



**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-21  
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 AS T 3N R 01E SEC 18 SEWARD MERIDIAN SW 2011016 RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, 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 processing; and
- WHEREAS,** on March 31, 2022 the applicant, Colaska Inc - QAP, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 125-090-28, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on or before May 2, 2022 to the 47 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 Primrose 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 May 5, 2022 wherein the Advisory Planning Commission voted to approve the CLUP with stipulations including dust abatement, air quality monitoring, and reduced hours of operation; and
- WHEREAS,** public notice of the application was published in the May 11, 2022 and May 18, 2022 issues of the Seward Journal; and
- WHEREAS,** a public hearing was held at the May 23, 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 March 31, 2022 the applicant, Colaska Inc - QAP, submitted a conditional land use permit.
4. Application to the Borough Planning Department for KPB Parcel 125-090-28, which is located within the rural district.
5. KPB 21.29 provides that a conditional land use permit is required for material processing. The proposed cumulative disturbed area within the parcel is approximately 15.6 acres.
6. The proposed extraction meets material site standard 21.29.040(A)(1); "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 site plan indicates that there is one well located within 100' from the disturbed area, but no material extraction is proposed within the property boundaries.
  - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high-water table.
  - D. The site plan indicates that the depth of ground water is greater than 10' below existing ground and no material extraction is proposed within the property boundaries.
  - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
7. 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.
8. 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.
9. An ingress and egress will be constructed for access to the property that will lead directly to the Seward Highway an Alaska Department of Transportation maintained facility.
10. 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 permit condition KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.
11. The site plan and application propose the following buffers:
  - North: 50-foot native vegetation
  - South: 50-foot native vegetation
  - East: 50-foot native vegetation
  - West: 50-foot native vegetationThese buffers shall not overlap an easement.
12. 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.

Per section 21.29.050(A)(3) the planning commission at its discretion, may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.

(Requested processing distance waiver granted through Resolution 2022-21)



13. 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. (See Number 11, above.)
14. 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).
15. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
16. 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.
17. A public hearing of the Planning Commission was held on May 23, 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:**

#### **Regulations and Standards for Material Sites**

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts.

1. Material site standard 21.29.040(A)(1) is met because the seasonal high-water table is greater than 10 feet below the surface, and the applicant's intended depth of excavation is 0 feet below the existing grade, as set forth in number 6(C) and (D), above.
2. Material site standard 21.29.040(A)(2) is met because 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.
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: 50-foot native vegetation
  - South: 50-foot native vegetation
  - East: 50-foot native vegetation
  - West: 50-foot native vegetation

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 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: 50-foot native vegetation
  - South: 50-foot native vegetation
  - East: 50-foot native vegetation
  - West: 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).

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

- A. A portion of KPB Tax Parcel Number 125-090-28. The disturbed area within the parcel is approximately 15.6 acres;
- B. Legal Description: **T5N R11W SECTION 25 S.M. KALIFORNSKY CENTER SUBDIVISION TRACT A-1A**, Kenai Recording District, Third Judicial District, State of Alaska.
- C. The applicant, Colaska Inc - QAP, proposes to:
  1. Process materials on the subject parcel;
  2. 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' 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:	50-foot native vegetation
South:	50-foot native vegetation
East:	50-foot native vegetation
West:	50-foot native vegetation

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 operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property. (Requested processing distance waiver granted through Resolution 2022-21)
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' vertical separation from the seasonal high water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
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 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.
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 and



- 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 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.
  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.

#### **Voluntary Permit Conditions**

21. 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 operate rock crushing equipment between the hours of 8:00 pm and 08:00 am.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 23<sup>RD</sup> DAY OF MAY, 2022.

*Blair J. Martin*

Blair Martin, Chairperson  
Planning Commission

ATTEST:

*Ann Shirnberg*

Ann Shirnberg  
Administrative Assistant

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

