E. NEW BUSINESS

3. Conditional Land Use Permit For Materials Processing PC Resolution 2022-

Applicant: Tutka, LLC / Landowner: AK DNR

Location: Northeast of the Lawing Airport, Seward, AK

Parcel ID 125-324-13

Moose Pass Area

Conditional Land Use Permit for a Material Site

STAFF REPORT

PC MEETING: September 26, 2022

Applicant: Tutka LLC

Landowner: State of Alaska, Department of Natural Resources

Parcel Number: 125-324-13

Legal Description: T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13

Location: Northeast of the Lawing Airport, Seward, AK 99664

BACKGROUND INFORMATION: The applicant wishes to obtain a Conditional Land Use Permit for material extraction on a portion of the parcel listed above. This parcel was previously used as a material site by Tutka LLC in 2019 through a now expired counter permit.

The newly submitted site plan indicates that the material haul route will be to the Southwest of the subject parcel leading to a newly constructed haul road. The haul road will be located on the Eastside of the runway and run parallel with it. At the Southern end of the runway the haul road merges with the existing access and exits onto Rock Ptarmigan Road, a Borough maintained facility. From here, the route turns West and makes its way to the Seward Highway, a State maintained facility.

The site plan and application proposes the following buffers:

North: Greater than 50-foot native vegetation South: Greater than 50-foot native vegetation East: Greater than 50-foot native vegetation West: Greater than 50-foot native vegetation

The subject property is bordered on the North, East and South sides by parcels owned by the State of Alaska, Department of Natural Resources. On the Westside of the property, is the Right of Way for the Alaska Railroad and a parcel that is privately owned and occupied.

The site plan completed by McLane Consulting Inc., states that ground water is not anticipated due to the manufacture of materials from the rock face. Water has also not been encountered during past mining activities most recently in 2019. The application states that the proposed vertical excavation will be 30 feet up into the cliff face. Plan notes state that there are no wet lands or surface waters within the proposed excavation area. A central area will be maintained for processing, screening and sorting of riprap. This processing area meets or exceeds the 300-foot setback from the property line. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates that there are no wells located within 100 or 300 feet from the proposed use area.

Plan notes state that reclamation will include leaving the rock face in a safe and stable form, stockpiling any unused materials and re-grading the processing area floor. This site will also be subject to Alaska Department of Natural Resources material site agreement and reclamation standards.

The applicant estimates a life span of 15 years for the site and an annual quantity will be approximately 53,000 cubic yards. This amount of material will make the site ineligible for a Small Operation Exemption pursuant to AS 27.19.050 and therefore will require bonding. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond to cover the anticipated reclamation cost and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

PUBLIC NOTICE: Public notice of the application was mailed on September 9, 2022 to the 28 landowners

or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was sent to the postmaster covering the Crown Point area of Moose Pass requesting that it be posted at the Moose Pass Post Office.

The application was presented to the Moose Pass Advisory Planning Commission at their regularly scheduled meeting on September 8th and again at their special meeting on September 15th. During their September 15th meeting the Moose Pass Advisory Planning Commission voted to approve the CLUP with stipulations. These stipulations included increased bonding for water well replacement, reduced hours of operation, reduced expected life span, residential blasting notification and increased site security.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on September 2, 2022.

ATTACHMENTS

- Conditional Land Use Permit application and associated documents
- Aerial map
- Ownership map
- Liar map
- Alaska Department of Natural Resources Draft Reclamation Documents

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 September 2, 2022 the applicant, Tutka LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 125-324-13, 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 6 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 unknown, but a visual inspection of the rock face, found no evidence of water.
- 8. The applicants intended depth of excavation will be 30 feet vertically up into the cliff face.
- 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 300 feet of the proposed excavation area.
- 12. The application states that work is not anticipated to be completed in the water table.

- 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 within 300 feet of the work area was flagged in 2019.
- 16. The site plan and application propose the following buffers:

North: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

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 the material haul route will be to the Southwest of the subject parcel leading to a newly constructed haul road. The haul road will be located on the Eastside of the runway and run parallel with it. At the Southern end of the runway the haul road merges with the existing access and exits onto Rock Ptarmigan Rd., a Borough maintained facility. From here, the route turns West and makes its way to the Seward Highway a State maintained facility.
- 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: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

These buffers shall not overlap an easement.

- 23. The applicant indicates that material processing will take place on the property. Any equipment used for processing, screening and sorting of riprap materials will be operated at least 300 feet from all property lines. 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.
- The applicant has voluntarily agreed not to conduct material site operations between the hours of 6:00 pm and 07:00 am. Monday through Saturday and will not conduct operation on Sunday.
- 25. 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.

26. The site plan and application propose the following buffers:

North: Greater than 50-foot native vegetation.
South: Greater than 50-foot native vegetation.
East: Greater than 50-foot native vegetation.
West: Greater than 50-foot native vegetation.

These buffers shall not overlap an easement.

- 27. 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).
- 28. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- 29. The bonding requirement of KPB 21.29.050(12)(b) will apply to this material site, because extraction is expected to be around 53,000 cubic yards of material. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamation costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.
- 30. A public hearing of the Planning Commission was held on September 26, 2022 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: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

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 parcel boundaries.

- 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 update their reclamation plan to include all provisions listed in the State of Alaska Department of Natural Resources reclamation plan. If there are any conflicts between the reclamation plans, the more site-specific provision shall control.
- 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
- 16. The permittee shall post a bond to cover the anticipated reclamation costs in an amount determined by AS 27.19.040 unless the State of Alaska waives their requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond in the amount to be determined by the planning director and as stated in KPB 21.29.050.
- 17. 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.
- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.

Voluntary Permit Conditions

22. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(4): The permittee shall not conduct material site operations between the hours of 6:00 pm and 07:00 am. Monday through Saturday and will not conduct operation on Sunday.

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

Revised 10/26/12

Page 1 of 4

KPB 21.29

Conditional Land Use Permit Application For a Sand, Gravel or Material Site

| l. | APPLICANT INFORMATION | | | | | | | | | |
|----------|---|------------------|---|----|--|--|--|--|--|--|
| | Applicant | La | _andownerState of Alaska Dept. of Natural Resources | | | | | | | |
| | Address 2485 E Zak Circle, Suite A | Ad | _andownerState of Alaska Dept. of Natural Resources AddressState of Alaska Dept. of Natural Resources | | | | | | | |
| | City, State, Zip Wasilla, Alaska 99654 | Cit | City, State, Zip Anchorage, Alaska 99501 | | | | | | | |
| | Address 2485 E Zak Circle, Suite A City, State, Zip Wasilla, Alaska 99654 Telephone 907-357-2238 Cell 907-671-79 | ⁹⁸ Te | Telephone 907-269-8400 Cell | | | | | | | |
| | Emailkyle@tutkallc.com | | Email | | | | | | | |
| II. | PARCEL INFORMATION | | | | | | | | | |
| | KPB Tax Parcel ID# Legal Description_SW Gov't Lot 13 T4N R1W Sec 24 Seward Meridian | | | | | | | | | |
| | If permit is <u>not</u> for entire parcel, describe specific local | ation within | in parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10 | | | | | | | |
| | acres", or "5 acres in center of parcel". | | | | | | | | | |
| | Southwesterly section | | | | | | | | | |
| | | | N. SAL | _ | | | | | | |
| III. | APPLICATION INFORMATION | ces below | w to indicate items included. | | | | | | | |
| 1 | \$300.00 permit processing fee payable to: Kenai Per | ninsula Bor | orough. (Include Parcel # on check comment line.) | | | | | | | |
| √ | Site Plan, to scale, prepared by a professional surve | yor (license | sed and registered in Alaska) showing, where applicable: | | | | | | | |
| , | □ parcel boundaries □ location of boundary stakes within 300 ft. | of | location/depth of testholes, and depth to groundwate if encountered | r, | | | | | | |
| | excavation area (to be in place at time of appli | | □ location of all wells within 300 ft. of parcel boundary | | | | | | | |
| | proposed buffers, or requested buffer waiver(s)proposed extraction area(s), and acreage to be mine | | location of water bodies on parcel, including riparian wetlands | 1 | | | | | | |
| | □ proposed location of processing area(s) | | □ surface water protection measures | | | | | | | |
| | □ all encumbrances, including easements | | north arrow and diagram scale | | | | | | | |
| | □ points of ingress and egress | | □ preparer's name, date and seal | | | | | | | |
| | □ anticipated haul routes | | | | | | | | | |
| 1 | Site Plan Worksheet (attached) | | | | | | | | | |
| √ | Reclamation Plan (attached) and bond, if required. bonding requirements pursuant to AS 27.19.050 | Bond re | requirement does not apply to material sites exempt from | m | | | | | | |
| | Please Note: If a variance from the condition attached. (A variance is NOT the same thing as a | | B 21.29 is requested, a variance application must b | е | | | | | | |
| | | - | ' | | | | | | | |
| IV. | The information contained on this form and attachm permission for borough staff to enter onto the prope | | true and complete to the best of my knowledge. I grant | | | | | | | |
| | 1/1 1 | rty for tile p | , purpose of processing the permit application. | | | | | | | |
| | Ryle Johnson 6/08. | 2022 | My for 8/1/22 | _ | | | | | | |
| | Applicant / / Date | L | Landawner (required if not applicant) Date | | | | | | | |
| | igned 10/26/12 | | Same attag Carroll Page 1 of 1 | | | | | | | |

Site Plan Worksheet for Conditional Land Use Permit Application

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

| | Applicant | Tutka LLC | Owner | State of A | laska DNR | |
|----------------|-----------------|---|---------------------|-------------------------|-------------------|-------------------------------|
| | KPE | 3 Tax Parcel ID #12 | 532413 | _ Parcel Acreage_ | 46.06 | |
| 1. 2. 3. | Material to | e acres to be disturbed (exca be mined (check all that app to be used (check all that a | oly): gravel [| sandpeat √ | other(list) | _ acres Rock ock Drill / Shoo |
| | | ouffers as required by KPB 2 | | | | |
| | mini | t. of natural or improved veg mum 6 ft. earthen berm mum 6 ft. fence | | | V V V | |
| | | depth of excavation: 30 | | _ | | |
| 6. | How was g | roundwater depth determin | ed?ed? | rvation of rock face. N | o water present. | |
| 7. | A permit m | odification to enter the water | r table will be r | equested in the fu | ture:Yes | No |
| 8. | Approx. an | nual quantity of material, inc | luding overbur | den, to be mined: | c | ubic yards |
| 9. | Is parcel in | tended for subdivision? | YesX | No | | |
| 10. | Expected li | fe span of site? ¹⁵ yea | ars | | | |
| 11. | If site is to I | be developed in phases, des | scribe: the exc | avation acreage, a | inticipated life | span, |
| | | ation date <u>for each phase</u> : (aul Road Const. (Single lane, ~2,6 | | | | |
| | Fall/Winter 2 | 022: Rock Production (Drilling, Bla | asting, Sorting) to | prepare for hauling ro | ock in 2023 | |
| | Winter/Summ | ner/Fall 2023 & 2024: Rock Haulir | ng to Ninilchik Har | bor - concurrent with | cont. production/ | /sorting |
| | Winter/Summ | ner/Fall 2025 - 2026: Rock produc | tion and hauling f | or future project on th | e Peninsula | |
| | [See Page | 4] | | | | |
| 12. | Voluntary p | permit conditions proposed (| additional buffe | ers, dust control, li | mited hours o | f |
| | operation, e | etc.) | | | | |
| A. | Hours of Oper | ration - 7am to 6pm Monday throu | ıgh Saturday | | | |
| B. | Dust control | | | | | |
| C. | | | | | | |

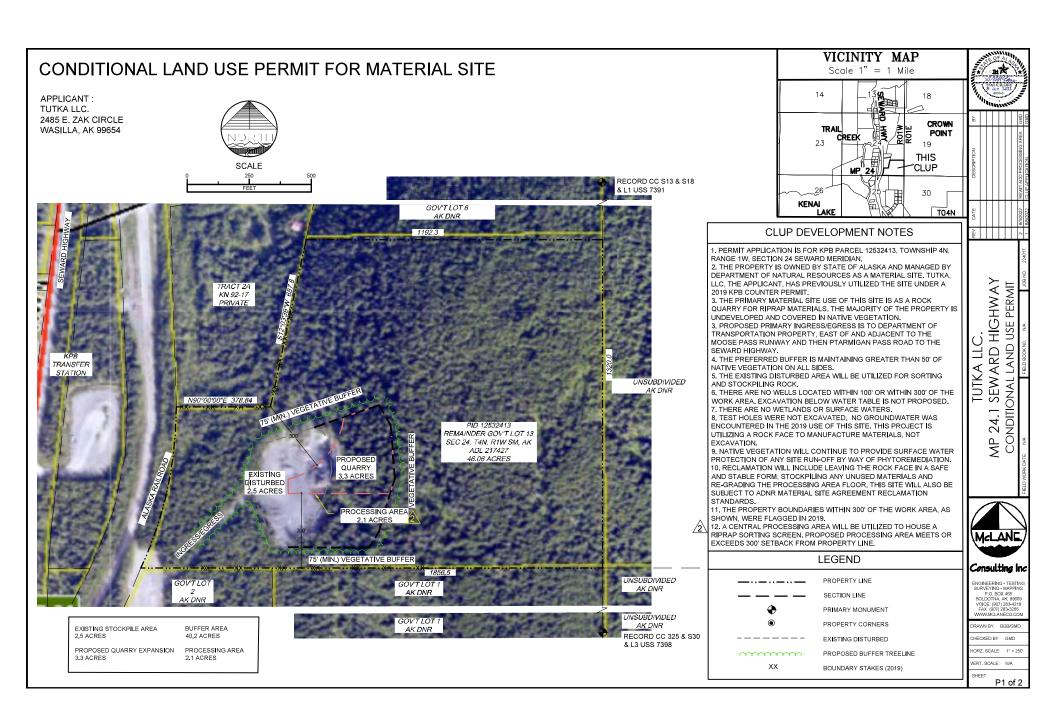
Material Site Reclamation Plan for Conditional Land Use Permit Application

| 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:< 2.0acres | | | | | |
| 4. | List equipment (type and quantity) to be used in reclamation: | | | | | |
| | Excavator (1-2), Front-end Loader (1), Side Dumps (1-2), Rock Truck (1), Rock Drill (1) | | | | | |
| | | | | | | |
| 5. | Describe time schedule of reclamation measures: | | | | | |
| | Site will be stabilized by November 2023 for the extent of rock extraction in that year. Rock placement at Ninilchik | | | | | |
| | may extend into the 2024 season per the project specs. depending on 2023 progress. Site will be left clean, with | | | | | |
| | any extra blasted material stockpiled per ADNR requirements. Rock face will be left in stable condition. | | | | | |
| | [See Page 4] | | | | | |
| 6. | The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – \square "check" <u>all</u> 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 backfil led, 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 nat ural 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 in ches 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.)

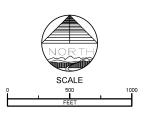
| [Page 1, Item # II] |
|---|
| The Lawing Airport Quarry is designated under the LAS as Master Material Site ADL 231623. |
| Site access is approved parallel to the runway through ADOT&PF Right-of-Way Maintenance and Operations. |
| [Page 2, Item # 11] |
| The initial intended use of this site is project specific; Rock from this site will be processed on site and sorted for |
| classified riprap to be utilized on US Army Corps of Engineers project Ninilchik Harbor Revetment Replacement. |
| Material drilling and blasting will take place through Fall 2023. Material haul-off will immediately follow drilling and blasting |
| and concurrent to material sorting. Rock drilling, blasting, sorting, and hauling may extend into the 2024 season depedent |
| on progress made in 2023. |
| |
| [Page 3, Item # 5] |
| All site work is schedule to be completed by November 2024 in connection with the Ninilchik Harbor Revetment Project. |
| Reclamation of the site will be as and where needed per ADNR requirements, as this is a rock quarry, not a pit mine. |
| |
| Tutka anticipates the need for additional rock on future Peninsula projects and would like to maintain this CLUP for |
| an extended period. Use of this material site would be on an as-need basis, and it would likely be dormant for extended |
| periods of time. by Tutka, LLC |
| |
| |
| |
| |
| |
| |



CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

APPLICANT: TUTKA LLC. 2485 E. ZAK CIRCLE WASILLA, AK 99654







18 TOTAL STATE OF THE STATE OF

TUTKA LLC. MP 24.1 SEWARD HIGHWAY 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.MCLANEOG.COM

DRAWN BY: BGB/GMD CHECKED BY: GMD

HORZ, SCALE: 1" = 500"

VERT, SCALE: N/A

P2 OF 2

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2022-44 SEWARD RECORDING DISTRICT

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel described T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13, Seward 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 September 2, 2022 the applicant, Tutka LLC, submitted to the Borough Planning
 Department a conditional land use permit application for a portion of KPB Parcel 125-32413, which is located within the rural district; and
- **WHEREAS**, public notice of the application was mailed on or before September 9, 2022 to the 28 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 Crown Point area of Moose Pass requesting that it be posted at the Moose Pass Post Office; and
- WHEREAS, a public hearing of the Advisory Planning Commission in Moose Pass was held on September 15, 2022 wherein the Advisory Planning Commission voted to approve the CLUP with stipulations including increased bonding for water well replacement, reduced hours of operation, reduced expected life span, residential blasting notification, increased site security; and
- **WHEREAS**, public notice of the application was published in the September 14, 2022 and September 21, 2022 issues of the Seward Journal; and
- **WHEREAS**, a public hearing was held at the September 26, 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 September 2, 2022 the applicant, Tutka LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 125-324-13, 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 6 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 unknown, but a visual inspection of the rock face, found no evidence of water.
- 8. The applicants intended depth of excavation will be 30 feet vertically up into the cliff face.
- 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 300 feet of the proposed excavation area
- 12. The application states that work is not anticipated to be completed in the water table.
- 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 within 300 feet of the work area was flagged in 2019.
- 16. The site plan and application propose the following buffers:

North: Greater than 50-foot native vegetation.
South: Greater than 50-foot native vegetation.
East: Greater than 50-foot native vegetation.
West: Greater than 50-foot native vegetation.

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 the material haul route will be to the Southwest of the subject parcel leading to a newly constructed haul road. The haul road will be located on the Eastside of the runway and run parallel with it. At the Southern end of the runway the haul road merges with the

existing access and exits onto Rock Ptarmigan Rd., a Borough maintained facility. From here, the route turns West and makes its way to the Seward Highway a State maintained facility.

- 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: Greater than 50-foot native vegetation.
South: Greater than 50-foot native vegetation.
East: Greater than 50-foot native vegetation.
West: Greater than 50-foot native vegetation.

These buffers shall not overlap an easement.

- 23. The applicant indicates that material processing will take place on the property. Any equipment used for processing, screening and sorting of riprap materials will be operated at least 300 feet from all property lines. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00a.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: Greater than 50-foot native vegetation.
South: Greater than 50-foot native vegetation.
East: Greater than 50-foot native vegetation.
West: Greater than 50-foot native vegetation.

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 apply to this material site, because extraction is expected to be around 53,000 cubic yards of material. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.
- 29. A public hearing of the Planning Commission was held on September 26, 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(A)(1) is met because even though the seasonal high-water table is unknown, a visual inspection of the rock face, found no evidence of water, as set forth in Finding

7

- 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: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

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 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: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

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) and (b).

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

- 1. A portion of KPB Tax Parcel Number 125-324-13. The disturbed area within the parcel is approximately 6 acres;
- 2. Legal Description: T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13, Seward Recording District., Third Judicial District, State of Alaska.
- 3. The applicant, Tutka, LLC proposes to:
 - a. Process materials on the subject parcel;
 - b. Reclaim the site to a stable condition upon completion of the project.

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: Greater than 50-foot native vegetation.

South: Greater than 50-foot native vegetation.

East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.

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 parcel boundaries.
- 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 update their reclamation plan to include all provisions listed in the State of Alaska Department of Natural Resources reclamation plan. If there are any conflicts between the reclamation plans, the more site-specific provision shall control.
- 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
- 16. The permittee shall post a bond to cover the anticipated reclamation costs in an amount determined by AS 27.19.040 unless the State of Alaska waives their requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond in the amount to be determined by the planning director and as stated in KPB 21.29.050.
- 17. 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.
- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.

Voluntary Permit Conditions

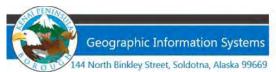
22. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(4): The permittee shall not conduct material site operations between the hours of 6:00 pm and 07:00 am. Monday through Saturday and will not conduct operation on Sunday.

| ADOPTED | BY T | HE | PLANNING | COMMISSION | OF | THE | KENAI | PENINSULA | BOROUGH | 10 |
|-------------|------|-------|----------|------------|----|-----------------|-------------------|-----------|---------|----|
| THIS | | | DAY | OF | | | , 202 | 2. | | |
| | | | | | | | | | | |
| | | | | | | n, Cha Commi | irperson ssion | | | |
| ATTEST: | | | | | 3 | | | | | |
| Ann Shirnbe | _ | istan | t | | | | | | | |

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

Aerial Map: 125-324-13



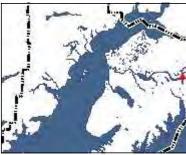


Ownership Map:125-324-13



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: 8/18/2022



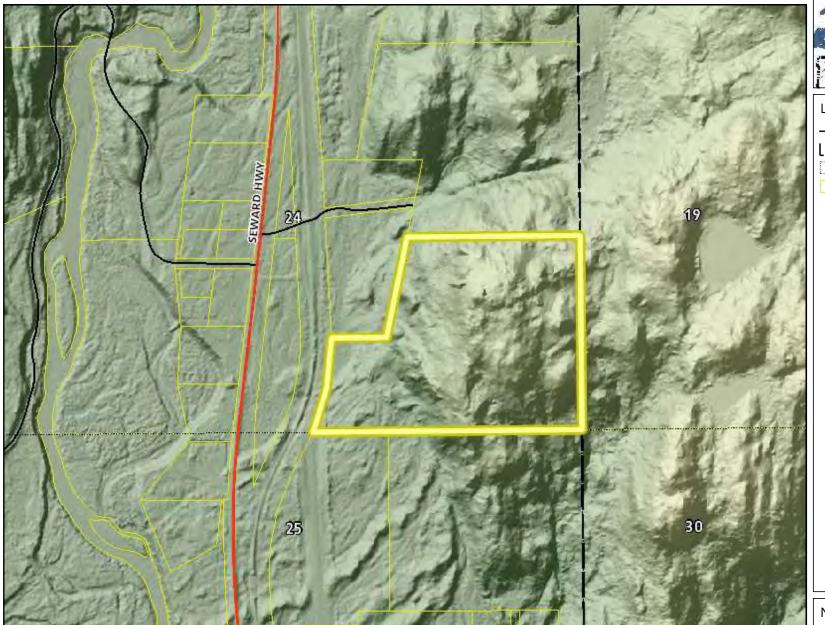
- Town Low/Seasonal: Other



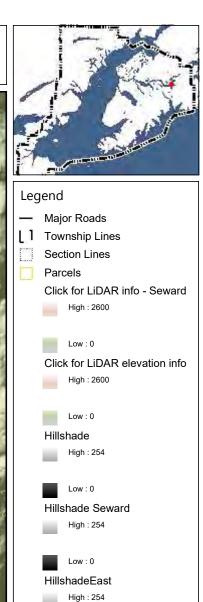
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Lidar Map: 125-324-13



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: 8/18/2022**





Low: 0





August 15, 2022

Kenai Peninsula Borough

ATTN: Ryan Raidmae KPB Planner (907) 714-2462 Planning Department 514 Funny River Road Soldotna, AK 99669 Department of Natural Resources

ATTN: Amber-Lynn Taber Natural Resource Specialist (907) 269-8560 Div. of Mining, Land & Water-Land Office 550 West 7th Avenue Suite 900c Anchorage, AK 99501

RE: MATERIAL SITE RECLAMATION PLAN / ADL 231623 / MS 31-1-016-1 / Parcel 12532413

Ryan and Amber-Lynn,

Tutka, LLC (Tutka) proposes to use the above referenced site as a material source for the following United States Army Corps. of Engineers project that requires Rock (Riprap) B, & C. Ninilchik Harbor Revetment Replacement (Project No. NIL003 / Solicitation No. W911KB22C00030004).

Additional Owners/Operators: The material site is located within the Kenai Peninsula Borough and Tutka will complete and comply with a KPB Conditional Land Use Permit for mining operations. The ADOT Airport Right-of-Way controls access to the material site across the Lawing Airport property. Tutka has coordinated with the ADOT Airport Leasing office for site access approval via a Boundary Crossing Permit. Advanced Blasting Services will be subcontracted by Tutka to perform rock drilling and shooting.

| KPB Contact: | ADOT Airport Leasing Contact: |
|--|--|
| Ryan Raidmae (rraidmae@kpb.us) Planner 514 Funny River Road Soldotna, AK 99669 907-714-2462 | Jarod Urban (jarod.urban@alaska.gov) Airport Leasing Specialist 411 Aviation Ave. Anchorage, AK 99502 907-269-0742 |
| Advanced Drilling Contact (Sub.): | ADOT&PF Contact: |
| Billy Rosseau (billy@advancedblastingak.com) Superintendent 281 S Conquest Circle Wasilla, AK 99623 907-357-2930 | Sean Montgomery (sean.montgomery@alaska.gov) Peninsula District Superintendent M&O P.O. Box 1327 Soldotna, AK 99669 907-262-2199 |

Maps: A USGS quadrangle map from the DOT&PF Material Site Report is attached depicting the material site location. The material site is located off of the northeast corner of Lawing Airport near Crown Point, AK.

Page 1 of 2

Diagram of Mined Area: The previously mined area and proposed mining area are depicted in an attached layout plan sheet that shows the extraction site, property boundaries of the site, and other pertinent site layout information. No stream diversions or settling ponds are anticipated at the mining location as mining will be performed into an open rock face and no groundwater discharge has been observed in the local geography.

List of Equipment: Equipment listed below will be available for reclamation of the material site.

| Equip Type | Qty |
|------------------|-----|
| Excavator | 2 |
| Front End Loader | 1 |
| Side Dump | 2-4 |
| Rock Truck | 1 |

Mining Schedule:

| Haul Road Construction | 20 Sep 22 → 30 Sep 22 |
|---|-------------------------------------|
| 2) Clear and Grub | 20 Sep 22 → 24 Sep 22 |
| 3) Drilling & Blasting | 26 Sep 22 → 30 Sep 22 (& as needed) |
| 4) Sorting & Hauling (Ninilchik Harbor) | 03 Oct 22 → 30 Oct 24 |
| 5) Sorting & Hauling (Future project) | 01 Nov 24 → 30 Oct 26 |
| 6) Final Reclamation | 30 Nov 26 |

Material drilling and blasting will take place through the Fall of 2023. The site will be stabilized by November 2023 for the extent of rock extraction in that year. Rock placement at Ninilchik Harbor may extend into the 2024 season per project specs., depending on 2023 progress. The site will be left clean, with any extra blasted material stockpiled per ADNR requirements and the rock face will be left in a stable condition.

Reclamation of the site at locations along the mining face where rock is depleted will be finished on conclusion of all off-site rock hauling activities including re-spreading of conserved topsoil.

Please call or e-mail if you require additional information or have any questions.

Sincerely.

Kyle Johnson

Environmental Scientist

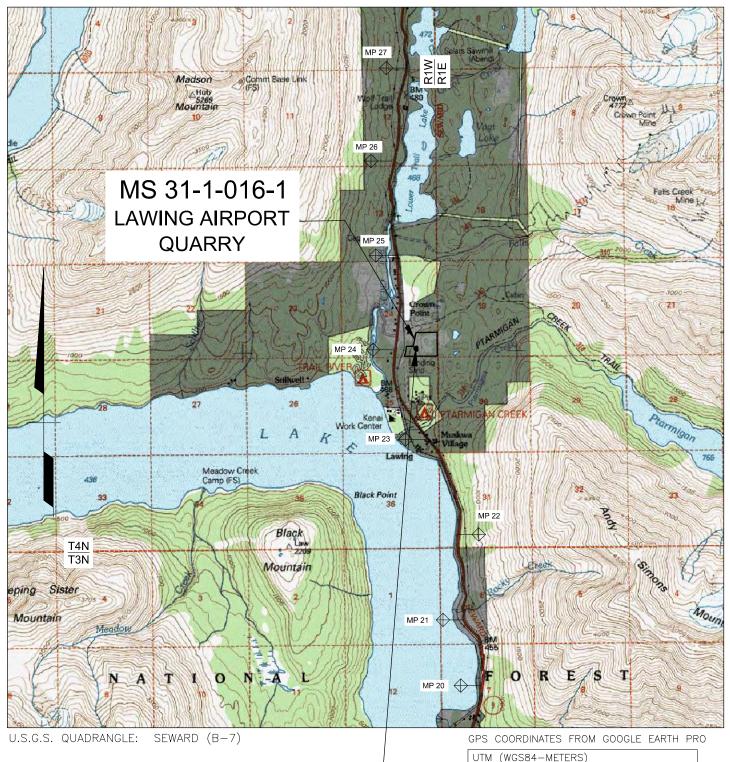
Tutka, LLC

kyle@tutkallc.com

www.tutkallc.com

Page 2 of 2

LOCATION



ACTIVE -STATUS UNKNOWN



BASE MAP CREATED WITH TERRAIN NAVIGATOR PRO

12:17 by

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06/13/07

ZONE 6: N6,700,109 E369,658

AK STATE PLANE (NAD83-US SURVEY FT)

ZONE 4: N2,344,573 E1,754,837

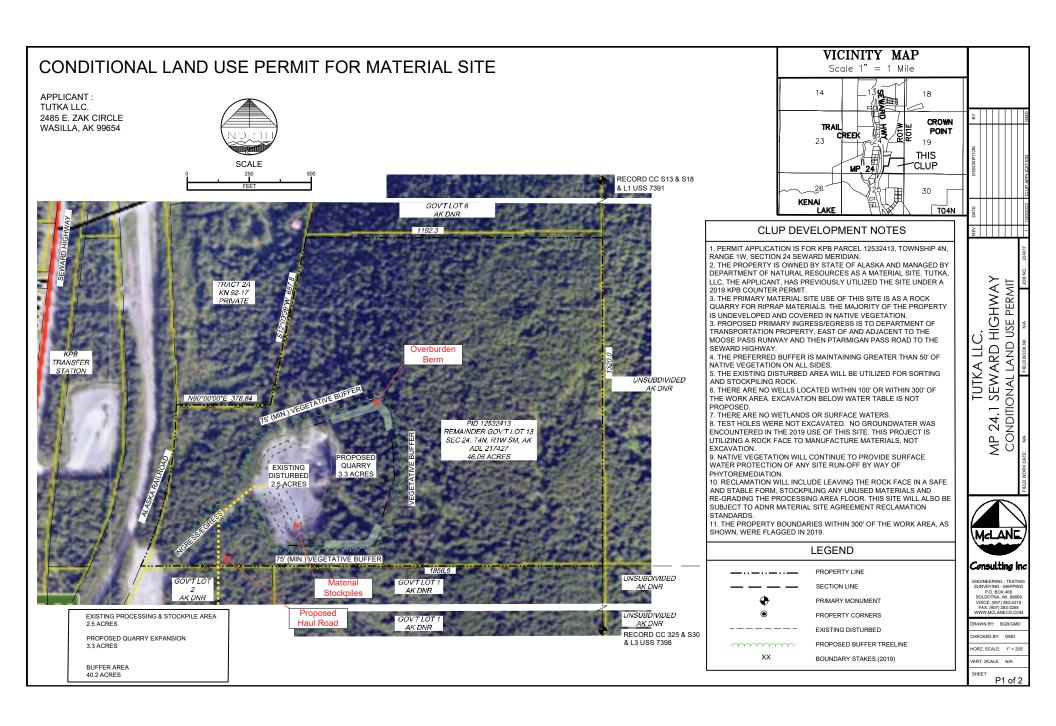
STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

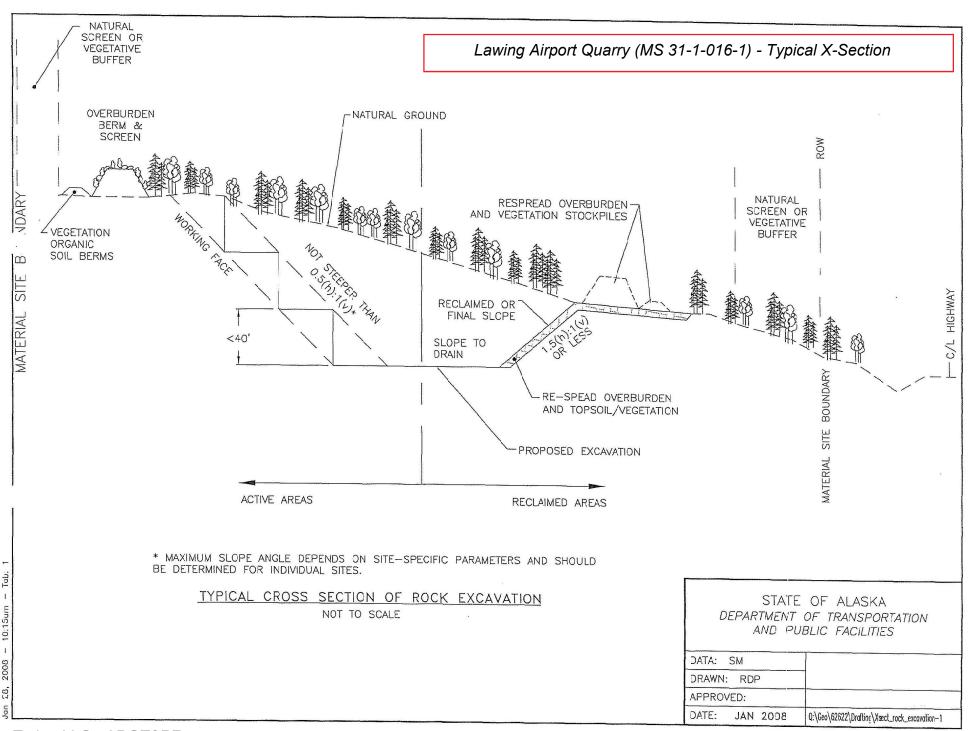
STATEWIDE MATERIAL SITE INVENTORY

MS 31-1-016-1

CHECKED C.H.R. AS SHOWN DATE MAY 2007

E3-24





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

Charlie Pierce Borough Mayor

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 a parcel in the Crown Point area of Moose Pass. This notice is being sent to landowners located within 2640 feet of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Tutka, LLC

Please turn over for map.

Landowner: State of Alaska, Department of Natural Resources

Parcel Number: 125-324-13

Legal Description: T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13

Location: Northeast of the Lawing Airport, Seward, AK 99664

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

KPB Code: Conditional land use permit applications for materials 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: borough.kenai.ak.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday September 26**, **2022** commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held in the assembly chambers of the borough administration building located at 144 N. Binkley Street, Soldotna, Alaska and through 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 come to 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, or faxed to (907) 262-5992. **Written statements must be provided by 1:00 pm Friday, September 23, 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 8/4/2022 3:39

