

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

2. Conditional Land Use Permit - Materials Extraction & Processing
PC Resolution 2023-15
Applicant: Colaska Inc. – QAP
Landowner: AK Railroad Corporation
Location: 30986 Seward Highway
KPB Parcel ID: 125-141-01
Crown Point Area

Conditional Land Use Permit for a Material Site

STAFF REPORT – Amended

PC MEETING: June 12, 2023

Applicant: Colaska INC - QAP
Landowner: Alaska Railroad Corporation
Parcel Number: 125-141-01
Legal Description: T 4N R 1W SEC 13 & 24 SEWARD MERIDIAN SW 0007391 USS 7391 LOT 2
Location: 30986 Seward Hwy, Moose Pass, Alaska 99631

BACKGROUND INFORMATION: The applicant wishes to obtain a Conditional Land Use Permit for material extraction and processing, on a portion of the parcel listed above.

The submitted site plan proposes a material haul route that will utilize the existing access to the subject parcel and then travel South following the Railroad's maintenance road. Once the maintenance road reaches the Lawing Airport runway, the haul route will shift East and connect to Lawing Airport access road that runs on the East side of the runway. 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.

Note: Due to conflicting operations at the Lawing Airport, the proposed haul route is unavailable and QAP is in the process of finding alternative routes.

The site plan and application propose the following buffers:

North: 50-foot native vegetation and a 6-foot berm on the interior limits.
South: 50-foot native vegetation and a 6-foot berm on the interior limits.
East: 50-foot native vegetation and a 6-foot berm on the interior limits.
West: 50-foot native vegetation and a 6-foot berm on the interior limits.

The subject property is bordered on the Northside by parcels owned by the Bureau of Land Management and the Alaska Department of Natural Resources. On the Eastside of the property is land owned by the Alaska Department of Natural Resources. To the South is a privately owned and occupied lot and to the West is the Rights of Way for the Alaska Railroad Corporation.

The site plan completed by McLane Consulting Inc., claims that the depth of ground water is unknown, but is believed to be deeper than the proposed excavation depth of 10 feet. Well Logs from adjacent wells state that water was encountered around 15 feet below the surface, but the same wells harvest ground water from a depth of 40 – 60 feet. Test holes were dug to a depth of 7 feet with no water recorded. Monitoring wells were not installed for this site. Plan notes state that there are no wet lands or surface waters within the property boundaries.

A central area will be maintained for sorting and processing of material. This area is greater than 300 feet from all property lines. 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 recontouring using strippings and overburden to a condition that allows for establishment of natural vegetation. Graded slopes will not exceed 2:1 and will be seeded.

The applicant estimates using the material site for approximately 3 years and the annual quantity to be extracted will be about 60,000 cubic yards. This amount of material will make the site ineligible for a Small Operation Exemption pursuant to AS 27.19.050 and therefore bonding will be required. 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 May 26, 2023 to the 77 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was also sent to the postmaster covering the Moose Pass area and requested that the notice be placed in the nearest Post Office.

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

ATTACHMENTS

- Conditional Land Use Permit - application and associated documents
- Aerial map
- Area Land Use map
- Ownership map
- Liar 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 May 18, 2023 the applicant, Colaska INC - QAP, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 125-141-01, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
5. The proposed cumulative disturbed area within the parcel is approximately 14.4 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 well logs from adjacent parcels indicate ground water at a depth greater than 15 feet.
8. The applicants intended depth of excavation will be 10 feet.
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 100 or 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 boundaries were flagged at visible intervals when the excavation perimeter was within 300 feet of the parcel boundary.
16. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 submitted site plan proposes a material haul route that will utilize the existing access to the subject parcel and then travel South following the Railroad's maintenance road. Once the maintenance road reaches the Lawing Airport runway, the haul route will shift East and connect to Lawing Airport access road that runs on the East side of the runway. 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.
Note: Due to conflicting operations at the Lawing Airport, the proposed haul route is unavailable and QAP is in the process of finding alternative routes. All routes will comply with Kenai Peninsula Borough 21.29.30(A)(8)(d), Points of ingress and egress.
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: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 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.

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: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 60,000 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.
29. A public hearing of the Planning Commission was held on June 12, 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, 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: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 processes material at least 300 feet from the parcel boundaries.
 6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
 8. The permittee shall not dewater either by pumping, ditching or any other form of draining 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 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.
 16. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
 17. 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.
 18. 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.
 19. 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.
 20. 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.

21. 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.
22. 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

From: David Pearson
To: [Planning Dept.](#); [Ecklund, Cindy](#); [Mayor Peter Micciche](#)
Subject: <EXTERNAL-SENDER>Please deny Coalaska Inc -QAP the condition use permit requested for the site at 30986 Seward Highway.
Date: Friday, June 9, 2023 10:26:18 AM

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Planning Commission

Please read this into the meeting record.

Deny Coalaska Inc- QAP the conditional use permit requested for the site at 30986 Seward Highway. This application is both incomplete and flawed.

The largest is the conflict with the minimize the noise to other properties under the six standards for 21.29. Screening gravel from 8 pm to 8 am is in direct conflict with this. Operations of loading trucks and moving screened material is reasonable for the logistics of the project during those hours, however, the actual screening should not occur during the hours between 8 pm and 8 am. The northern area of the project is within 1000' feet of residents. The evening screening is not in line with this standard to minimize noise to other property owners in the area.

The application states desired depth of excavation is 10' yet they only dug 7' test pits. For a project this size it seems the minimum should be test pits to two feet below the proposed excavation depth to ensure they are staying 2 feet above the water table. The fact that they dug any test pits means that they know they should not rely on off-site well data alone. This shows that they are unaware if they are in conflict with the standard of protecting local water sources.

Lastly, their application states that their planned haul route is not feasible. Until the public and borough have a chance to understand and comment on their actual haul route plan the commission should deny this permit.

QAP had three years to plan their logistics; a last minute poorly articulated and poorly planned project application should be unacceptable. There are other options for QAP to get gravel. The borough should not overlook the many flaws and unreasonable timetable of this request for a conditional land use permit and deny QAP this permit until hours of screening, proper test pits, and an actual haul route is included in this application.

--

David E. Pearson
907-205-0824
davidelipearson@gmail.com

Raidmae, Ryan

From: Dan Mico <danmico@hotmail.com>
Sent: Friday, June 9, 2023 10:35 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Colaska INC - QAP Material Extraction

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am a resident of Crown Point living across the road from the proposed material extraction area. I oppose granting this permit as there is already extraction occurring at the pit located on the north end of the Lawing airstrip and extensive road construction just to the south. We hear noise from equipment and blasting all day already and don't need more. I also oppose granting the variance to allow for rock processing between 8 PM and 8 AM since that would mean active extraction and the noise associated with it would be occurring 24 hours a day in Crown Point with the other work that is already occurring.

Dan Mico
30391 Seward Hwy.
Moose Pass, AK 99631

Sent from my Verizon LG Smartphone

To: Ryan Raidmae, Kenai Peninsula Borough Planning Commission Chairman
From: Ellen O'Brien

June 8, 2023

I request that the following statement be provided to the KPB Planning Commission for review prior to any decision made on the Coalaska, INC – QAP Conditional Land Use Permit Application for Parcel #125-141-01.

I and my husband own and reside on a parcel in T 4N R 1W Sec 24 Seward Meridian immediately south of the proposed materials extraction and processing site described in the Coalaska, Inc – QAP's pending application. My concerns are listed below followed by my request for changes to the Borough's requirements to moderate the serious impacts to Crown Pont residents that will occur from the current application plans. I will refer to the applicant as QAP to make this as brief as possible.

Concerns:

Water table effects – McLane Consulting Co. wrote in their results that the "depth of groundwater unknown" at the planned site. QAP's one test well only went to 7 ft, but their plan is for up to 10 ft excavation. The permit requires excavation to be at least 2 ft above groundwater. Surrounding residential well depths are inadequate for determining location of the upper level of groundwater. No monitoring of wells is planned. The fact that the application lists a contingency if excavation reaches the water table tells me there is not confidence in the current plan to ensure groundwater is not breached.

Correction: Require QAP to do at least four test wells widely separated over the 14 acre site to at least 2 ft below actual plans for excavation (i.e. 12 ft). If QAP plans to excavate deeper, then additional and deeper test wells would be needed. Monitoring of wells should be required.

Hours of Operation Variance –The KPB 21.29.050 specifies hours for ceasing operations, including "rock crushing", from 10pm to 6 am. The variance requested would allow QAP to cause excessive noise from 8 pm to 8 am from May 15th until September 15th for the next five years. The noise reduction ordinance recognizes that no one wants quality of life to be degraded at night by noise, especially in a residential area. No matter what the activity is called, excessive noise at night should not be allowed. I find it an insult to think noise would not matter to the residents here.

Correction: Maintain current KPB ordinance and deny the variance requested and require that any loud noises, including "rock shaking" and "rock crushing", be prohibited from 10 pm to 6 am.

Haul Route – The original haul route proposed in the plan is not an option for this company, and was known to be such prior to the application. QAP has no alternative haul route plan yet. For these reasons alone the permit should not be approved yet. The original plan had large heavy trucks traveling on the Alaska Railroad maintenance road. This road was not constructed for this kind of heavy traffic over possibly 5 years. The only other route is Solar Mountain Road,

a gravel road crossing the railroad tracks. Both of these routes bring into question which agency will be responsible to properly maintain the roadways and crossings to protect other users.

Correction: Without a chosen route mitigation measures can't be addressed definitively. For that reason alone this permit should not be approved.

Asphalt processing – I find no asphalt processing details in this application, though Chairman Raidmae referenced this during a conversation, today, Thursday, June 8th. With no details to address, I will just state for the record that asphalt processing is known to produce air pollution and the odor is extremely unpleasant to be near. It also has more risks of ground and water pollution than strictly material extraction. I understand it to also be a very noisy process which should not be allowed in a residential area such as Crown Point, especially at night.

Correction: Until an application specifically for this activity is made, asphalt processing should not be allowed within the area identified for this permit.

Thank you for your attention to my comments. I would like to believe the permitting process is not just a cover for letting companies do whatever they want no matter what. I am not protesting materials extraction from the defined site. I would be happy to see my concerns addressed and would appreciate information on how this will be done and how it will be enforced.

Sincerely,

Ellen O'Brien
33749 Solar Mountain Road, Mile 24 & ¼ Seward Highway
Seward, Alaska 99664

Raidmae, Ryan

From: Lisa Slepetski <lslepets@alumni.colostate.edu>
Sent: Friday, June 9, 2023 11:08 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Public comment on CLUP for Colaska/QAP, Crown Point area Parcel 125-141-01

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KPB Planning Commission,

Please consider my comments and concerns for the CLUP in the Crown Point area. I am not opposed to material extraction, however, please - for our sanity, sleep, and well being - do NOT grant the applicant the requested variance from the required Hours of Operation for rock crushing. The Crown Point residents already contend with the noise from two major projects going on - Tutka is blasting/material extraction near the Lawing Airport, and the Seward Highway construction. Thankfully thus far, the loudest work we hear at mile 24 is performed during normal hours of operation. If a variance were granted for this project, though, we would suffer the direct and indirect effects of constant, chronic noise exposure **literally** around the clock, and negatively affect the value, use, and enjoyment of my property. I am a first responder and having a good night's sleep is vital to my job as a public servant. Upholding KPB hours of operation for rock crushing at least ensures it won't be AS loud at night.

Please allow public input on any changes to the haul route they propose, since it sounds like the route in the permit may not be an option? The community/neighborhood should be notified and able to weigh in on changes that were not in the original application. Also, since there are so many multi-year CLUPs in the area, it is a perfect opportunity for inspection and compliance checks and show that KPB takes these things seriously to protect the health and wellbeing of the public and environment.

Thank you for your consideration,
Lisa Slepetski
30391 Seward Highway
PO Box 51
Moose Pass AK 99631

Raidmae, Ryan

From: Planning Dept,
Sent: Friday, June 9, 2023 11:38 AM
To: Raidmae, Ryan
Subject: FW: <EXTERNAL-SENDER>Deny site at 30986 Seward Highway; Deny Coalaska Inc -QAP the condition use permit request

From: Claire Shipton <claireshipton@gmail.com>
Sent: Friday, June 9, 2023 11:27 AM
To: Planning Dept, <planning@kpb.us>; Ecklund, Cindy <CEcklund@kpb.us>; Mayor Peter Micciche <pmicciche@kpb.us>
Subject: <EXTERNAL-SENDER>Deny site at 30986 Seward Highway; Deny Coalaska Inc -QAP the condition use permit request

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Dear Planning Commission,

I am writing to request that you deny Coalaska Inc- QAP the conditional use permit requested for the site at 30986 Seward Highway.

The application does not indicate that they have fully planned out the project, and may very well result in an additional misguided and abandoned gravel pit next to the 10 or so cleared acres just to the southwest of this proposed area along the railroad tracks.

Besides the application looking rushed and thrown together, I am concerned mainly about 3 things: the lack of a feasible determined haul route, the lack of proper test pits to ensure the water table is not disturbed, and the noise violation from 8pm-8am that is in conflict with minimizing noise to other property owners in the area.

Tutka, operating a few miles down the road, was forced to adhere to minimizing disturbance to the surrounding neighborhood; and Coalaska and QAP should be made to do the same.

QAP had three years to plan their logistics. A last minute, poorly articulated, and poorly planned project application should be unacceptable and denied. There are other options for QAP to get gravel.

The borough should not overlook the many flaws of this request for a conditional land use permit. They should deny Coalaska/ QAP this permit until an actual haul road, proper test pits, and reasonable hours of screening are included in this application.

Thank you for your thorough consideration in making this important decision. I trust you will do right by the borough's property owners.

Sincerely,
Claire Shipton
907-288-4111

Raidmae, Ryan

From: Gary Lindquist <gvindquist@hotmail.com>
Sent: Friday, June 9, 2023 11:44 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Re: Conditional land use permit comments. Permit #202315. Co-Alaska Inc - QAP,

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To: Kenai Peninsula planning commissioners:

Please find my comments below regarding the proposed material extraction and rock crushing on parcels in the Crown point area (Parcel #125-141-01)

It has come to my attention that the applicant Co-Alaska INC - QAP has submitted a proposal to the Kenai Peninsula Borough Planning Commission for a waiver to allow for rock crushing during evening hours. Per Moose pass APC meeting on 6/8/23 please restrict excessive noise (per Kenai Borough noise ordinance and in accordance with OSHA standards for noise and vibration) such as rock crushing - rock shaking etc. during the evening hours of 8:00 pm - 8:00 am. as we operate a lodging service (Jewel of the North) located directly across the Seward Highway from where the proposed activity would take place.

Our residence and business are located at mile 25 of the Seward Highway and have operated our business here for over 25 years. We have paid clients booked throughout the summer and into this fall. Our lodging guests and ourselves SLEEP AT NIGHT, so rock crushing, shaking etc. during the evening hours would not be acceptable.

Also, please consider a 100' native vegetation and a 6' berm on the interior limits to provide additional protection for the view shed so the clearing activity would not be visible from the highway. We also do have some concern about excavation depth and the potential effects on our nearby water well.

Thank you, Gary Lindquist

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-15
SEWARD RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel T 4N R 1W SEC 13 & 24 SEWARD MERIDIAN SW 0007391 USS 7391 LOT 2, 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 May 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 125-141-01, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on or before May 26, 2023 to the 77 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 Moose Pass area requesting that it be posted at the local Post Office; and
- WHEREAS,** public notice of the application was published in the May 31, 2023 and June 7, 2023 issues of the Seward Journal; and
- WHEREAS,** a public hearing was held at the June 12, 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 May 18, 2023 the applicant, Colaska INC - QAP, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 125-141-01, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that

disturbs more than 2.5 cumulative acres or processes material.

5. The proposed cumulative disturbed area within the parcel is approximately 14.4 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 well logs from adjacent parcels indicate ground water at a depth greater than 15 feet.
8. The applicants intended depth of excavation will be 10 feet.
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 100 or 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 boundaries were flagged at visible intervals when the excavation perimeter was within 300 feet of the parcel boundary.
16. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 submitted site plan proposes a material haul route that will utilize the existing access to the subject parcel and then travel South following the Railroad's maintenance road. Once the

maintenance road reaches the Lawing Airport runway, the haul route will shift East and connect to Lawing Airport access road that runs on the East side of the runway. 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.

Note: Due to conflicting operations at the Lawing Airport, the proposed haul route is unavailable and QAP is in the process of finding alternative routes. All routes will comply with Kenai Peninsula Borough 21.29.30(A)(8)(d), Points of ingress and egress.

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: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 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.
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: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - South: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - East: 50-foot native vegetation and a 6-foot berm on the interior limits.
 - West: 50-foot native vegetation and a 6-foot berm on the interior limits.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 60,000 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.
29. A public hearing of the Planning Commission was held on June 12, 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, well logs from adjacent parcels indicate ground water at a depth greater than 15 feet. The applicant's intended depth of excavation is 10 feet below the existing grade, as set forth in Finding 7 and 8.
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.
Material site standard 21.29.040(A)(2) is further met because the permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls.
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
Material site standard 21.29.040(A)(4) is further met, because any equipment used for conditioning, processing and crushing materials will be operated at least 300 feet from all parcel boundaries. 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:

1. A portion of KPB Tax Parcel Number 125-141-01. The disturbed area within the parcel is approximately 14.4 acres;
2. Legal Description: **T 4N R 1W SEC 13 & 24 SEWARD MERIDIAN SW 0007391 USS 7391 LOT 2**, Seward Recording District., Third Judicial District, State of Alaska.
3. The applicant, Colaska Inc - QAP, proposes to:
 - a. Extract gravel and sand from the subject parcel;
 - b. Process materials on the subject parcel;
 - c. Reclaim the site to a stable condition upon depletion of material.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
North: 50-foot native vegetation and a 6-foot berm on the interior limits.
South: 50-foot native vegetation and a 6-foot berm on the interior limits.

East: 50-foot native vegetation and a 6-foot berm on the interior limits.

West: 50-foot native vegetation and a 6-foot berm on the interior limits.

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 processes material at least 300 feet from the parcel boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining 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 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.
16. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
17. 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.
18. 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.
19. 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.
20. 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.
 21. 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.
 22. 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