting may only be operated between 8:00 a.m. and 7:00 p.m. AKST.

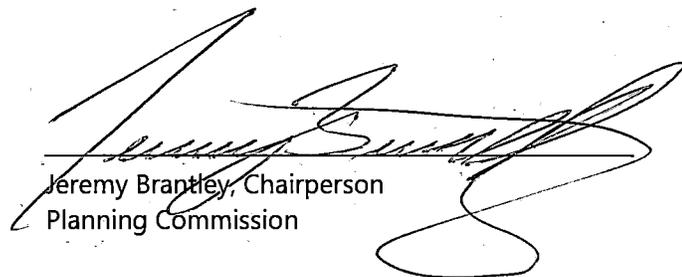
Section 4. Based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the four standards found in KPB 21.29.040:

CONCLUSIONS OF LAW

1. That the use is not inconsistent with the applicable comprehensive plan. Findings 4, 6-7, and Conditions 4-8, 10-12, 14-16, and 19 meet this standard.
2. That the use will not be harmful to the public's health, safety, and general welfare, or the health of anadromous waterbodies. Findings 4, 10-14, and Conditions 1-2, 4, 6-7, 10-18, and 20-36 meet this standard.
3. That sufficient setbacks, buffer zones, and other safeguards, including measures to mitigate blast overpressure impacts and impacts to groundwater flow paths, are being provided consistent with this chapter. Findings 4, 10-14, and Conditions 1-2, 4, 11-15, 17-18, 20-22, and 24-36 meet this standard.
4. That the use provides for a reclamation plan consistent with KPB 21.29. Findings 9 and Conditions 3, 4, 11-13, and 15 meet this standard.

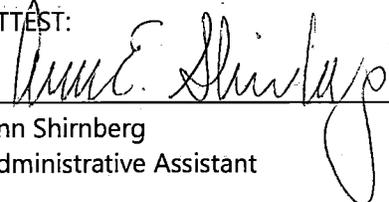
Section 5. Therefore, permittee, M&M Gravel LLC, is granted a conditional land use permit to operate a sand, gravel, or material site under a Type I and II Endorsements for material extraction over 5 acres and material conditioning or processing, respectively. The permittee must also reclaim the site to a stable condition upon completion of the project. The Planning Commission authorizes the issuance of a conditional land use permit pursuant to this resolution.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 9TH DAY OF FEBRUARY, 2026.



Jeremy Brantley, Chairperson
Planning Commission

ATTEST:



Ann Shirnberg
Administrative Assistant