

Conditional Land Use Permit for a Material Site

STAFF REPORT

PC MEETING: Feb 14, 2022

Applicant: AM&T Vantage Point LLC

Landowner: AM&T Vantage Point LLC/ VERBA NATHAN

Parcel Number: 06304701

Legal Description: T 5N R 9W SEC 3 SEWARD MERIDIAN KN SE1/4

Location: 36280 ROBINSON LOOP RD

BACKGROUND INFORMATION: The applicant wishes to obtain a permit for gravel extraction on a portion of the parcel listed above.

The submitted site plan indicates that the material site haul route will be Robinson loop rd. to the Sterling Hwy.

The site plan and application proposes the following buffers:

- North: Minimum 50 foot natural vegetation buffer.
- South: Minimum 50 foot natural vegetation buffer.
- East: Minimum 50 foot natural vegetation buffer.
- West: Minimum 50 foot natural vegetation buffer.

The property immediately to the west and east of the subject property is private land for residential use. The Robinson Loop Road borders immediately south. The property immediately north are lots for residential use.

The proposed haul route is on to Robinson Loop directly from the property, which is a State of Alaska maintained road.

Engineering site map by McLane Consulting Inc, claims ground water is greater than 30 feet below the existing surface. Engineering plan cites the "Bailey Gravel Pit Soils investigation and evaluation report august 1983" No water or wet lands or surface waters with in the property boundaries according to the McLane report. Purposed depth is 22-50 feet. Should water be encountered 4 feet of cover will be left above water table. Surface water to be controlled by ditches and berms to divert into onsite collection ponds to keep surface water on site. The site plan indicates that there is eight wells located within 300' from the property lines. One well is within 300' of the Phase I area and three wells with 300' of the phase II area. Well locations are marked on the site plan map.

The site plan states that the disturbed area will be regraded to pit floor on a yearly basis. The applicant estimates a life span of 20-50 years for the site with an approximate annual quantity of greater than 50,00 cubic yards.

PUBLIC NOTICE: Public notice of the application was mailed on February 2 2022 to the 284 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was sent to the postmaster in Sterling requesting that it be posted at their Post Office. Public notice of the application was published in the Kenai Area.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on January 26 2022.

ATTACHMENTS

- Conditional Land Use Permit application and associated documents
- Aerial map
- Area land use map
- Ownership map
- Contour 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 12/14/2021 the applicant, AM&T Vantage Point LLC,** submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 01336045, 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 disturbed area is approximately 155.3 acres.
6. 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.
7. The proposed extraction meets material site standard 21.29.040(A1); "Protects against the lowering of water sources serving other properties", as evidenced by:
 - A. Permit condition number 6 requires that the permittee not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 - B. The submitted the site plan indicates that there is eight wells located within 300' from the property lines. One well is within 300' of the Phase I area and three wells with 300' of the phase II area. Well locations are marked on the site plan map.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high water table.
 - D. The application indicates that the pre-existing depth is 30 feet. The site plan will not extend more than 3 additional feet in depth. If the water table is encountered it will be covered to a level of 4 feet above the water table.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
8. The proposed extraction meets material site standard 21.29.040(A2); "Protects against physical damage to other properties". There is no evidence in the record to indicate that physical damage will occur to any other properties as a result of the operations of a material site at this location.
9. The proposed extraction meets material site standard 21.29.040(A3); "Minimizes off-site movement of dust", as evidenced by:

- A. Permit condition number 13 requires that the permittee provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
10. The proposed extraction meets material site standard 21.29.040(A4); "Minimizes noise disturbance to other properties" as evidenced by:
- A. Permit condition number 2 requires that the permittee maintain the following buffers that will reduce the noise disturbance to other properties:
 - North: Minimum 50 foot natural vegetation buffer.
 - South: Minimum 50 foot natural vegetation buffer.
 - East: Minimum 50 foot natural vegetation buffer.
 - West: Minimum 50 foot natural vegetation buffer.
 - B. The submitted site plan indicates, and permit condition number 4 requires rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
11. The proposed extraction meets material site standard 21.29.040(A5); "Minimizes visual impacts" as evidenced by permit condition number 2 that requires that the permittee maintain the following buffers that will reduce the visual impacts to other properties:
- North: Minimum 50 foot natural vegetation buffer.
 - South: Minimum 50 foot natural vegetation buffer.
 - East: Minimum 50 foot natural vegetation buffer.
 - West: Minimum 50 foot natural vegetation buffer.
12. The proposed extraction meets material site standard 21.29.040(A6); "Provides for alternate post-mining land uses" as evidenced by:
- A. The submitted application contains a reclamation plan as required by KPB 21.29.060.
 - B. Permit condition number 15 requires that the permittee reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.

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 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:
 - a. North: Minimum 50 foot natural vegetation buffer.
 - b. South: Minimum 50 foot natural vegetation buffer.
 - c. East: Minimum 50 foot natural vegetation buffer.
 - d. West: Minimum 50 foot natural vegetation buffer.These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone 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. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate equipment which conditions or processes material be operated between 10:00 p.m. and 6:00 a.m.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining.
9. 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.
10. 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.
11. 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.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
16. 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.

17. 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.
18. 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.
19. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
20. 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