

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-09  
KENAI RECORDING DISTRICT**

**A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel described as T 5N R 9W SEC 3 SEWARD MERIDIAN KN SE1/4, Kenai Recording District., 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 is required for material extraction which disturbs more than 2.5 cumulative acres; and
- WHEREAS,** On 12/14/2021 the applicant, AM&T Vantage Point LLC, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 063-047-01, which is located within the rural district; and
- WHEREAS,** Public notice of the application was mailed on or before February 2<sup>nd</sup> 2022 to the 284 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 Sterling requesting that it be posted at the Sterling Post Office; and
- WHEREAS,** Public notice of the application was published in the February 2<sup>nd</sup> 2022 & February 9th 2022 issues of the Peninsula Clarion; and
- WHEREAS,** A public hearing was held at the February 14, 2022 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 12/14/2021 the applicant, AM&T Vantage Point LLC, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 063-047-01, 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.
5. The proposed cumulative disturbed area within the parcel is approximately 155.3 acres.
6. To meet material site standard 21.29.040(A)(1), the proposed activity must protect against aquifer disturbance by maintaining a 2-foot vertical separation from the seasonal high water table and by ensuring that no material extraction takes place within 100 horizontal feet of any existing water source.
7. The application indicates that the high water table is greater than 25 feet below the surface.
8. The applicant's intended depth of excavation is 22 feet below the existing grade.
9. The site plan indicates that there is one well located within 300 feet of the proposed excavation area.
10. 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.
11. 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.

12. Ingress and egress at the material site will be Robinson Loop rd. to Kenai Spur Highway.
13. It is in the best interest of the borough and the surrounding property owners for the permittee to provide dust suppression on the haul route.
14. To meet material site standard 21.29.040(A4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with permit condition KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.
15. The site plan indicates that all sides of the material site will be buffered with 50 feet of natural vegetation, providing a noise buffer.
16. The applicant indicates that material processing may take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the parcel boundaries, and will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
17. To meet material site standard 21.29.040(A5), 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.
18. To meet material site standard 21.29.040(A6), 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).
19. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
20. 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.
21. A public hearing of the Planning Commission was held on February 14, 2022 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(A1) is met because the high water table is greater than 25 feet below the surface, and the applicant's intended depth of excavation is 22 feet below the existing grade, as set forth in #7-8, above.
2. Material site standard 21.29.040(A)(2) is met because ...
3. Material site standard 21.29.040(A)(3) is met because ...
4. Material site standard 21.29.040(A)(4) is met because the site plan indicates that all sides of the material site will be buffered with 50 feet of natural vegetation, providing a noise buffer. The Planning Commission deems the 50 feet buffer of natural vegetation alone to be sufficient to provide noise screening. 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 parcel boundaries, and 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 . . .
6. Material site standard 21.29.050(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:

- A. A portion of KPB Tax Parcel Number 063-047-01. The disturbed area within the parcel is approximately 155 acres in two phases. Phase I, 83.1 acres. Phase II, 72.2 acres
- B. Legal Description: T 5N R 9W SEC 3 SEWARD MERIDIAN KN SE1/4, Kenai Recording District, Third Judicial District, State of Alaska.
- C. The applicant, AM&T Vantage Point LLC, proposes to:
  1. Extract gravel and sand from the subject parcel;
  2. 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 retain 50 feet of undisturbed **natural** vegetation along all property boundaries.
3. The permittee shall maintain at least a 2:1 slope between the inner buffer zones and pit

floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.

4. Rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
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 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.

9. 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.
10. 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.
11. The permittee shall apply water or calcium chloride, as needed, on haul roads within the boundaries of the subject parcel.
12. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
13. The permittee is responsible for determining the need for any other municipal, state or federal permits and acquiring the same. 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.
14. The permittee shall provide dust suppression and maintain the haul route to Kenai Spur Highway.
15. 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.
16. 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 \_\_\_\_\_, 2020.

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Blair Martin, Chairperson  
Planning Commission

ATTEST:

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Ann Shirnberg  
Administrative Assistant