

## **E. NEW BUSINESS**

**6. CLUP; Materials Extraction; PC RES 2023-08**

**Legal Description: T03S R14W SEC4 Seward Meridian HM  
2006036, Hoffman Acres Lowell Field Phase 1, Lots 1, 2, 3, 4**

**Applicant: Richard Gregoire / Landowner: Jerold Vantrease  
Happy Valley Area**

# Conditional Land Use Permit for a Material Site

## STAFF REPORT

PC MEETING: April 10, 2023

**Applicant:** Richard Gregoire  
**Landowner:** Jerold Vantrease  
**Parcel Number:** 159-360-09, 10, 11, 12  
**Legal Description:** T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES  
LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4  
**Location:** Mile 1.4 of Tim Ave, Ninilchik, Alaska 99639

**BACKGROUND INFORMATION:** The applicant wishes to obtain a Conditional Land Use Permit for material extraction and processing on a portion of the parcels listed above.

The submitted application and site plan indicates that 4 contiguous parcels be combined under one permit. The ingress and egress of the parcels will utilize Tim Ave a Kenai Peninsula Borough Road. The material haul route will then travel East on Tim Ave. to the Sterling Highway a State Maintained facility.

The site plan and application proposes the following buffers:

North: 6-foot-high earthen berm  
South: 6-foot-high earthen berm  
East: 6-foot-high earthen berm  
West: 6-foot-high earthen berm

**Note:** The applicant proposes to excavate the material under the earthen berm in 100-foot sections prior to its construction.

The subject property is bordered on the North side by the 66-foot-wide Tim Ave. On the East side of the property is the 120-foot undeveloped right of way for Jacob Samuel St. To the South is a large undeveloped lot that is privately owned. On the Westside of the property is the 150-foot-wide airstrip owned by Hoffman Acres Homeowners association Inc.

The site plan completed by McLane Consulting Inc., claims ground water is approximately 16 feet below the existing surface based on 9 test holes. The application states that the proposed depth of material excavation will equal 14-feet. Plan notes state that there are no wet lands or surface waters within the property boundaries. A Northern Central area will be maintained as a processing, staging and stockpile area. This processing area is at least 300-feet from the North, East and South property lines. The applicant requests a waiver from the 300-foot processing distance on the West side of the property due to the approximately 150-foot-wide adjacent airstrip. The applicant also requests a buffer waiver to remove the required buffers from between Lots 1, 2, 3, and 4. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates 1 well located within 300-feet from the proposed use area.

The application indicates that a permit modification to enter the water table will be submitted in the future. Accompanying notes state groundwater monitoring wells will be installed and a ground water study will be completed as weather permits.

Plan notes state that final reclamation will include a float plane basin with appurtenances. Grading and re-contouring will incorporate strippings, overburden, and topsoil to a condition that allows for the re-establishment of natural vegetation. Slopes steeper than 2:1 will be seeded. The application also states that 2-5 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends.

The applicant estimates a life span of 15 years for the site and an annual quantity will be about 40,000 cubic yards. This amount of material will make the site eligible for a Small Operation Exemption pursuant to AS 27.19.050 and therefore bonding will not be required.

**PUBLIC NOTICE:** Public notice of the application was mailed on March 22, 2023 to the 123 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was also sent to the postmaster covering the Happy Valley area and requested that the notice be placed in the nearest Post Office.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on March 6, 2023.

### **ATTACHMENTS**

- Conditional Land Use Permit - application and associated documents
- Aerial map
- Ownership map
- Lidar map

### **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 permit 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. On March 6, 2023 the applicant, Richard Gregoire, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 159-360-09, 10, 11, 12, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
5. The proposed cumulative disturbed area within the parcel is approximately 52 acres.
6. To meet material site standard 21.29.040(A)(1), the proposed activity must protect against lowering of water sources serving other properties by complying with required permit conditions KPB 21.29.050(A)(4), Water Source Separation; KPB 21.29.050(A)(5), Excavation in The Water Table; KPB 21.29.050(A)(6), Waterbodies.
7. The application indicates that the seasonal high-water table is 16-feet below the surface.
8. The applicant's intended depth of excavation will be 14-feet below the surface.
9. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
10. The applicant is required not to dewater either by pumping, ditching or some other form of drainage.
11. The site plan indicates that there are no wells located within 100 feet of the proposed excavation and 1 well located within 300 feet.
12. The application states that work is not anticipated to be completed in the water table at this time.

13. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
14. To meet material site standard 21.29.040(A)(2), the proposed activity must be conducted in a manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050 (A)(1), Parcel Boundaries; KPB 21.29.050(A)(2), Buffer Zone; KPB 21.29.050(A)(7), Fuel Storage.
15. The site plan indicates the property boundary was flagged at visible intervals.
16. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.These buffers shall not overlap an easement.
17. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
18. To meet material site standard 21.29.040(A)(3), the proposed activity must be conducted in a manner which minimizes the off-site movement of dust by complying with required permit condition KPB 21.29.050(10), Dust Control.
19. The applicant is required to provide dust control by the use of water and calcium chloride.
20. The site plan indicates that an access will be constructed onto Tim Ave. and the haul route will then travel East to the Sterling Highway.
21. To meet material site standard 21.29.040(A)(4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with required permit conditions KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.
22. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.These buffers shall not overlap an easement.
23. The applicant indicates 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 to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
24. To meet material site standard 21.29.040(A)(5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.

25. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.These buffers shall not overlap an easement.
26. To meet material site standard 21.29.040(A)(6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
27. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
28. The bonding requirement of KPB 21.29.050(12)(b) will not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
29. A public hearing of the Planning Commission was held on April 10, 2023 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

### **STAFF RECOMMENDATION**

In reviewing the application staff has determined that the six standards contained in KPB 21.29.040 will be met and recommends that the Planning Commission approve the conditional land use permit with listed conditions, and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway, roadway and entry permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit.

### **PERMIT CONDITIONS**

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.These buffers shall not overlap an easement.
3. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
4. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.

8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall 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 shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
17. The permittee shall 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 permit modification is required in accordance with KPB 21.29.090.
18. This conditional land use permit 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 planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
19. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

**NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A “party of record” is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)**

END OF STAFF REPORT



# KPB 21.29

## Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

**I. APPLICANT INFORMATION**  New  Modification

Applicant Richard Gregoire Landowner Jerold Vantrease  
Address PO Box 2372 Address PO Box 1730  
City, State, Zip Homer, Alaska 99603 City, State, Zip Homer, Alaska 99603  
Telephone 907-235-1588 Cell 907-399-1526 Telephone \_\_\_\_\_ Cell \_\_\_\_\_  
Email gregoireconstruction@gmail.com Email \_\_\_\_\_

**II. PARCEL INFORMATION**

KPB Tax Parcel ID# 15936009 thru 15936012 Legal Description T3S R14W Section 4 Seward Meridian  
Hoffman Acres Lowell Field Phase 1 Lot 1, Lot 2, Lot 3 and Lot 4

If permit is not for entire parcel, describe specific location within parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".

**III. APPLICATION INFORMATION**  "Check" boxes below to indicate items included.

- \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
  - parcel boundaries
  - location of boundary stakes within 300 ft. of excavation area (to be in place at time of application)
  - proposed buffers, or requested buffer waiver(s)
  - proposed extraction area(s), and acreage to be mined
  - proposed location of processing area(s)
  - all encumbrances, including easements
  - points of ingress and egress
  - anticipated haul routes
  - location/depth of testholes, and depth to groundwater, if encountered
  - location of all wells within 300 ft. of parcel boundary
  - location of water bodies on parcel, including riparian wetlands
  - surface water protection measures
  - north arrow and diagram scale
  - preparer's name, date and seal
- Site Plan Worksheet (attached)
- Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

**Please Note: If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)**

**IV. CERTIFICATION STATEMENT**

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

[Signature] 3/3/2023 [Signature] 03/03/2023  
Applicant Date Landowner (required if not applicant) Date



## Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant Gregoire Owner Vantrease

KPB Tax Parcel ID # 15936009 thru 15936012 Parcel Acreage 50.6

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 50.6 acres
2. Material to be mined (check all that apply):  gravel  sand  peat  other(list) \_\_\_\_\_
3. Equipment to be used (check all that apply):  excavation  processing  other \_\_\_\_\_
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

- |   |  |                                       |                                       |                            |                            |                                       |                                       |                                       |                                       |                            |                            |                            |                            |                            |                            |                            |                            |
|---|--|---------------------------------------|---------------------------------------|----------------------------|----------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| <input type="checkbox"/> 50 ft. of natural or improved vegetation<br><input checked="" type="checkbox"/> minimum 6 ft. earthen berm<br><input type="checkbox"/> minimum 6 ft. fence<br><input type="checkbox"/> other _____ | <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input checked="" type="checkbox"/> N</td> <td><input checked="" type="checkbox"/> S</td> <td><input checked="" type="checkbox"/> E</td> <td><input checked="" type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> </table> | <input type="checkbox"/> N            | <input type="checkbox"/> S            | <input type="checkbox"/> E | <input type="checkbox"/> W | <input checked="" type="checkbox"/> N | <input checked="" type="checkbox"/> S | <input checked="" type="checkbox"/> E | <input checked="" type="checkbox"/> W | <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W | <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W |
| <input type="checkbox"/> N  | <input type="checkbox"/> S   | <input type="checkbox"/> E            | <input type="checkbox"/> W            |                            |                            |                                       |                                       |                                       |                                       |                            |                            |                            |                            |                            |                            |                            |                            |
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| <input type="checkbox"/> N  | <input type="checkbox"/> S   | <input type="checkbox"/> E            | <input type="checkbox"/> W            |                            |                            |                                       |                                       |                                       |                                       |                            |                            |                            |                            |                            |                            |                            |                            |

5. Proposed depth of excavation: 14 ft. Depth to groundwater: 16 ft.
6. How was groundwater depth determined? Testholes at time of platting
7. A permit modification to enter the water table will be requested in the future:  Yes  No
8. Approx. annual quantity of material, including overburden, to be mined: +/- 40,000 cubic yards
9. Is parcel intended for subdivision?  Yes  No
10. Expected life span of site? 15 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)  
 Phase I consists of the northern 25 acres to be excavated and reclaimed over approximately 5 years. Phase I is the southern 25 acres to be excavated and reclaimed after. Development of both phases will begin at the northerly limits and proceed south.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)
  - A. \_\_\_\_\_
  - B. \_\_\_\_\_
  - C. \_\_\_\_\_

## Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a "non-invasive" plant species.
3. Total acreage to be reclaimed each year: 2-5 acres
4. List equipment (type and quantity) to be used in reclamation:

Excavator, loader, dozer, hydroseeder

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5. Describe time schedule of reclamation measures:

Reclamation will be completed on an annual basis prior to fall freeze-up. Areas to be seeded will be seeded prior to August 15th annually.

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6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan –  **"check" all that apply to your plan.**

Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

**ADDITIONAL APPLICATION COMMENTS**

(Please indicate the page and item # for which you are making additional comments.)

Site access is from KPB maintained gravel road, Tim Avenue to Sterling Highway.

The proposed CLUP is comprised of 4 adjacent parcels. Buffer waivers are requested for the interior lot lines of the site.

Proposed buffers are 6' berms on all site boundaries. It is proposed that marketable material be extracted from under the berm area prior to construction of the berm. This will be conducted in sections not to exceed 100' length.

Due to the width of the property, a processing setback waiver is being requested for the west property line that abuts a gravel airstrip which is part of a recognized airport. The processing area will be maintained for the life of the CLUP.

The Applicant plans to install monitoring wells when weather permits and begin a groundwater study. If the hydrology allows, an MCLUP will be submitted to mine below groundwater. The ultimate reclamation of the material site would be development of a float plane basin with appurtenances. This development plan aligns with the subdivision development as it is immediately east of a platted air strip.



# CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

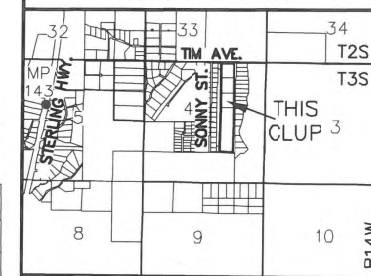
APPLICANT / PROPERTY OWNER:  
GREGOIRE CONSTRUCTION  
P.O. BOX 2372  
60866 EAST END ROAD  
HOMER AK, 99603



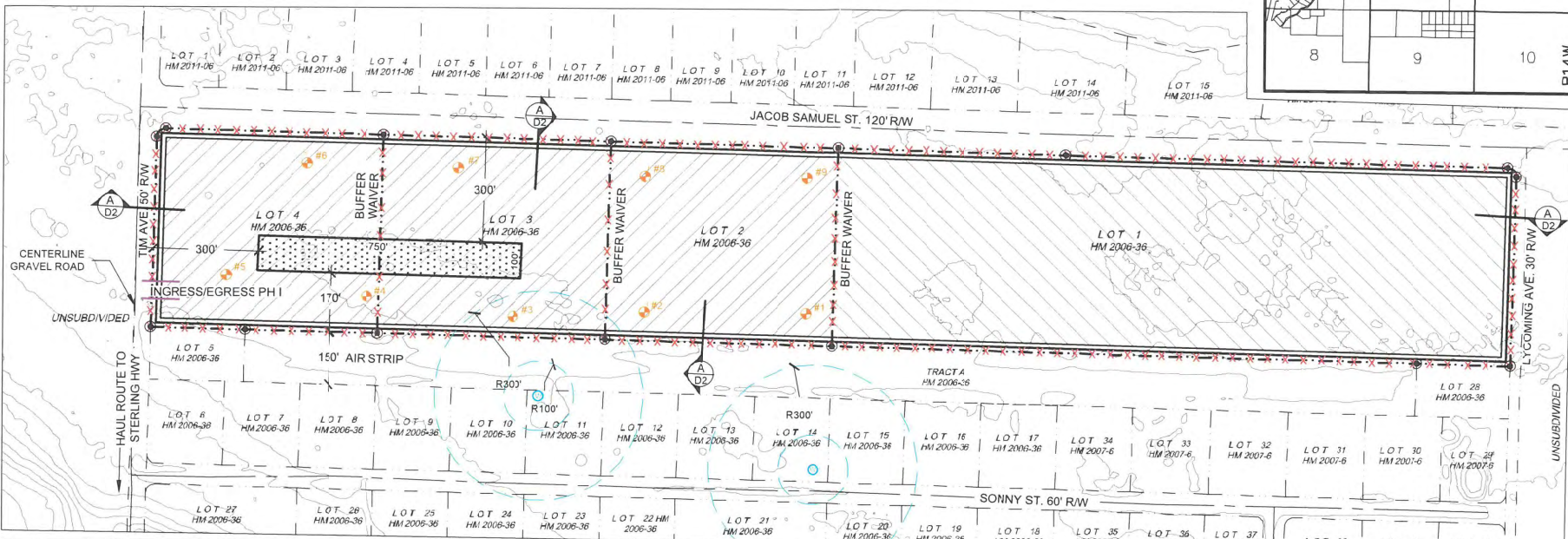
SCALE  
0 300 600  
FEET

## VICINITY MAP

Scale 1" = 1 Mile



REV	DATE	DESCRIPTION
1	1/25/2022	CLIENT REVIEW



### CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS KPB PARCELS 15936009, 15936010, 15936011 AND 15936012, LOCATED IN TOWNSHIP 3 SOUTH, RANGE 14 WEST, SECTION 4, SEWARD MERIDIAN, ALASKA.
2. THE PROPERTY IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED PRIMARY INGRESS/EGRESS IS TO TIM AVENUE.
4. THE PREFERRED BUFFERS ARE 6' BERM ON ALL SIDES. IT IS PROPOSED THAT THE MATERIAL UNDER THE BERM BE EXCAVATED IN 100' SECTIONS PRIOR TO CONSTRUCTING THE BERM.
5. THE NORTHERN CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING, STAGING AND STOCKPILE AREA. THIS PROCESS AREA IS GREATER THAN 300' FROM THE NORTH, EAST AND SOUTH PROPERTY LINES. IT IS 170' FROM THE WEST PROPERTY LINE WHICH ADJOINS A 150' WIDE GRAVEL AIR STRIP.
6. THERE ARE NO WELLS LOCATED 100' OF THE EXCAVATION AREA. THERE IS ONE WELL LOCATED WITHIN 300' OF THE EXCAVATION AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED AT THIS TIME.
7. THERE ARE NO WETLANDS OR SURFACE WATERS.
8. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION OF ANY SITE RUN-OFF BY WAY OF PHYTOREMEDIATION.
9. TEST HOLES WERE EXCAVATED AND LOGGED IN NINE (9) LOCATIONS BY THE PREVIOUS PROPERTY OWNER AND SOILS LOGS WERE PROVIDED TO THE APPLICANT. TEST HOLES WERE EXCAVATED TO 18' BELOW EXISTING GROUND.
10. GROUNDWATER WAS ENCOUNTERED AT APPROXIMATELY 16' BELOW EXISTING GROUND. MONITOR WELLS HAVE NOT BEEN INSTALLED AT THIS TIME BUT ARE PLANNED.
11. THE PROPERTY CORNERS WERE LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS, AS SHOWN ON THE EXHIBIT.
12. CLUP RECLAMATION WILL INCLUDE RECONTOURING USING STRIPPINGS, OVERBURDEN, WASTE IMPORT AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION. SLOPES STEEPER THAN 2:1 WILL BE SEEDDED.

### PHASING

	PHASE I PROCESSING AREA 1.2 ACRES
	PHASE I 2.6 ACRES BERM 22.8 ACRES INSIDE BERM
	PHASE II 2.6 ACRES BERM 22.6 ACRES INSIDE BERM

### LEGEND

	PROPERTY LINE
	CENTERLINE
	PROPERTY CORNERS
	INTERVISIBLE FLAGGING
	TESTHOLE (APPROX.)

GREGOIRE CONSTRUCTION  
 L1 - 14 HOFFMAN ACRES LOWELL FIELD PHASE 1  
 CONDITIONAL LAND USE PERMIT



**McLANE**  
Consulting Inc

ENGINEERING - TESTING  
SURVEYING - MAPPING  
P.O. BOX 468  
SOLDOTNA, AK 99669  
VOICE: (907) 283-4218  
FAX: (907) 283-3265  
WWW.MCLANECG.COM

DRAWN BY: BGB/GMD

CHECKED BY: GMD

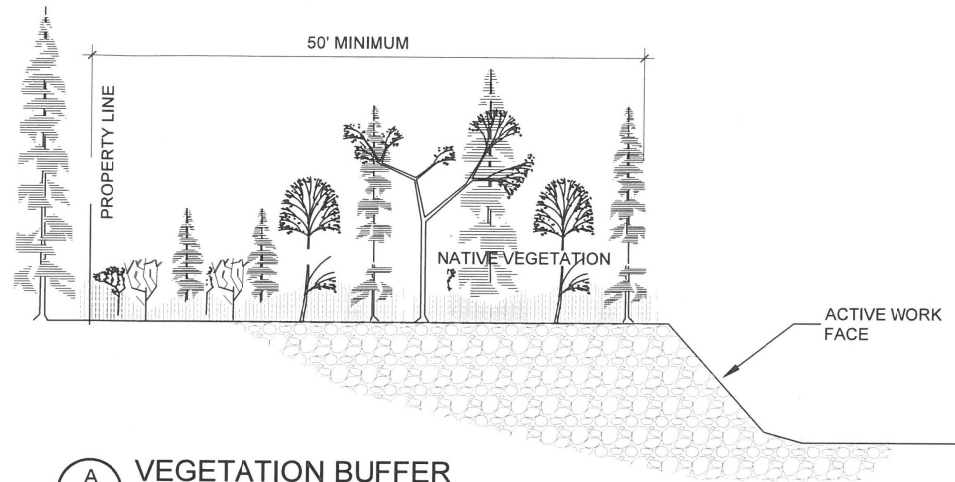
HORIZ. SCALE: 1" = 300'

VERT. SCALE: N/A

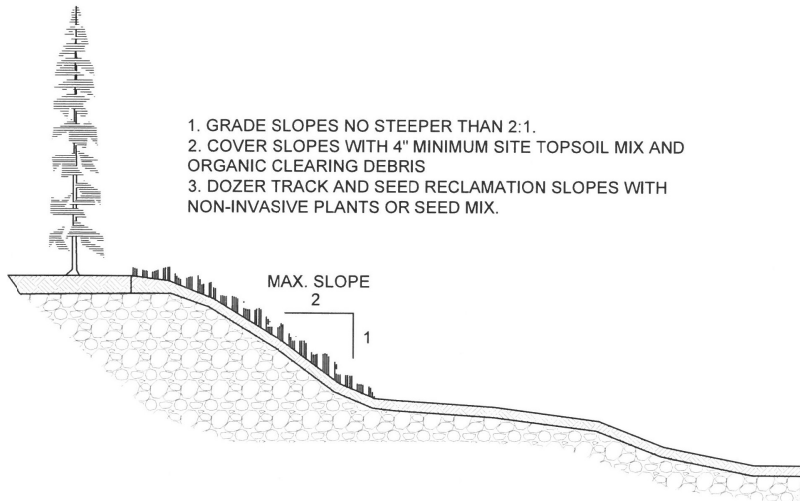
SHEET:

# CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

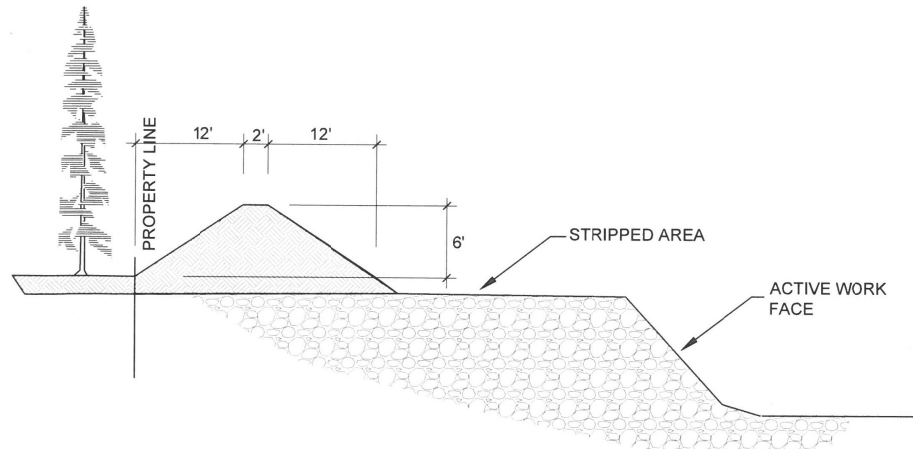
APPLICANT / PROPERTY OWNER:  
 GREGOIRE CONSTRUCTION  
 P.O. BOX 2372  
 66866 EAST END ROAD  
 HOMER AK, 99603



**A** VEGETATION BUFFER  
 3 SCALE: 1" = 10 FT.



**B** RECLAMATION SLOPE  
 3 SCALE: 1" = 10 FT.



**C** EARTHEN BERM BUFFER  
 3 SCALE: 1" = 10 FT.

REV	DATE	DESCRIPTION	BY
1	1/15/2023	CLIENT REVIEW	GMD

GREGOIRE CONSTRUCTION L1 - L4 HOFFMAN ACRES LOWELL FIELD PHASE 1 CONDITIONAL LAND USE PERMIT	JOB NO. 234004
	FIELD BOOK NO. 23-02
FIELD WORK DATE: JANUARY/FEBRUARY 2023	

<p>McLANE Consulting Inc</p> <p>ENGINEERING - TESTING                  SURVEYING - MAPPING                  P.O. BOX 468                  SOLDOTNA, AK 99685                  VOICE: (907) 283-4218                  FAX: (907) 283-3265                  WWW.MCLANECO.COM</p>	DRAWN BY: BGB/GMD CHECKED BY: GMD HORZ. SCALE: 1" = 10' VERT. SCALE: N/A SHEET: P2 of 2
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**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2023-08  
HOMER RECORDING DISTRICT**

**A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4, Homer 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 is required for material extraction which disturbs more than 2.5 cumulative acres; and
- WHEREAS,** on March 6, 2023 the applicant, Richard Gregoire, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcels 159-360-09, 10, 11, 12, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on or before March 22, 2023 to the 123 landowners or leaseholders within ½ mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice was sent to the postmaster in the Happy Valley area requesting that it be posted at the local Post Office; and
- WHEREAS,** public notice of the application was published in the March 30, 2023 and April 6, 2023 issues of the Clarion News; and
- WHEREAS,** a public hearing was held at the April 10, 2023 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 Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

**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 permit 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. On March 6, 2023 the applicant, Richard Gregoire, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 159-360-09, 10, 11, 12, which is located within the rural district



4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
5. The proposed cumulative disturbed area within the parcel is approximately 52 acres.
6. To meet material site standard 21.29.040(A)(1), the proposed activity must protect against lowering of water sources serving other properties by complying with required permit conditions KPB 21.29.050(A)(4), Water Source Separation; KPB 21.29.050(A)(5), Excavation in The Water Table; KPB 21.29.050(A)(6), Waterbodies.
7. The application indicates that the seasonal high-water table is 16-feet below the surface.
8. The applicant's intended depth of excavation will be 14-feet below the surface.
9. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
10. The applicant is required not to dewater either by pumping, ditching or some other form of drainage.
11. The site plan indicates that there are no wells located within 100 feet of the proposed excavation and 1 well located within 300 feet.
12. The application states that work is not anticipated to be completed in the water table at this time.
13. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
14. To meet material site standard 21.29.040(A)(2), the proposed activity must be conducted in a manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050 (A)(1), Parcel Boundaries; KPB 21.29.050(A)(2), Buffer Zone; KPB 21.29.050(A)(7), Fuel Storage.
15. The site plan indicates the property boundary was flagged at visible intervals.
16. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.These buffers shall not overlap an easement.
17. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
18. To meet material site standard 21.29.040(A)(3), the proposed activity must be conducted in a manner which minimizes the off-site movement of dust by complying with required permit condition KPB 21.29.050(10), Dust Control.
19. The applicant is required to provide dust control by the use of water and calcium chloride.
20. The site plan indicates that an access will be constructed onto Tim Ave. and the haul route will then then travel East to the Sterling Highway.



21. To meet material site standard 21.29.040(A)(4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with required permit conditions KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.
22. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.
 These buffers shall not overlap an easement.
23. The applicant indicates 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 to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
24. To meet material site standard 21.29.040(A)(5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.
25. The site plan and application propose the following buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.
 These buffers shall not overlap an easement.
26. To meet material site standard 21.29.040(A)(6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
27. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
28. The bonding requirement of KPB 21.29.050(12)(b) will not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
29. A public hearing of the Planning Commission was held on April 10, 2023 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

**SECTION 2.** That 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 six standards found in KPB 21.29.040:

### **CONCLUSIONS OF LAW**

1. Material site standard 21.29.040(A)(1) is met because the seasonal high-water table is at an approximant depth of 16 feet, and the applicant's intended depth of excavation is 14 feet below the existing grade, as set forth in Finding 7 and 8.
2. Material site standard 21.29.040(A)(2) is met because the permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls and shall not allow buffers to cause surface water diversion too negatively impact adjacent properties.

3. Material site standard 21.29.040(A)(3) is met because the permittee will use water and calcium chloride on the driveways throughout the excavation area to minimize the movement of off-site dust.
4. Material site standard 21.29.040(A)(4) is met because site plan indicates the following noise buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.
 Material site standard 21.29.040(A)(4) is also met, because 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 to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties
5. Material site standard 21.29.040(A)(5) is met because the site plan indicates the following visual screening buffers:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.
6. Material site standard 21.29.040(A)(6) is met because the applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).

**SECTION 3.** That the land use and operations are described and shall be conducted as follows:

1. A portion of KPB Tax Parcel Number 159-360-09, 10, 11, 12. The disturbed area within the parcel is approximately 52 acres;
2. Legal Description: **T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4**, Homer Recording District, Third Judicial District, State of Alaska.
3. The applicant, Richard Gregoire proposes to:
  - a. Process materials on the subject parcel;
  - b. Reclaim the site to a stable condition upon depletion of material.

### **PERMIT CONDITIONS**

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
  - North: 6-foot-high earthen berm.
  - South: 6-foot-high earthen berm.
  - East: 6-foot-high earthen berm.
  - West: 6-foot-high earthen berm.
 These buffers shall not overlap an easement.
3. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
4. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.

8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall 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 shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
17. The permittee shall 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 permit modification is required in accordance with KPB 21.29.090.
18. This conditional land use permit 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 planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
19. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

PLEASE RETURN  
Kenai Peninsula Borough  
Planning Department  
144 North Binkley St.  
Soldotna, AK 99669



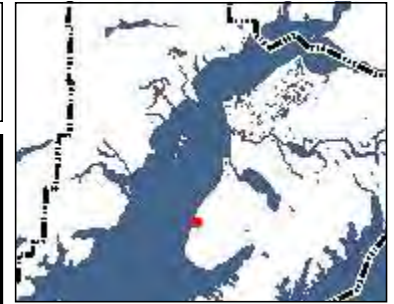
# Aerial Map: 159-360-09, 10, 11, 12







# Area Land Use Map: 159-360-09, 10, 11, 12



### Legend

- Mileposts
- City Limits
- Highways
- Major Roads
- Roads**
  - Town Medium Volume
  - Town Low/Seasonal; Other
  - Proposed
- Parcels
- Material Sites**
  - Conditional Land Use Permit
  - Counter Permit
  - Dewatered Bar Exemption
  - Prior Existing Use
- Image**
  - Red: Red
  - Green: Green
  - Blue: Blue



### Notes

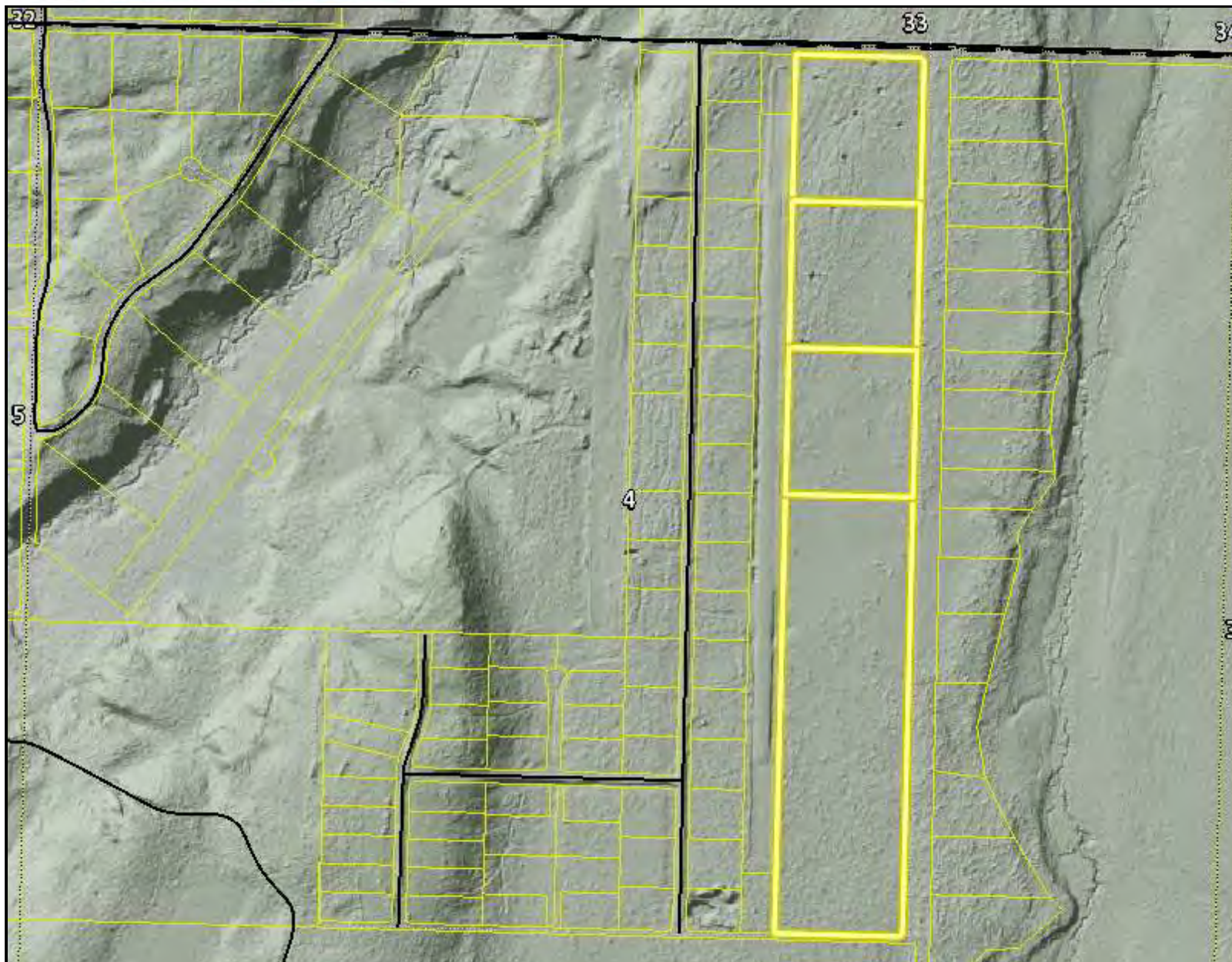
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Do not use for navigation.

DATE PRINTED: 3/27/2023





# Lidar Map: 159-360-09, 10, 11, 12



### Legend

- Mileposts
- Major Roads
- Township Lines
- Section Lines
- Parcels
- Click for LiDAR info - Seward
  - High : 2600
  - Low : 0
- Click for LiDAR elevation info
  - High : 2600
  - Low : 0
- Hillshade
  - High : 254
  - Low : 0
- Hillshade Seward
  - High : 254
  - Low : 0
- HillshadeEast
  - High : 254
  - Low : 0



### Notes

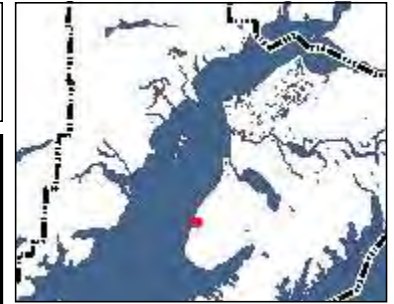
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DATE PRINTED: 3/27/2023





# Ownership Map: 159-360-09, 10, 11, 12



### Legend

- Mileposts
- City Limits
- Township Lines
- Section Lines
- Highways
- Major Roads
- Roads**
- Town Medium Volume
- Town Low/Seasonal; Other
- Proposed
- Ownership**
- Borough
- Federal
- Municipal
- Native
- Native Allotment
- Private
- State
- Image**
- Red: Red
- Green: Green
- Blue: Blue



### Notes

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Do not use for navigation.

DATE PRINTED: 3/27/2023



# Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Peter Micciche  
Borough Mayor

«OWNER»  
«ATTENTION»  
«ADDRESS»  
«CITY», «STATE» «ZIP»

## KENAI PENINSULA BOROUGH PLANNING COMMISSION

### NOTICE OF PUBLIC HEARING

Public notice is hereby given that a conditional land use permit application has been received for materials extraction on parcels in Happy Valley Area. This notice is being sent to landowners located within 2,640 feet of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

**Applicant:** Richard Gregoire

Please turn over for map.

**Landowner:** Jerold Vantrease

**Parcel Number:** 159-360-(09, 10, 11, 12)

**Legal Description:** T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES  
LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4

**Location:** Approximately 1.4 miles down Tim Ave. Ninilchik, Alaska 99639

**Proposed Land Use:** The applicant wishes to obtain a permit for materials extraction and processing on a portion of the parcels listed above.

**KPB Code:** Conditional land use permit applications for materials extraction and processing are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or on the KPB website at: <https://www.kpb.us>

**Public Hearing:** A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday April 10, 2023** commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held only on Zoom, **Meeting ID 907 714 2200**. To attend the Zoom meeting via computer, visit: <https://us06web.zoom.us/j/9077142200>. To attend by telephone call toll free **1-888-788-0099 or 1-877-853-5247**.

**Public Comment:** Those wishing to comment may attend the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to: [rraidmae@kpb.us](mailto:rraidmae@kpb.us), or faxed to (907) 262-5992. **Written statements must be provided by 1:00 pm Friday, April 7, 2022.** Persons, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

For additional information about this application, please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Kenai Peninsula Borough).

Ryan Raidmae  
KPB Planner Ph: (907) 714-2462





Kenai Peninsula Borough

**Parcels Within 1/2 Mile of Proposed CLUP**

3/20/2023 11:49

