

E. NEW BUSINESS

- 3. Conditional Land Use Permit – Materials Processing
PC Resolution 2023-XX
Applicant/Landowner: Coalaska Inc. -QAP
Seward Area**

Conditional Land Use Permit for a Material Site STAFF REPORT

PC MEETING: May 22, 2023

Applicant: Colaska Inc. - QAP
Landowner: Colaska Inc.
Parcel Number: 144-030-72
Legal Description: T 1N R 1W SEC 27 SEWARD MERIDIAN SW 0000000 THAT PORTION OF THE EAST 388 FT OF THE WEST 718 FT OF THE W1/2 NE1/4 LYING SOUTH OF HERMAN LEIRER RD & THAT PORTION OF THE EAST 990 FT OF THE NW1/4 SE1/4 LYING NORTHEAST OF SEWARD CITY LIMITS
Location: 31825 Herman Leirer Road, Seward, AK 99664

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

The submitted site plan indicates that the material haul route will directly access Herman Leirer Road a State of Alaska maintained facility.

The site plan and application propose the following buffers:

North: 50-foot native vegetation
South: No buffer, applicant requesting buffer waiver
East: 50-foot native vegetation
West: No buffer, applicant requesting buffer waiver
Note: Applicant owns the adjacent lots to the South and West of the parcel in question.

The subject property is bordered on the North by the Right of Way of Herman Leirer Road. Directly to the East is occupied private property. To the South and West are parcels that are also owned by the applicant.

The site plan completed by McLane Consulting Inc., states that no excavation of material is planned for this site, therefore no test holes were dug and ground water depth was not determined. Plan notes state that there are no wet lands, but there are surface waters of the Resurrection River and its tributaries within the property boundaries. A central area will be maintained for processing, screening, crushing and making asphalt pavement. This processing area is greater than 300 feet from all property lines except the Southern line. The applicant requests a waiver from the 300-foot processing setback to the Southern boundary due to the fact that the applicant owns the adjacent parcel as well. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates 2 wells located less than 100 feet from the proposed use area.

Plan notes state that reclamation will include grading and stabilization of all work areas and remaining stockpiles. The site will be left as a gravel pad.

The applicant estimates using the site as a processing, storage and laydown facility for 10 years.

PUBLIC NOTICE: Public notice of the application was mailed on or before May 4, 2023 to the 134 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was sent to the postmaster covering the Seward area requesting that it be posted at the local Post Office.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on April 18, 2023.

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 April 18, 2023 the applicant, Colaska Inc - QAP, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 144-030-72, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material processing.
5. The proposed cumulative disturbed area within the parcel is approximately 12.5 acres.
6. Kenai Peninsula Borough's River Center issued a floodplain development permit for this activity.
7. 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.
8. The application indicates that excavation will not take place on the parcel and therefore the seasonal high-water table was not determined.
9. The applicant does not intend to excavate below the surface.
10. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
11. The applicant is required not to dewater either by pumping, ditching or some other form of drainage.
12. The site plan indicates that there are 2 wells located less than 100 feet of the proposed use area.
13. The application states that work will not be completed in the water table.
14. Plan notes state that there are no wet lands, but there are surface waters of the Resurrection River and its tributaries within the property boundaries.
15. 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
16. The site plan indicates the property boundary was flagged at visible intervals.
17. The site plan and application propose the following buffers:

North: 50-foot native vegetation
South: No buffer, applicant requesting buffer waiver
East: 50-foot native vegetation
West: No buffer, applicant requesting buffer waiver

These buffers shall not overlap an easement.

18. 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.
19. 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.
20. The applicant is required to provide dust control by the use of water and calcium chloride.
21. The site plan indicates that existing access will be maintained on to Herman Leirer Road and the haul route will then then travel East to the Seward Highway.
22. 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.
23. The site plan and application propose the following buffers:
North: 50-foot native vegetation
South: No buffer, applicant requesting buffer waiver
East: 50-foot native vegetation
West: No buffer, applicant requesting buffer waiver
These buffers shall not overlap an easement.
24. 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 West parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the South 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.
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: 50-foot native vegetation
South: No buffer, applicant requesting buffer waiver
East: 50-foot native vegetation
West: No buffer, applicant requesting buffer waiver
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 not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
30. A public hearing of the Planning Commission was held on May 22, 2023 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

STAFF RECOMMENDATION

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

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway and roadway 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' 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: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiverThese 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 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 West parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the Southside of the property.
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.

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

END OF STAFF REPORT

KPB 21.29

Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

I. APPLICANT INFORMATION ☒ New ☐ Modification

| | |
|--|---|
| Applicant <u>Colaska Inc. dba QAP POC: Patrick Cummins</u> | Landowner <u>Colaska Inc dba QAP</u> |
| Address <u>240 W 68th Avenue</u> | Address <u>240 W 68th Avenue</u> |
| City, State, Zip <u>Anchorage, Alaska 99518</u> | City, State, Zip <u>Anchorage, Alaska 99518</u> |
| Telephone <u>907-522-2211</u> Cell _____ | Telephone <u>907-522-2211</u> Cell _____ |
| Email <u>pcummins@colaska.com</u> | Email <u>pcummins@colaska.com</u> |

II. PARCEL INFORMATION

KPB Tax Parcel ID# 14403072 Legal Description T1N R1W S27 SM That portion of the E388 ft of the West 718 ft of the W1/2 NE1/4 lying south of Herman Leirier Road & that portion of the East 990 ft of the NW1/4 SE1/4 lying northeast of Seward City limits.

If permit is not for entire parcel, describe specific location within parcel to be material site, e.g.: "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".
Southeast 12.5 acres, as shown on exhibits


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

- ☒ \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- ☒ Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
- | | |
|---|--|
| <ul style="list-style-type: none"><input type="checkbox"/> parcel boundaries<input type="checkbox"/> location of boundary stakes within 300 ft. of excavation area (to be in place at time of application)<input type="checkbox"/> proposed buffers, or requested buffer waiver(s)<input type="checkbox"/> proposed extraction area(s), and acreage to be mined<input type="checkbox"/> proposed location of processing area(s)<input type="checkbox"/> all encumbrances, including easements<input type="checkbox"/> points of ingress and egress<input type="checkbox"/> anticipated haul routes | <ul style="list-style-type: none"><input type="checkbox"/> location/depth of testholes, and depth to groundwater, if encountered<input type="checkbox"/> location of all wells within 300 ft. of parcel boundary<input type="checkbox"/> location of water bodies on parcel, including riparian wetlands<input type="checkbox"/> surface water protection measures<input type="checkbox"/> north arrow and diagram scale<input type="checkbox"/> preparer's name, date and seal |
|---|--|
- ☒ Site Plan Worksheet (attached)
- ☒ Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

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

IV. CERTIFICATION STATEMENT

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

| | | |
|--|-------------------|--|
|  Applicant | 4/18/2023 Date | _____ Landowner (required if not applicant) Date |
|--|-------------------|--|

Site Plan Worksheet for Conditional Land Use Permit Application

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

Applicant Colaska Inc. dba QAP Owner Colaska Inc. dba QAP

KPB Tax Parcel ID # 14403072 Parcel Acreage 25.6

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 12.5 acres
2. Material to be mined (check all that apply): ☐ gravel ☐ sand ☐ peat ☐ other(list) _____
3. Equipment to be used (check all that apply): ☐ excavation ☒ processing ☐ other _____
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

- ☒ 50 ft. of natural or improved vegetation
☐ minimum 6 ft. earthen berm
☐ minimum 6 ft. fence
☒ other waiver on south & west

- | | | | |
|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> N | <input type="checkbox"/> S | <input checked="" type="checkbox"/> E | <input type="checkbox"/> W |
| <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W |
| <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W |
| <input type="checkbox"/> N | <input checked="" type="checkbox"/> S | <input type="checkbox"/> E | <input checked="" type="checkbox"/> W |

5. Proposed depth of excavation: 0 ft. Depth to groundwater: n/a ft.
6. How was groundwater depth determined? n/a
7. A permit modification to enter the water table will be requested in the future: Yes X No
8. Approx. annual quantity of material, including overburden, to be mined: 0 cubic yards
9. Is parcel intended for subdivision? Yes X No
10. Expected life span of site? 10 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)

12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)

- A. _____
B. _____
C. _____

Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a "non-invasive" plant species.
3. Total acreage to be reclaimed each year: ⁰_____ acres
4. List equipment (type and quantity) to be used in reclamation:
Loader & grader

5. Describe time schedule of reclamation measures:
Upon completion of onsite material processing, work areas and material remaining in stockpiles will be graded for stabilization. Site will be left as a gravel pad.

6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – ☒ **"check" all that apply to your plan.**
 - ☐ Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.
 - ☐ The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.
 - ☐ Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.
 - ☐ Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
 - ☐ Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
 - ☐ Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

ADDITIONAL APPLICATION COMMENTS

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

Applicant is applying to process material on the subject property. All material mining will take place on adjacent property that is already permitted for mining with City of Seward, KPB and ADNR. This site was previously permitted by previous property owners in 2008. The site area is gravel pad with small stockpiles and thick alders.

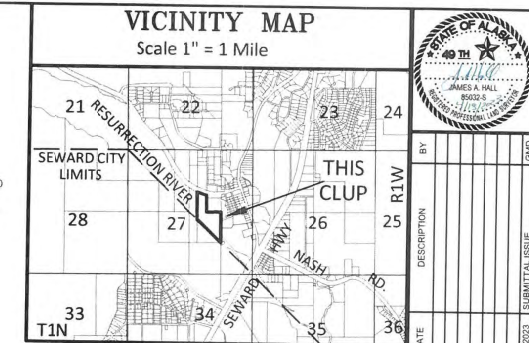
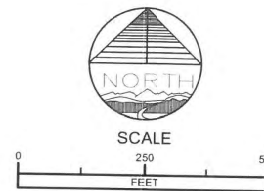
QAP is planning to process approximately 60,000 cubic yards of materials at this site during a 1 - 3 year duration.

Processed material will be utilized on the Seward highway MP 0-8 AKDOT project and other projected projects in the area.

Upon completion of area projects, processing equipment will be removed from site and work areas and any remaining stockpiles graded for stabilization.

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

APPLICANT / PROPERTY OWNER:
COLASKA INC. DBA QAP
240 W. 68TH AVE
ANCHORAGE AK, 99518



CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS KPB PARCEL 14403072, LOCATED IN TOWNSHIP 1 NORTH, RANGE 1 WEST, SECTION 27, SEWARD MERIDIAN, ALASKA. PROPERTY DESCRIPTION IS THAT PORTION OF THE EAST 388 FT OF THE WEST 718 FT OF THE W $\frac{1}{2}$ NE $\frac{1}{4}$ LYING SOUTH OF HERMAN LEIRER ROAD AND THAT PORTION OF THE EAST 990 FT OF THE NW $\frac{1}{4}$ SE $\frac{1}{4}$ LYING NORTHEAST OF SEWARD CITY LIMITS.
2. THE PROPERTY IS A FORMERLY PERMITTED MATERIAL EXTRACTION AND PROCESSING SITE. IT IS PARTIALLY COVERED IN NATIVE VEGETATION.
3. PROPOSED PRIMARY INGRESS/EGRESS IS TO HERMAN LEIRER ROAD.
4. THE PREFERRED BUFFERS ARE 50' VEGETATION ON EAST AND NORTH. BUFFER WAIVER IS REQUESTED FOR THE SOUTH AND WEST AS THE APPLICANT OWNS BOTH OF THESE PROPERTIES.
5. THIS SITE IS BEING PERMITTED AS A PROCESSING, STAGING AND STOCKPILE AREA. THERE WILL BE NO MATERIAL EXTRACTION FROM THIS SITE.
6. PROCESSING AREA IS GREATER THAN 300' FROM THE PROPERTY LINE..
7. ALL WELLS WITHIN 300' OF THE PROPERTY ARE SHOWN HEREON.
8. THERE ARE SURFACE WATERS OF RESURRECTION RIVER AND ITS TRIBUTARIES IMMEDIATELY SOUTH AND WEST OF THE SITE.
9. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION OF ANY SITE RUN-OFF BY WAY OF PHYTOREMEDIATION.
10. TEST HOLES WERE NOT EXCAVATED AND DEPTH TO GROUNDWATER WAS NOT LOGGED AS THE SITE IS NOT BEING MINED.
11. THE PROPERTY CORNERS SHOWN WERE LOCATED AND THE PARCEL BOUNDARY SHOWN HAS BEEN FLAGGED AT VISIBLE INTERVALS.

LEGEND

- PROPERTY LINE
- - - - - BUFFER LIMITS
- PROPERTY CORNERS
- X INTERSICILABLE FLAGGING
- W WELL
- ~ EXISTING TREELINE
- /// STOCKPILE AREA
- /// PROCESSING AREA



| REV | DATE | DESCRIPTION | BY |
|-----|-----------|-----------------|-----|
| 1 | 4/12/2022 | SUBMITTAL ISSUE | QAP |

| | |
|-----------------|----------------|
| FIELD BOOK NO. | 284013 |
| JOB NO. | 284013 |
| DATE | APRIL 13, 2023 |
| FIELD WORK DATE | APRIL 13, 2023 |



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

| | |
|---------------|-----------|
| DRAWN BY: | BGB/GMD |
| CHECKED BY: | GMD |
| HORIZ. SCALE: | 1" = 250' |
| VERT. SCALE: | N/A |
| SHEET: | P1 |

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-11
SEWARD RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to process materials on the parcel described as T 1N R 1W SEC 27 SEWARD MERIDIAN SW 0000000 THAT PORTION OF THE EAST 388 FT OF THE WEST 718 FT OF THE W1/2 NE1/4 LYING SOUTH OF HERMAN LEIRER RD & THAT PORTION OF THE EAST 990 FT OF THE NW1/4 SE1/4 LYING NORTHEAST OF SEWARD CITY LIMITS, 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 April 18, 2023 the applicant, Colaska Inc - QAP, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 144-030-72, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on or before May 4, 2023 to the 134 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 Seward area requesting that it be posted at the local Post Office; and
- WHEREAS,** public notice of the application was published in the May 10, 2022 and May 17, 2023 issues of the Seward Journal; and
- WHEREAS,** a public hearing was held at the May 22, 2023 meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

FINDINGS OF FACT

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On April 18, 2023 the applicant, Colaska Inc - QAP, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 144-030-72, which is located within the rural district.

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6. Kenai Peninsula Borough's River Center issued a floodplain development permit for this activity.
7. 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.
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9. The applicant does not intend to excavate below the surface.
10. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
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14. Plan notes state that there are no wet lands, but there are surface waters of the Resurrection River and its tributaries within the property boundaries.
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16. The site plan indicates the property boundary was flagged at visible intervals.
17. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation
 - South: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiverThese buffers shall not overlap an easement.
18. 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.
19. 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.
20. The applicant is required to provide dust control by the use of water and calcium chloride.
21. The site plan indicates that existing access will be maintained on to Herman Leirer Road and the haul route will then then travel East to the Seward Highway.

22. 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.
23. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation
 - South: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiverThese buffers shall not overlap an easement.
24. 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 West parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the South 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.
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: 50-foot native vegetation
 - South: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiverThese 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 not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
30. A public hearing of the Planning Commission was held on May 22, 2023 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

Section 2. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:

CONCLUSIONS OF LAW

1. Material site standard 21.29.040(A)(1) is met because even though the seasonal high-water table is unknown, and the applicant's intended depth of excavation is 0 feet below the existing grade, as set forth in Finding 8 and 9.
2. Material site standard 21.29.040(A)(2) is met because the permittee shall maintain a 50-foot buffer of native vegetation 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: 50-foot native vegetation
 - South: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiver
 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 West parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the South 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: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiver
6. Material site standard 21.29.040(A)(6) is met because the applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).

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

1. A portion of KPB Tax Parcel Number 144-030-72. The disturbed area within the parcel is approximately 12.5 acres;
2. Legal Description: **T 1N R 1W SEC 27 SEWARD MERIDIAN SW 0000000 THAT PORTION OF THE EAST 388 FT OF THE WEST 718 FT OF THE W1/2 NE1/4 LYING SOUTH OF HERMAN LEIRER RD & THAT PORTION OF THE EAST 990 FT OF THE NW1/4 SE1/4 LYING NORTHEAST OF SEWARD CITY LIMITS**, Seward Recording District., Third Judicial District, State of Alaska.
3. The applicant, Colaska Inc - QAP, 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' 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: No buffer, applicant requesting buffer waiver
 - East: 50-foot native vegetation
 - West: No buffer, applicant requesting buffer waiver
 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 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 West parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the Southside of the property.
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.

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

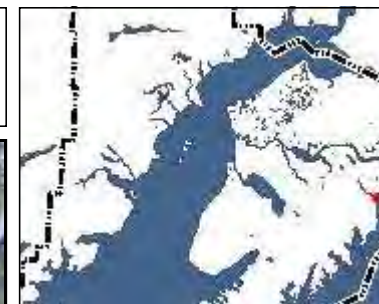
Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

Area Land Use Map: 144-030-72



Legend

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

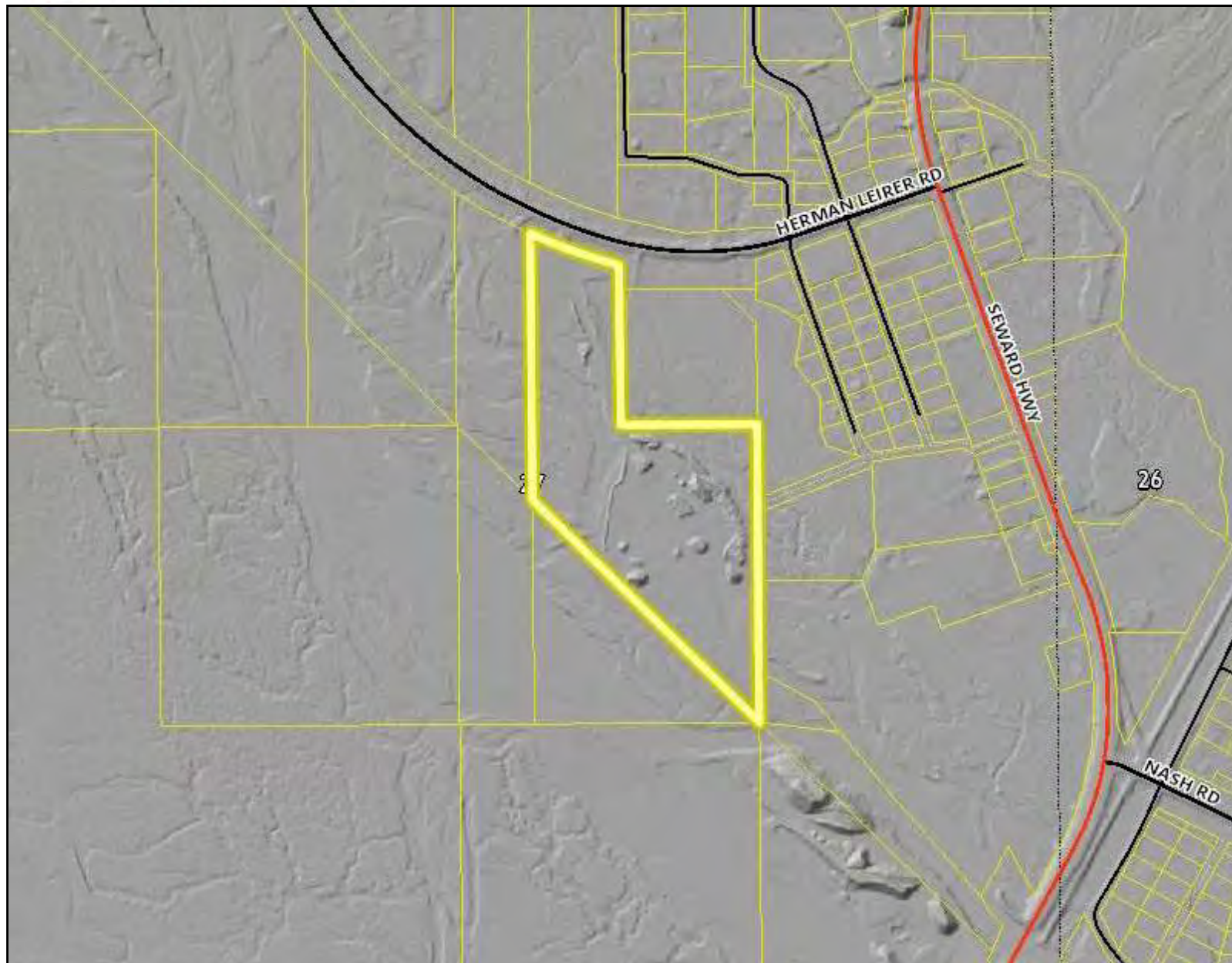


Notes

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

DATE PRINTED: 5/11/2023

Lidar Map: 144-030-72



Legend

- Mileposts
- Major Roads
- Township Lines
- Section Lines
- Parcels

Click for LiDAR info - Seward

High : 2600

Low : 0

Click for LiDAR elevation info

High : 2600

Low : 0

Hillshade

High : 254

Low : 0

Hillshade Seward


High : 254

Low : 0

HillshadeEast

High : 254

Low : 0



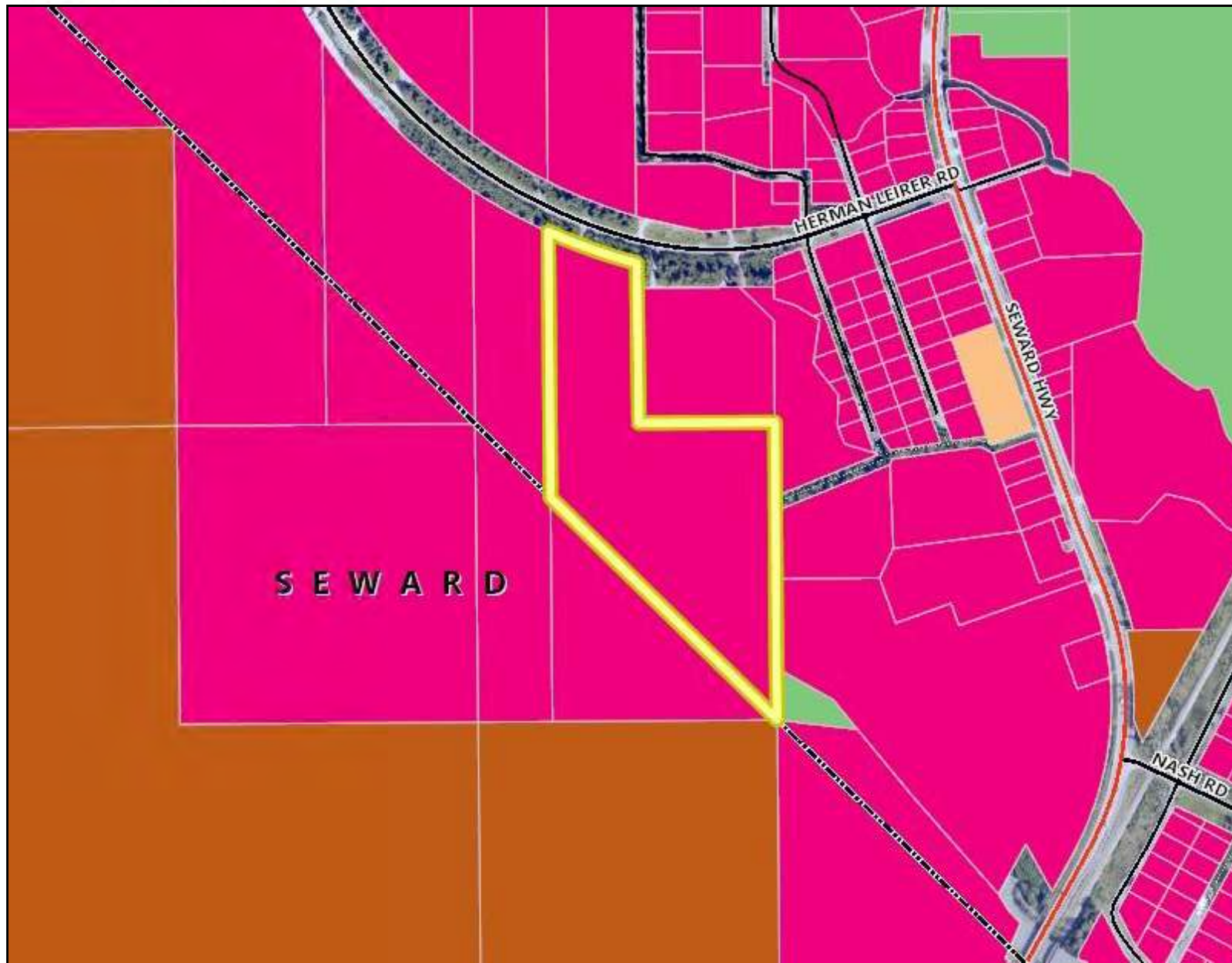
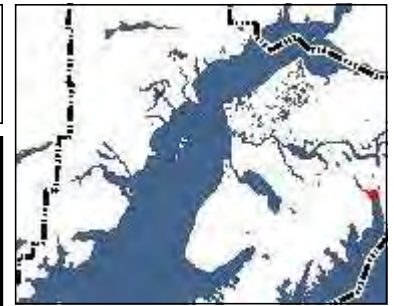
Notes

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DATE PRINTED: 5/11/2023



Ownership Map: 144-030-72



Legend

- Mileposts
- City Limits
- Highways
- Major Roads
- Roads**
 - Town Medium Volume
 - Town Low/Seasonal; Other
 - Proposed
- Ownership**
 - Green: Borough
 - Purple: Federal
 - Orange: Municipal
 - Yellow: Native
 - Purple: Native Allotment
 - Pink: Private
 - Brown: State
- Image**
 - Red: Red
 - Green: Green
 - Blue: Blue



Notes

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

DATE PRINTED: 5/11/2023



Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax



A Division of the Planning Department

Peter A. Micciche
Borough Mayor

FLOODPLAIN DEVELOPMENT PERMIT: AMENDED

5/10/2023

RC Number: 12319

Issued: 11/21/2022

Amendment Issued: 5/10/2023

Expires: 12/31/2024

ATTN: Patrick Cummins
Colaska Inc. dba QAP
240 W 68th Ave
Anchorage, AK 99518

Dear Applicant:

Pursuant to KPB Chapter 21.06, Floodplain Management, this is the floodplain development permit for your proposed project. Please review the entire document, as you are responsible for meeting all terms and conditions contained herein, and all development must remain in compliance with these regulations as long as they are located in the regulatory floodplain.

Project Location

KPB Parcel ID: 14403041 14403044 14403045 14403069 14403072
Legal Description: T1N R1W Sec 27 SM SW
Physical Address: 31825 Herman Leirer Rd

Floodplain Determination

Map Panel: 02122C-4543E
Effective Date: 10/20/2016
Flood Zone(s): AE, Floodway, SMFDA, X

Project Description

This project is for the annual excavation and stockpiling of up to 100,000 cubic yards of material from dewatered bars of the Resurrection River. When operations require the crossing of active side channels, a temporary bridge or temporary culverts will be placed, per Alaska Department of Fish and Game authorization (permit FH 18-V-0241), to move heavy equipment to and from the dewatered bars. Temporary stockpiling of material is authorized in the floodplain with the reminder that any alteration of the waterway, including to active side channels, that causes flooding to downstream properties is prohibited.

This permit is amended to authorize Asphalt Processing Operations within the floodway, and includes the following activities:

- All processing equipment (as listed in the request to amend) is installed on their own trailers that are registered and equipped for road use.
- As part of the applicant's SWPP Plan, weather is monitored daily and competent personnel are assigned to respond to monitor rain events. Weather will be monitored for potential flood events.
- All equipment stored in the floodplain and floodway is setup in a temporary nature that allows for the equipment to be moved in the event of foreseeable storm events.
- All fuel and asphalt cement storage will be setup in a manner to allow for priority movements in the event removal is required.
- All fuel and asphalt cement storage will not be stored in the floodplain after operations are completed for the season.

Permit Conditions

The proposed project and associated activities must comply with the following conditions in addition to all standards detailed in KPB Chapter 21.06. Development that occurs in the regulatory floodplain that does not comply with these conditions or the provisions of KPB 21.06 is prohibited and constitutes a violation subject to enforcement under KPB 21.50. Each day a violation continues is a separate violation. In addition, this permit is only valid if all other federal, state and local permits are secured and if the project remains in full compliance with the regulations of those agencies. Permit conditions are as follows:

1. No additional material may be placed or stored long-term in the regulatory floodway without first submitting a No-Rise Analysis and Certification from a professional engineer or architect, licensed and registered in the State of Alaska, demonstrating that such placement of fill will not increase the Flood Protection Elevation (FPE) or otherwise alter the mapped floodplain.
2. When dredging in a streambed, material will be removed in shallow, even lifts so as not to create depressions that might entrap fish. Gravel removal will only be allowed on dewatered bars within the boundaries of the above-referenced parcel. No alteration of the watercourse is permitted; any alteration of the water course must be immediately corrected. All work will occur within the existing streambanks, and streambank vegetation shall not be disturbed.
3. All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage and with materials and utility equipment that are resistant to flood damage. All structures in the regulatory floodplain must also be adequately anchored to resist floatation and lateral movement.
4. All fuel storage tanks shall be elevated above the Flood Protection Elevation (FPE) or made watertight and anchored to resist floatation, collapse, and lateral movement. The tank must also be installed within an impervious containment basin of a size sufficient to contain 110 percent of storage capacity plus 12 inches of freeboard.

Advisories

Federal regulation 44 CFR §59 states that this floodplain development permit is valid until the expiration date above, provided that work on this project begins within 180 days of the issue date. If work does not begin within 180 days, this permit will expire at the end of that period and you will be required to resubmit your application.

KPB Chapter 21.06 states that all proposed construction or development in the flood hazard areas of the Kenai Peninsula requires that a floodplain development permit be secured prior to beginning any work. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

The permittee named above is responsible for the actions of the contractors, agents, and any other persons who perform work to accomplish the approved plan. For any activity that deviates from the approved plan, the permittee shall notify the River Center and obtain written approval before beginning the activity.

Compliance with the conditions and stipulations of all other necessary local, state and federal permits is required. The permittee is solely responsible for obtaining all necessary local, state, and federal permits before beginning work.

Flood information used to issue this permit is based on the regulatory Flood Insurance Rate Maps (FIRMs) for the Kenai Peninsula Borough. This permit does not imply the referenced project areas will or will not be free from flooding or damage. Larger floods can and will occur on rare occasions. This information does not create liability on the part of the Borough, its officers or employees, or the Federal Insurance Administration, for any damage that results from reliance on this information.

Please contact me with any questions or modifications to the permitted project activities at 907-714-2468 or slopez@kpb.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Samantha Lopez", with a stylized flourish at the end.

Samantha Lopez
River Center Manager



Planning Department

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

Peter Micciche
Borough Mayor

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

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 material processing on a parcel located in the Seward Area. This notice is being sent to landowners located within ½ mile of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Colaska Inc - QAP

Landowner: Colaska Inc - QAP

Parcel Number: 144-030-72

Legal Description: T 1N R 1W SEC 27 SEWARD MERIDIAN SW 0000000 THAT PORTION OF THE EAST 388 FT OF THE WEST 718 FT OF THE W1/2 NE1/4 LYING SOUTH OF HERMAN LEIRER RD & THAT PORTION OF THE EAST 990 FT OF THE NW1/4 SE1/4 LYING NORTHEAST OF SEWARD CITY LIMITS

Location: 31825 Herman Leirer Rd, Seward, Alaska 99664

Proposed Land Use: The applicant wishes to obtain a permit for material processing on a portion of the parcel(s) listed above.

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

Notice Requirements: According to KPB Code 21.25.060, at the beginning of the notice period a copy of the notice shall be sent by regular mail to all owners and/or leaseholders of record of property located within a radius of one-half mile of the subject property. The notice shall contain a description of the proposed location, the type of proposed land use, the applicant's name, where written comments may be submitted, the last date for which written comments may be submitted, and the date, time and location of the public hearing.

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday May 22, 2023** commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held only on Zoom, **Meeting ID 907 714 2200**. To attend the Zoom meeting via computer, visit: <https://us06web.zoom.us/j/9077142200>. To attend by telephone call toll free **1-888-788-0099** or **1-877-853-5247**.

Public Comment: Those wishing to comment may attend the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to: rraidmae@kpb.us, or faxed to (907) 262-5992. **Written statements must be provided by 1:00 pm Friday, May 19, 2023.** 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.

Additional Information: 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). You may also go to <https://kpb.legistar.com/Calendar.aspx> one week before the hearing to view/download documentation attached to the Planning Commission Agenda.

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

Please turn over for map.



Kenai Peninsula Borough

Parcels Within 1/2 Mile of Proposed CLUP

5/3/2023 2:59

