

Kenai Peninsula Borough

Meeting Agenda

Planning Commission

Monday, May 22, 2023	7:30 PM	Betty J. Glick Assembly Chambers
	VACANT – City of Seldovia	
	Troy Staggs – City of Seward	
	Charlene Tautfest – City of Soldotna	
	Franco Venuti – City of Homer	
	Diane Fikes – City of Kenai	
	Dawson Slaughter – District 9 South Peninsula	
	David Stutzer – District 8 Homer	
	VACANT – District 7 Central	
	Michael Horton – District 4 Soldotna	
	John Hooper – District 3 Nikiski	
	Virginia Morgan, Parliamentarian – District 6 East Peni	insula
	Pamela Gillham – District 1 Kalifornsky	
	Blair Martin, Vice Chair – District 2 Kenai	
	Jeremy Brantley, Chair – District 5 Sterling/Funny Ri	iver

Zoom Meeting ID: 907 714 2200

The hearing procedure for the Planning Commission public hearings are as follows:

1) Staff will present a report on the item.

2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative -10 minutes

3) Public testimony on the issue. -5 minutes per person

4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.

5) Staff may respond to any testimony given and the Commission may ask staff questions.

6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.

7) The Chair closes the hearing and no further public comment will be heard.

8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

All items marked with an asterisk (*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

- 1. Time Extension Request
- 2. Planning Commission Resolutions
- 3. Plats Granted Administrative Approval

KPB-5201a. Baltic Woods Replat; KPB File 2022-128b. Christensen Tracts 2021; KPB File 2021-046c. Questa Woods Subdivision Unrein Addition; KPB File 2022-159C2 Admin Approvale Booket

Attachments: C3. Admin Approvals Packet

- 4. Plats Granted Final Approval (KPB 20.10.040)
- 5. Plat Amendment Request
- 6. Commissioner Excused Absences
- a. Dawson Slaughter, District 9 South Peninsula
- b. City of Seldovia, Vacant
- c. District Central, Vacant
- 7. Minutes

KPB-5202 May 8, 2023 Planning Commission Meeting Minutes

Attachments: C7. Minutes_Packet

D. OLD BUSINESS

E. NEW BUSINESS

1.	<u>KPB-5203</u>	Building Setback Encroachment Permit; KPB File 2022-143 No Surveyor / Tim & Kathy Crumrine Trust Request: Permits a house to remain in the building setback of Lot 15, Block 5, Lake View Terrace #2, Plat KN 87-33, by 3.5' Sterling Area
	<u>Attachments:</u>	E1. BSBP Lake View Terrace Packet
2.	<u>KPB-5204</u>	Conditional Use Permit; PC Resolution 2023-10 Applicant: Alaska Rail Road Corporation (ARRC) Location: ARRC MP 26.2, along Lower Trail Lake Request: Construct a culvert on the Alaska Rail Road ROW within the 50' Habitat Protection District of the Lower Trail Lake Moose Pass Area
	<u>Attachments:</u>	E2. CUP- ARRC Culvert_Packet
3.	<u>KPB-5205</u>	Conditional Land Use Permit – Materials Processing PC Resolution 2023-11 Location: 31825 Herman Leirer Road; PIN 144-030-72 Applicant/Landowner: Coalaska Inc. – QAP Seward Area
	<u>Attachments:</u>	E3. CLUP - Colaska IncQAP, Resurrection River_Packet E3. CLUP - Coalaska_Desk Packet
4.	<u>KPB-5206</u>	Conditional Land Use Permit – Materials Extraction PC Resolution 2023-08 Legal Description: T03S, R14W, SEC04, S. M., HM 2006036, Hoffman Acres Lowell Field Phase 1, Lots 1, 2, 3, 4; PINs 159-360-09, 10, 11 & 12 Applicant: Richard Gregoire / Landowner: Jerold Vantrease Happy Valley Area
	<u>Attachments:</u>	E4. CLUP Gregoire_Packet E4. CLUP - Gregoire_Desk Packet

F. PLAT COMMITTEE REPORT

G. OTHER

H. PUBLIC COMMENT/PRESENTATION

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)

I. DIRECTOR'S COMMENTS

J. COMMISSIONER COMMENTS

K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS NO ACTION REQUIRED

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, June 12, 2023 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215 Phone: toll free within the Borough 1-800-478-4441, extension 2215 Fax: 907-714-2378 e-mail address: planning@kpb.us website: http://www.kpb.us/planning-dept/planning-home A 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. 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 filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

C. CONSENT AGENDA

- *3. Plats Granted Administrative Approval
- a. Baltic Woods Lot Two Replat; KPB File 2022-128
- b. Christenson Tracts 2021 Addition; KPB File 2021-046
- c. Questa Woods Subdivision Unrein Addition; KPB File 2022-159



Planning Department

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

Peter A. Micciche Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Baltic Woods Lot 2 Replat KPB File 2022-128 Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 26, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, May 16, 2023.

Vince Piagentini Platting Manager

State of Alaska Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this _____ day of _____ 2023 by Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With off: CP



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Peter A. Micciche Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Christensen Tracts 2021 Addition KPB File 2021-046 Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 10, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, April 27, 2023.

Vince Piagentini Platting Manager

State of Alaska Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 2023 by Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: _ with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Peter A. Micciche Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Questa Woods Subdivision Unrein Addition KPB File 2022-159 Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 14, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, May 11, 2023.

Vince Piagentini Platting Manager

State of Alaska Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this <u>day</u> day of <u>May</u> 2023 by Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

C. CONSENT AGENDA

*7. Minutes

May 8, 2023 PC Meeting Minutes

Kenai Peninsula Borough Planning Commission

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

May 8, 2023 7:30 P.M. UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

Vice Chair Martin called the meeting to order at 7:37 p.m. (Late start due to plat committee meeting running over time)

AGENDA ITEM B. ROLL CALL

Commissioners Present Blair Martin, District 2 - Kenai John Hooper, District 3 – Nikiski Michael Horton, District 4 - Soldotna Virginia Morgan – District 6, East Peninsula David Stutzer – District 7, Homer Dawson Slaughter, District 9 – South Peninsula Franco Venuti, City of Homer Diane Fikes, City of Kenai Troy Staggs, City of Seward Charlene Tautfest, City of Soldotna

With 10 members of a 12-member seated commission in attendance, a quorum was present.

Staff Present Robert Ruffner, Acting Planning Director Walker Steinhage, Deputy Borough Attorney Vince Piagentini, Platting Manager Morgan Aldridge, Resource Planner Aaron Hughes, Land Management Agent Ann Shirnberg, Planning Administrative Assistant Rhonda Foster-Deskins, Land Management Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

*6. Commissioner Excused Absences

- a. Pamela Gillham, District 1 Kalifornsky
- b. Jeremy Brantley, District 5 Sterling/Funny River
- c. City of Seldovia, Vacant
- d. District 7 Central, Vacant

*7. Minutes

a. April 24, 2023 Planning Commission meeting minutes.

Vice Chair Martin asked Ms. Shirnberg to read the consent agenda items into the record. Vice Chair Martin then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Vice Chair Martin brought it back to the commission for a motion.

MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter to approve the regular

and consent agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Fikes, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Gillham

AGENDA ITEM E. NEW BUSINESS

Vice Chair Martin asked Ms. Shirnberg to read the public hearing procedures into the record.

ITEM 1 - RIGHT OF WAY VACATION PORTION OF PERKINS ROAD DEDICATED ON STANLEY'S MEADOW #7 (PLAT HM 87-45) AND STANLEY'S MEADOW NO. 13 (PLAT HM 93-34)

KPB File No.	2023-024V
Planning Commission Meeting:	May 8, 2023
Applicant / Owner:	Billy and Stephanie Jones of Homer, Alaska and Cecil and Ina Jones of Fritz Creek, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Perkins Road, Fritz Creek, Kachemak Advisory Planning Commission
Legal Description:	Perkins Road, Stanley's Meadow #7 (Plat HM 87-45) and Stanley's Meadow No. 13 (Plat HM 93-34), Section 34, Township 4 South, Range 11 West.

Staff report given by Platting Manager Vince Piagentini.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Staggs moved, seconded by Commissioner Tautfest to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations, and subject to the 5 conditions as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Fikes, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Gillham

ITEM 2 - CONDITIONAL USE PERMIT; PC RESOLUTION 2023-03 GRANTING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A BRIDGE WITHIN THE 50' HABITAT PROTECTION DISTRICT OF THE UNNAMED CREEK AWC 244-10-10010-2011-303-4022

KPB File No.	2023-3
Planning Commission Meeting:	May 8, 2023
Applicant	Daniel T Sweatt and Ronald E Jackson
Mailing Address	PO Box 123, Essex, NY 12936
Location	Kenai Peninsula Borough Road Right of Way on Berezka
Location	Drive outside the city of Nikolaevsk, AK

Staff report given by Resource Planner Morgan Aldridge.

Vice Chair Martin opened the item for public comment.

Daniel Sweatt; P.O. Box 125, Essex, NY 12936: Mr. Sweatt is the landowner/applicant and made himself available for questions.

Jason Fitzgearld; 16309 NE 80th Street, Vancouver, WA 98682: Mr. Fitzgearld is a neighboring landowner and he spoke in favor of approving this permit.

Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Staggs moved, seconded by Commissioner Slaughter to adopt Planning Commission Resolution 2023-03, granting a conditional use permit pursuant to KPB 21.18 for the construction of a bridge within the 50' Habitat Protection District of Unnamed Creek AWC 244-10-10010-2011-3031-4022.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Fikes, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Gillham

ITEM 3 – ZIPMART BUILDING ORDER TO SHOW CAUSE WHY THE ZIPMART BUILDING SHOULD NOT BE CONDEMNED

Staff report given by Planning Director Robert Ruffner.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter to issue an order to show cause why the ZipMart building located at 38525 Swanson River Road in the Sterling area should not be condemned as a fire & health hazard and as a public nuisance, and to set the matter for public hearing during the June 12, 2023 Planning Commission meeting.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10Fikes, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, VenutiAbsent - 2Brantley, Gillham

ITEM 4 – ORDINANCE 2023-10

AUTHORIZING THE SALE OF SUBSTANDARD-SIZED LOTS OBTAINED BY THE KENAI PENINSULA BOROUGH THROUGH TAX FORECLOSURE AND PREVIOUSLY RETAINED FOR A PUBLIC PURPOSE.

Staff report given by Land Management Agent Aaron Hughes.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Staggs moved, seconded by Commissioner Slaughter to forward to the Assembly a recommendation to adopt Ordinance 2023-10, authorizing the sale of substandard-sized lots obtained by the Kenai Peninsula Borough through tax foreclosure and previously retained for a public purpose.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Fikes, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti	
Absent - 2	Brantley, Gillham	

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ITEM 5 – ORDINANCE 2022-46 AMENDING KPB 21.02.230 AND ORDINANCE TO MODIFY THE BOUNDARIES OF THE NIKISKI ADVISORY PLANNING COMMISSION

Staff report was given by Planning Director Robert Ruffner. He stated that Planning Department staff had no recommendation for the commission. Planning staff is ready to work and support the Nikiski APC with whatever boundaries are set.

Director Ruffner noted he had received a comment from Assemblyman Tyson Cox (District 4 – Soldotna) after the written comment cutoff on Friday 5/5/23. Mr. Cox was concerned that the information from the Assembly packet was not included in the planning commission meeting packet materials. He requested that the commission hold off on making any recommendations until they had a chance to view all the information contained in the assembly packet.

Director Ruffner then informed the commission that there were three options for the commission's consideration:

- 1) Leave the Nikiski APC boundaries as they currently are, which mirrors the Nikiski Fire Service Area. This includes both the peninsula proper eastside and the westside across the inlet.
- 2) Support ordinance 2022-46 to modify the Nikiski APC boundaries to exclude the westside.
- 3) Support the Nikiski APC compromise, which is represented by the map that was included in the packet materials.



The purple area depicts the proposed boundary for the Nikiski APC compromise which was discussed at the April 6, 2023 Nikiski APC meeting.

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Commissioner Slaughter stated he had no desire to draw out action on this item any longer, but another choice for the commission would be to postpone making a recommendation on this item. This would allow the commission a chance to review the information that went before the assembly. He noted that this information has been available online, but if the commission feels it is important for this information to be included in a planning commission packet they could postpone action.

Vice Chair Martin opened the item for public comment.

<u>Steve Speskosky; P.O. Box 873053, Wasilla, AK, 99687:</u> Mr. Speskosky is the CEO of the Tyonek Native Corporation and spoke in favor of removing the westside from the Nikiski APC boundary area. He noted there are numerous objections from landowners on the westside on being included in the Nikiski APC boundary area. He noted that no one from the westside was included in the discussion of the proposed Nikiski APC boundary compromise. Nor was anyone from the westside ever consulted or included in the discussion related to the current boundary area. The residents and landowners on the westside are the best ones to speak to issues related to their lands – not folks from across the inlet.

<u>Peter Ribbons (Assembly Member – District 3 -Nikiski); 51550 Georgine Lake Rd., Kenai AK 99611:</u> Mr. Ribbons stated that he was speaking on his own behalf and requested that the commission vote in favor of the Nikiski APC boundary compromise.

<u>Cindy Ecklund (Assembly Member – District 6 – East Peninsula); P.O. Box 1837, Seward, AK 99664:</u> Ms. Ecklund spoke in favor of the option to modify the APC boundaries to exclude the westside. She noted that no one from the westside was ever included in the discussions regarding the formation of the Nikiski APC. Since Ordinance 2022-46 was brought forward, there have been 75 comments in favor of amending the Nikiski APC boundaries to exclude the westside. Comments of support of Ordinance 2022-46 were also receive from Tyonek Native Corporation, CIRI and Furie Operating Alaska. She noted that no other APC covers a whole assembly district. Most APCs cover smaller local communities. In the planning commission meeting packet is a list of all the private landowners on the westside. She noted that there were only 4 westside landowners who live in either Nikiski or Kenai. The members of the other APCs all live in the small communities within the APC boundaries. APCs are made up of local residents and are meant to give the Planning Commission advice and insight on local planning issues. The other APCs are not the size of their assembly districts.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Horton moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt Ordinance 2022-46, amending KPB 21.02.230 modifying the boundaries of the Nikiski Advisory Planning Commission.

Commissioner Horton stated that the assembly materials are currently available online and can be pulled up for review right now. He then stated after reviewing the materials he still supports removing the westside from the Nikiski APC boundaries.

Commissioner Morgan stated she had reviewed the information in the assembly packet and noted there are amendments being proposed to Ordinance 2022-46. She requested the motion be amended to make sure that the area on the westside of the inlet is excluded. She thanked Planning Director Ruffner for laying out the 3 different options related to this ordinance. She then stated she supports removing the westside from the Nikiski APC boundaries.

Commissioner Horton as the maker of the motion and Commissioner Fikes agreeing as the second, amended the motion to the following:

AMENDED MOTION: Commissioner Horton moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt the original version of Ordinance 2022-46, amending KPB 21.02.230 modifying the boundaries of the Nikiski Advisory Planning Commission, to include the eastside of the peninsula only.

Commissioner Venuti asked Planning Director Ruffner that even with removing the westside from the APC boundaries, the area would still need to conform to borough regulations and rules. Planning Director

Ruffner replied that is correct. He then noted APCs have limited authority by code. APCs have two main responsibilities; they are to provide advice to the planning commission and to develop a land plan for their area.

Commissioner Stutzer stated he will be voting in favor of the motion, as he did the first time that it was before the commission. He noted APCs are there to advise the planning commission. However, any parties interested in anything before the commission have the right to come and make comment. One does not need to be a part of an APC to do that. He then stated that the westside has the right to form their own APC if they feel the need.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY MAJORITY VOTE:

Yes - 9	Fikes, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 1	Hooper
Absent - 2	Brantley, Gillham

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Horton reported the plat committee reviewed and granted preliminary approval to 3 plats.

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

Vice Chair Martin asked if there was anyone from the public who would like to comment on anything not appearing on the agenda. No one wished to comment

AGENDA ITEM J. COMMISSIONER COMMENTS

• Commissioner Slaughter requested an excused absence for the May 22, 2023 Planning Commission meeting.

AGENDA ITEM K. ADJOURNMENT

Commissioner Horton moved to adjourn the meeting at 8:42 PM.

Ann E. Shirnberg Administrative Assistant

E. NEW BUSINESS

 Building Setback Encroachment Permit; KPB File 2022-143 No Surveyor / Tim & Kathy Crumrine Trust Request: Permits a house to remain in the building setback of Lot 15, Block 5, Lake View Terrace #2, Plat KN 87-33, by 3.5' Sterling Area







Kenai Peninsula Borough Planning Department



KPB File Number 2022-143 9/18/2022



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

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AGENDA ITEM E. **NEW BUSINESS**

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT LOT 15 BLOCK 5 LAKE VIEW TERRACE NO 2 (KN 87-33)

KPB File No.	2022-143
Planning Commission	May 22, 2023
Meeting:	
Applicant / Owner:	Tim & Kathy Crumrine Trust of Lakewood, CO
Surveyor:	John Segesser, Segesser Surveys
General Location:	Holly Avenue, Sterling
Parent Parcel No.:	063-292-01
Legal Description:	Lot 15 Block 5 Lake View Terrace No. 2, Plat KN 87-33
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

This building setback encroachment permit is a follow-up to a building setback permit request that was heard and approved at the October 10th 2022 Planning Commission Meeting. The structure is complete and an as-built has been submitted as required for the resolution to be completed.

Specific Request / Purpose as stated in the petition: This building setback was previously heard and approved at the October 10, 2022 meeting. At that meeting the applicants were asking for permission to construct a house in the building setback due to steep and limited area for a septic system. The original approval was for a 14 foot wide section of the home to be in the setback about 33 feet by 2.5 feet. The house is now complete and is ready to have an adoption of Resolution 2022-45.

Construction of the house is now complete and the as built shows the true area and the encroachment is smaller than originally planned. Approval for the setback encroachment would only be as it exists and shown on the as built.

Site Investigation: Holly Avenue was created by the plat Lake View Terrace #2 KN 87-33. Holly Avenue is located off borough maintained Deville Road, which connects to state maintained Sterling Highway near mile 89. Holly Avenue is constructed to the southwest corner of the subject lot but is not maintained by the borough. The rightof-way dedication for Holly Avenue varies but is 66 feet wide along the portion being discussed and lies atop a section line easement. The southern half of Holly Avenue was created by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47.

Holly Avenue is along the southern boundary of the subject lot and it continues to the east where it connects with additional section line easements, right-of-way dedications, Whisper Lake, and ends with a partial right-of-way culde-sac bulb along Whisper Lake. The section line easements that connect to Holly Avenue run along the eastern boundary of the subject lot and connect to Whisper Lake. The north-south section line easements have dedications atop them that is known as Whisper Lake Street. Only portions of Whisper Lake Street are constructed and only borough maintained from the Sterling Highway to Ben Court. Ben Court is a cul-de-sac that use to connect to Holly Avenue but was partial vacated by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47. Per KPB GIS Imagery, it appears that Ben Court ends south of an airstrip.

Lot 15 Block 5 is subject to a 20 foot building setbacks along Holly Avenue south of the lot. The lot is also subject to a 20 foot building setback along the eastern lot line along the dedication for Whisper Lake Street. A minimum separation distance from Whisper Lake is required of 100 feet for any wastewater treatment system.

Except along the lake there are no low wet areas present on the property. The property slopes down towards the lake. The slopes appear to slope consistently throughout with some steeper slopes present along the northwestern portion of the lot and along the subject area. In the northwest there is an area with slopes that are close to 30 percent that are about 23 percent as the terrain is followed south to Holly Avenue.

Staff Analysis: The parcel was created by Lake View Terrace #2, Plat KN 87-33 a subdivision of Government Lot 8. The plat also created 20 foot setbacks along dedicated rights-of-way. The front 10 feet of the 20 foot setbacks were also granted as utility easements.

The existing terrain on the lot is steep where the house is built. The house occupies the majority of the high spot of the lot leaving little room left on the top portion. The land will slope quickly away from the house towards Whisper Lake to the east and a valley / drain way to the north.

There is little traffic on Holly Avenue as Holly Avenue stops at this house location and continues no further. Homes along this stretch of Holly Avenue appear to be the only users of the roadway. There is no continuation to Whisper Lake. Whisper Lake Street does not currently continue north to connect with Holly Avenue. KPB required right-of-way width is 60 feet wide. The portion of Holly Avenue along the request is dedicated as 66 feet wide and coincides with the 66 section line easements. Sight distance should not be an issue.

Findings:

- 1. A 20 foot building setback line was created along Holly Avenue by Lake View Terrace #2 KN 87-33.
- 2. The house is proposed to be built on the high point of the lot.
- 3. Portions of the house, a retaining wall, and sidewalk are proposed to be within the setback.
- 4. Holly Avenue is a 66 foot wide dedicated right-of-way.
- 5. Holly Avenue is not constructed along this stretch of right -of-way.
- 6. Holly Avenue is not maintained by the borough.
- 7. The KPB Roads Department had no objection.
- 8. The lot is 1 acre in size.
- 9. There are 20 foot building setbacks along the south and the east.
- 10. There is a 100 foot setback from the lake for any wastewater systems.
- 11. There does not appear to be any sight issues.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications:

1. The building setback encroachment may not interfere with road maintenance. **Findings 2 and 4-7 appear to support this standard.**

2. The building setback encroachment may not interfere with sight lines or distances. **Findings 2, 4-7, and 11 appear to support this standard.**

3. The building setback encroachment may not create a safety hazard. **Findings 2, 4-7, and 11 appear to support this standard.**

- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an

Page 2 of 3

exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

IN D department / agency review	
KPB Roads Dept. comments	
SOA DOT comments	
KPB River Center review	Habitat Protection
	Reviewer: Aldridge, Morgan
	Comments: This parcel is not within the 21.18 KPB setback and KPB Habitat has no comments.
	State Parks
	Reviewer: Vacant
	Comments:
	Floodplain
	Reviewer: Hindman, Julie
	Comments:
State of Alaska Fish and Game	
Addressing	Addressing-related comments: Holly Ave is correct, and there will be no
	effect on the existing physical address
Code Compliance	
Planner	
Assessing	

KPB department / agency review:

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2022-45, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT



Kenai Peninsula Borough Planning Department



KPB File Number 2022-143 9/18/2022



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map. E1-7 24

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Kenai Peninsula Borough Planning Department

Wetlands





The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

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E1-8





Aerial with 5-foot Contours



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map 26

KPB NOTE: SEE PC RESOLUTION 2015-30



E1-10

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AGENDA ITEM E. NEW BUSINESS

ITEM 1. BUILDING SETBACK ENCROACHMENT PERMIT LOT 15 BLOCK 5 LAKE VIEW TERRACE NO 2 (KN 87-33)

KPB File No.	2022-143
Planning Commission Meeting:	October 10, 2022
Applicant / Owner:	Tim & Kathy Crumrine Trust of Lakewood, CO
Surveyor:	None
General Location:	Holly Avenue, Sterling
Parent Parcel No.:	063-292-01
Legal Description:	Lot 15 Block 5 Lake View Terrace No. 2, Plat KN 87-33
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: Lot is steep and narrow with limited area for septic system. Requesting variance to put a 14' wide section of the home into the setback about 2.5' about 33' x 2.5' of side walk, plus about 7.5 for a retaining wall. Utilities are in and not in the setback. Holly Avenue stops at this address. Holly Avenue is not borough maintained. No site lines are impacted and no safety hazards created.

<u>Site Investigation</u>: There are no existing structures currently on the property. A new house is proposed for the property.

Holly Avenue was created by the plat Lake View Terrace #2 KN 87-33. Holly Avenue is located off borough maintained Deville Road, which connects to state maintained Sterling Highway near mile 89. Holly Avenue is constructed to the southwest corner of the subject lot but is not maintained by the borough. The right-of-way dedication for Holly Avenue varies but is 66 feet wide along the portion being discussed and lies atop a section line easement. The southern half of Holly Avenue was created by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47.

Holly Avenue is along the southern boundary of the subject lot and it continues to the east where it connects with additional section line easements, right-of-way dedications, Whisper Lake, and ends with a partial right-of-way culde-sac bulb along Whisper Lake. The section line easements that connect to Holly Avenue run along the eastern boundary of the subject lot and connect to Whisper Lake. The north-south section line easements have dedications atop them that is known as Whisper Lake Street. Only portions of Whisper Lake Street are constructed and only borough maintained from the Sterling Highway to Ben Court. Ben Court is a cul-de-sac that use to connect to Holly Avenue but was partial vacated by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47. Per KPB GIS Imagery, it appears that Ben Court ends south of an airstrip.

Lot 15 Block 5 is subject to a 20 foot building setbacks along Holly Avenue south of the lot. The lot is also subject to a 20 foot building setback along the eastern lot line along the dedication for Whisper Lake Street. A minimum separation distance from Whisper Lake is required of 100 feet for any wastewater treatment system.

Except along the lake there are no low wet areas present on the property. The property slopes down towards the lake. The slopes appear to slope consistently throughout with some steeper slopes present along the northwestern portion of the lot and along the subject area. In the northwest there is an area with slopes that are close to 30 percent that are about 23 percent as the terrain is followed south to Holly Avenue. These slopes are in the main location for the house to be built. These slopes Sight distance does not appear to be affected by the structure being built as indicated.

<u>Staff Analysis:</u> The parcel was created by Lake View Terrace #2, Plat KN 87-33 a subdivision of Government Lot 8. The plat also created 20 foot setbacks along dedicated rights-of-way. The front 10 feet of the 20 foot setbacks was also granted as utility easements.

The existing terrain on the lot is steep where the house is being built. The house will occupy the majority of the high spot of the lot leaving little room left on the top portion. The land will slope quickly away from the house towards Whisper Lake to the east and a valley / drain way to the north.

There is little traffic on Holly Avenue as Holly Avenue stops at this house location and continues no further. Homes along this stretch of Holly Avenue appear to be the only users of the roadway. There is no continuation to Whisper Lake. Whisper Lake Street does not currently continue north to connect with Holly Avenue. KPB required right-of-way width is 60 feet wide. The portion of Holly Avenue along the request is dedicated as 66 feet wide and coincides with the 66 section line easements. Sight distance should not be an issue.

The owners have started clearing but construction has not begun on the main area of concern. The description provided is not clear on the exact distance they were requesting. After a few conversations is was determined that they are looking for a permit for a length of 47 feet to be 10 feet into the setback. If following this for their building footprint they will not be within the utility easement.

If the encroachment permit is approved, an as-built will be required that shows the exact measurements of the encroachments as outlined in KPB 20.10.110(G). The permit will only be for those portions encroaching and not a removal of the entire 10 foot wide portion being requested, KPB 20.10.110(F). The encroachments may not exceed the approved 10 foot into the setback without additional approval from the Planning Commission.

Findings:

- 1. A 20 foot building setback line was created along Holly Avenue by Lake View Terrace #2 KN 87-33.
- 2. The house is proposed to be built on the high point of the lot.
- 3. Portions of the house, a retaining wall, and sidewalk are proposed to be within the setback.
- 4. Holly Avenue is a 66 foot wide dedicated right-of-way.
- 5. Holly Avenue is not constructed along this stretch of right -of-way.
- 6. Holly Avenue is not maintained by the borough.
- 7. The KPB Roads Department had no objection.
- 8. The lot is 1 acre in size.
- 9. There are 20 foot building setbacks along the south and the east.
- 10. There is a 100 foot setback from the lake for any wastewater systems.
- 11. There does not appear to be any sight issues.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications:

1. The building setback encroachment may not interfere with road maintenance. **Findings 2 and 4-7 appear to support this standard.**

2. The building setback encroachment may not interfere with sight lines or distances. **Findings 2, 4-7, and 11 appear to support this standard.**

3. The building setback encroachment may not create a safety hazard.

Findings 2, 4-7, and 11 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

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G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review	
KPB Roads Dept. comments	Out of Jurisdiction: No
	Boodo Directori Liblia, Dil
	Roads Director: Uhlin, Dil
	Comments: RSA has no objection at this time.
SOA DOT comments	
KPB River Center review	A. Floodplain
	Reviewer: Carver, Nancy
	Floodplain Status: Not within flood hazard area
	Comments: No comments
	B. Habitat Protection
	Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD
	Comments: No comments
	Comments. No comments
	C. State Parks
	Reviewer: Russell, Pam
	Comments: No Comments
State of Alaska Fish and Game	No objections
Addressing	Reviewer: Haws, Derek
	Affected Addresses:
	39046 HOLLY AVE
	Existing Street Names are Correct: Yes
	List of Correct Street Names:
	HOLLY AVE
	Existing Street Name Corrections Needed:
	All New Street Names are Approved: No
	List of Approved Street Names:
	List of Street Names Denied:
	Comments: 39046 HOLLY AVE will remain with lot.
Code Compliance	Reviewer: Ogren, Eric
	Comments: No comments
Planner	Reviewer: Raidmae, Ryan
	There are not any Local Option Zoning District issues with this proposed plat.
	Material Site Comments:
	There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather
	Comments: No comment

KPB department / agency review:

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RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, staff recommends to adopt Resolution 2022-45, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT

*6. Commissioner Excused Absences

- a. City of Seldovia, Vacant
- b. District 7 Central, Vacant

*7. Minutes

a. September 26, 2022 Planning Commission meeting minutes.

Chair Brantley asked if anyone wished to speak to any of the items on the consent agenda.

Hearing no one wishing to comment Chair Brantley brought it back to the commission for a motion.

MOTION: Commissioner Slaughter moved, seconded by Commissioner Staggs to approve the regular and consent agendas.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 12	Brantley, Fikes, Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM E. NEW BUSINESS

Chair Brantley asked Ms. Shirnberg to read into the record the procedures for public hearings.

Rural Unrestricted

ITEM E1. BUILDING SETBACK ENCROACHMENT PERMIT LOT 15 BLOCK 5 LAKE VIEW TERRACE NO 2 (KN 87-33)

KPB File No.	2022-143
Planning Commission Meeting:	October 10, 2022
Applicant / Owner:	Tim & Kathy Crumrine Trust of Lakewood, CO
Surveyor:	None
General Location:	Holly Avenue, Sterling
Parent Parcel No.:	063-292-01
Legal Description:	Lot 15 Block 5 Lake View Terrace No. 2, Plat KN 87-33
Assessing Use:	Residential

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

<u>David Bunce; P.O. Box 226, Sterling, AK 99610:</u> Mr. Bunce stated that the staff report outlined their request clearly. He then made himself available for any questions from the commission.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-45 granting a build setback encroachment permit to Lot 15, Block 5 Lake View Terrace #2, Plat KN 87-33.

Chair Brantley noted that it was nice to see this permit request being sought before the building of a structure.

Kenai Peninsula Borough

Zoning:

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 12	Brantley, Fikes, Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E2 - RIGHT OF WAY VACATION 60-FOOT-WIDE CICCONE STREET RIGHT OF WAY AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2022-136V
Planning Commission Meeting:	October 10, 2022
Applicant / Owner:	Jim & Debbie Wann Family Trust of Clam Gulch, AK Anthony & Kathleen Ciccone of Houston, TX
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Russell Avenue, Clam Gulch
Legal Description:	Ciccone Street between Lot 8A Clam Gulch Heights 2011 Addition KRD 2011-60 and Lots 11 & 12 Clam Gulch Heights, Glendening 1979 Subdivision of Tracts 12, 13, 14, 15, 16, 17 18 KRD 18-135, Kenai Recording District, Section 28, Township 2 North, Range 12 West Seward Meridian

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

<u>James Wann, Applicant; P.O. Box 269, Kasilof, AK 99568:</u> Mr. Wann stated he was working with ACS regarding the equipment they had in the right-of-way. He spoke with the reviewing engineer from ACS this morning and he has agreed to grant them a 10' easement where the existing equipment is located. ACS has agreed to this solution and no longer opposes this vacation.

Commissioner Fikes asked for the name of the reviewing engineer at ACS that he spoke with. Mr. Wann replied that it was Eoiwo Olewniczak.

<u>Jerry Johnson, Surveyor; P.O. Box 27, Clam Gulch, AK 99568:</u> Mr. Johnson was the surveyor on this project and he made himself available for any questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Slaughter to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 12 Brantley, Fikes, Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti No - 0

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed & granted preliminary approval to 3 plats.

AGENDA ITEM G.

a. Annual Presentation related to KPB 21.18 – Presented by Kenai River Center Manager Sam Lopez.

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

Mike Navarre Borough Mayor

October 18, 2022

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION MEETING OF OCTOBER 18, 2022

Lot 15 Block 5, Lake View Terrace Subdivision No. 2, Plat KN 87-33 Building Setback Encroachment Permit KPB File 202-143; KPB PC Resolution 2022-45 Location: on Holly Avenue, Sterling area.

By unanimous consent and based on the following findings of fact, the Kenai Peninsula Borough Planning Commission approved the building setback exception thereby adopting KPB PC Resolution 2022-45 during their regularly scheduled meeting of October 10, 2022 thereby conditionally approving the building setback encroachment permit as requested.

Standard 1. The building setback encroachment may not interfere with road maintenance.

Findings:

- 2. The house is proposed to be built on the high point of the lot.
- 4. Holly Avenue is a 66 foot wide dedicated right-of-way.
- 5. Holly Avenue is not constructed along this stretch of right -of-way.
- 6. Holly Avenue is not maintained by the borough.
- 7. The KPB Roads Department had no objection.

Standard 2. The building setback encroachment may not interfere with sight lines or distances.

Standard 3. The building setback encroachment may not create a safety hazard.

Findings:

- 2. The house is proposed to be built on the high point of the lot.
- 4. Holly Avenue is a 66 foot wide dedicated right-of-way.
- 5. Holly Avenue is not constructed along this stretch of right -of-way.
- 6. Holly Avenue is not maintained by the borough.
- 7. The KPB Roads Department had no objection.
- 11. There does not appear to be any sight issues.

The approval is subject to:

- Approved a permit to allow only the encroaching portion of the house, sidewalk, and retaining wall into the 20 foot building setback adjoining Holly Avenue right-of-way on the south boundary of Lot 15 Block 5, Lake View Terrace #2 (KN 87-33) as created by the same plat.
- 2. That any new, replacement and/or additional construction will be subject to the twenty-foot building setback limit.

E1-17

- 3. That the twenty-foot building setback shall apply to the remainder of said lot.
- 4. That an exhibit drawing or as-built survey prepared by a licensed land surveyor, showing the location of the portion of the building setback encroachment permit to be granted be attached to and made a part of this Resolution, becoming page 2 of 2.
- 5. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.
- 6. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

Our office is responsible for recording the resolution. Please send a check to this office for **\$28.84** made payable to the **Kenai Peninsula Borough**. The borough has a three-day hold for checks received for payment of recordation of resolutions.

The deadline to appeal the Planning Commission's approval is 15 days from the date of this notice. The resolution cannot be recorded until that period has expired. You may submit a letter stating you waive your appeal rights so that the resolution may be recorded promptly after the three day hold, if paid by check.

Please submit the exhibit drawing or as-built to be recorded with the Resolution. It must be prepared, signed and sealed by a licensed surveyor.

To ensure timely recording of this document, please send your check to our office (Planning Department, 144 N. Binkley St., Soldotna, AK 99669) no later than December 27, 2022 to allow for processing and time to submit to the recording office.

Sincerely,

findman

Julie Hindman Administrative Assistant

Notice was mailed on October 18, 2022 to:

Tim and Kathy Crumrine Trust 2522 S Balsam Way Lakewood, CO 80227-3140

David Bunce P.O. Box 226 Sterling, AK 99610
E. NEW BUSINESS

 Conditional Use Permit; PC Resolution 2023-10 Applicant: Alaska Rail Road Corporation (ARRC) Location: ARRC MP 26.2, along Lower Trail Lake Request: Construct a culvert on the Alaska Rail Road ROW within the 50' Habitat Protection District of the Lower Trail Lake Moose Pass Area

Multi Agency Permit Application



514 Funny River Road, Soldotna, AK 99669 • (907) 714-2460 • KenaiRivCenter@kpb.us

Applicant Inform	nation:	Agent In	formation: (if applicable)
Name: Brian	Lindamood (ARRC)	Name:	Nicholas Havelock (ARRC)
Owner?	s 🗌 No		
Mailing: P.O. E	Box 107500	Mailing:	P.O. Box 107500
Ancho	rage, AK 99510		Anchorage, AK 99510
Phone: 907-2	65-3095	Phone:	907-265-2313
Email: Lindar	noodB@akrr.com	Email:	HavelockN@akrr.com
Project Location	<u>1:</u>		
KPB Parcel ID:	NA	Subo	livision: NA
Physical Address	ARRC MP 26.2	Lot:	NA Block: NA Addn/No.: NA
	60.443, -149.370	Direc	tions to site: Site is located east of
Waterbody Name	: Unnamed Drainage	app	rox, Seward Highway milepost 26.
River Mile:	NA Riverbank: Right looking downstream		
	bitat/Floodplain Permit 🗍 \$300		nditional Use Permit odway Development Permit to RC#
Provide a detaile			es, use additional pages if needed. Include
 Waterbody des 	n & dimensions • Construction scription & proximity • Filling/dredgin HW and/or HTL	ng/excavatio	 Vegetation Removal: location,
The Alaska Ra	Iroad Corporation (ARRC) proposes	s a culvert	replacement project at rail milepost 26.2.
The existing 36"	X 39' corrugated metal pipe culvert su	pporting an	n unnamed drainage would be replaced with
a 36" X 50' smoo	th steel pipe culvert. Two excavators will	operate from	m the tracks and from a temporary construction
pad placed adjace	ent to the mainline, requiring approx. 87 cu	bic yards of	fill. Approx. 120 cy of ballast and in-situ material
will be excavated,	material not re-used will be placed in ARI	RC uplands	and outside the floodplain. Necessary damming
for water diversion r			

KPB Tax Credit: (skip this section if your project is prior existing, only applicable to NEW projects)

Please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

- Elevated Light Penetrating Structure(s)
- Bank or Habitat Restoration & Protection \$____
- Other Activities

\$_____ \$_____

\$

Project Questions:

Note: Use Ordinary High Water (OHW) for non-tidal waters, and Mean High Tide (MHT) for tidal waters.

- 1. Start date: 6/1/23 End date: 10/31/24 Estimated Days of Construction: 3-5
- Is the project located within 50 feet of OHW or HTL a waterbody? I Yes No 2
- Does any portion of the project extend **below** the OHW or HTL of the stream or waterbody? 3
- Does any portion of the project cantilever or extend over the OHW of the waterbody? I Yes No 4
- 5. Will anything be placed below OHW or HTL of the waterbody? I Yes No
- Will material be extracted or dredged from the site? 6.
- 7. Including areas below OHW or HTL, what is the total area (in acres) that will be excavated or dredged? Total Area: 0.01 acres Type of Material: In-situ/Ballast Location you will depositing fill: Re-used or ARRC ROW uplands outside of floodplain
- 8. Will any material (including soils, debris, and/or overburden) be used as fill? Type of material: Existing/Ballast/Riprep Amount: 120 cy max Permanent I or Temporary Will fill be placed below OHW or HTL: Yes No.
- List all motorized equipment to be used in this project, including access route to site, any stream or waterbody crossings, and (if applicable) how long equipment will be used below OHW or HTL: Two excavators, remote compactor, and hyrail trucks for access. Equipment used below OHW is limited to excavator buckets for up to 12 hours.
- 10. Is any portion of the work already complete? Yes INO If yes, describe: NA

Signature & Certification:

This application is hereby made requesting permit(s) to authorize the work described in this application form. I certify the information in this application is complete and accurate to the best of my knowledge.

If applying for a tax credit: I certify that I have not begun construction of the project on this the property and that the proposed project will be constructed in a manner consistent with KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable ordinances.

Applicant Signature (required)

Agent Signature (if applicable)

<u>5/3/23</u> Date 5/3/23

Date

E2-2







ARRC – MP 26.2 Culvert Replacement Site Photographs – October 2022



Photo 1. Culvert 26.2 inlet



Photo 2. Culvert 26.2 outlet

Page 1 of 1



Project Overview and Vicinity Map



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

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E2-6



Wetlands Map





the information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Bor 23-35 sumes no responsibility for any errors on this map.



Habitat Protection Area Map







Regulatory Map





The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Bor 59 has umes no responsibility for any errors on this map.



Imagery Map

Alaska Railroad Corporation





Imagery Map

Alaska Railroad Corporation



Conditional Use Permit Anadromous Waters Habitat Protection District Staff Report

KPB File No.	2023-10
Planning Commission Meeting:	May 22, 2023
Applicant	Alaska Railroad Corporation
Mailing Address	PO Box 107500
	Anchorage, AK 99510
Physical Address	ARRC MP 26.2
	60.443917, -149.370399

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a culvert and placement of fill within the 50-foot Habitat Protection District of the Lower Trail Lake, as established in KPB 21.18.040.

Background Information

The existing culvert under the rail road in this area is old and has deteriorated due to age and environmental stress. The photo in the attached application shows that the culvert is in need of repair. The Alaska Railroad proposes to replace the culvert and backfill around the culvert with large rock, creating a hold for the culvert and tapering the rock below.

Project Details within the 50-foot Habitat Protection District

- 1. Replacing the existing 36x39 corrugated metal pipe culvert at the rail road crossing with a 36x50 smooth steel pipe culvert
- 2. Placement of approximately 48 cubic yards of new materials (a combination of rip rap, ballast and structural fill) above OHW
- 3. Placement of approximately 40 cubic yards of materials that will be re-used above OHW

General Standards

Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-3 appear to support this standard.**
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-4, 8-15 appear to support this standard.**
- 3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8** appears to support this standard.
- 4. The proposed use or structure is water-dependent; **Findings 4 and 9 appear to support this standard.**

5. Applicant's or owner's compliance with other borough permits and ordinance requirements; **Finding 15** appears to support this standard.

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5), construction of critical transportation and utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
- 3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
- 5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 6. Removal of the old culvert and replacing it with a culvert that will provide better drainage.
- 7. Placement of rip rap fill will support the new culvert and establish a safer railway.
- 8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
- 9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
 - "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 10. The River Center found the application complete and scheduled a public hearing for May 22, 2023.
- 11. Agency review was distributed on May 8, 2023. No comments or objections have been received from resource agencies to date.
- 12. Notice of this project was sent to the Moose Pass Advisory Planning Commission. The APC reviewed this project at their May 4, 2023 meeting. They recommended approval.
- 13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on May 8, 2023. A total of 1 mailing was sent. No comments have been received.
- 14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on May 11, 2023 and May 18, 2023.
- 15. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

- 1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Trail Lake.
- 2. The bridge must be designed and installed to meet KPB floodplain requirements.
- 3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
- 4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
- 5. Storage or use of fuel is prohibited within 50-feet of any open water.
- 6. The River Center shall be notified at least 3 days prior to the start of the project.

- 7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
- 8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 9. The construction or installation phase of this Conditional Use Permit must be completed within three calendar years from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
- 10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
- 11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
- 12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Attachments

Multi-Agency Application Draft Resolution 2023-10

Recommendation

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2022-41.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT



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

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to construct a culvert on the Alaska Rail Road right of way within the 50-foot Habitat Protection District of the Lower Trail Lake near Moose Pass, Alaska. *You have been sent this notice because you are a property owner within 300 feet of the described property.*

Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at ARRC MP 26.2, along the Lower Trail Lake, near Moose Pass, Alaska.

Petitioner: Alaska Rail Road Corporation PO Box 107500 Anchorage, AK 99510

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on May 22, 2023 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <u>https://us06web.zoom.us/j/9077142200</u>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099 or 1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

<u>Public Comment:</u> Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. Written comments must be submitted by 1:00 pm Friday, May 19, 2023.

<u>Mail comments to:</u> Donald E. Gilman River Center 514 Funny River Road Soldotna, Alaska 99669

Fax comments to: (907) 260-5992 Email comments to: planning@kpb.us KenaiRivCenter@kpb.us

For additional information contact Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2023-10

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF A CULVERT WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE LOWER TRAIL LAKE.

- **WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- **WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS, KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- **WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- **WHEREAS,** public notice was published in the Peninsula Clarion on May 11, 2023 and May 18, 2023 as provided in Section 21.11.020; and
- **WHEREAS,** public testimony was received 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:

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details Within the 50-foot Habitat Protection District

- 1. Replacing the existing 36x39 corrugated metal pipe culvert at the rail road crossing with a 36x50 smooth steel pipe culvert
- 2. Placement of approximately 48 cubic yards of new materials (a combination of rip rap, ballast and structural fill) above OHW
- 3. Placement of appropriately 40 cubic yards of materials that will be re-used above OHW
- 4.

Section 2. Findings of fact pursuant to KPB 21.18.081

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure, construction of a culvert may be approved as a conditional structure/use within the habitat protection district.
- 3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.

- Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability
 of anadromous fish through controlling shoreline alterations and disturbances along anadromous
 waters and to preserve nearshore habitat.
- 5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 6. Removal of old culvert and replace it with a culvert that will provide better drainage.
- 7. Placement of rip rap fill will support the new culvert and establish a safer railway.
- 8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
- 9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as: "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 10. The River Center found the application complete and scheduled a public hearing for May 22, 2023.
- 11. Agency review was distributed on May 8, 2023 No comments or objections have been received from resource agencies to date.
- 12. Notice of this project was sent to the Moose Pass Advisory Planning Commission. The APC reviewed this project at their May 4, 2023 meeting. They recommended approval.
- 13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on May 8, 2023. A total of 1 mailing was sent. No comments have been received.
- 14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on May 11, 2023 and May 18, 2023.
- 15. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

- 1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Lower Trail Lake.
- 2. The culvert must be designed and installed to meet KPB floodplain requirements.
- 3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
- 4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
- 5. Storage or use of fuel is prohibited within 50-feet of any open water.
- 6. The River Center shall be notified at least 3 days prior to the start of the project.
- If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
- 8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall

expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).

- 10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
- 11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
- 12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-3 appear to support this standard.**
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-4, 8-15 appear to support this standard.**
- 3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appears to support this standard.**
- 4. The proposed use or structure is water-dependent; Findings 4 and 9 appear to support this standard.
- 5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 15 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

Jeremy Brantley, Chairperson Planning Commission

ATTEST:

Ann Shirnberg Administrative Assistant

Note: An appeal of a decision of the Planning Commission may be filed to the hearing officer, in accordance with the requirements of the KPB Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

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

<u>BACKGROUND INFORMATION</u>: 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 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.

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		
	Applicant Colaska Inc. dba QAP POC: Pa		Landowner
	Address 240 W 68th Avenue		Address
	City, State, Zip		City, State, Zip
	Telephone Cell		TelephoneCell
	Email		Email_pcummins@colaska.com
11.	PARCEL INFORMATION KPB Tax Parcel ID# <u>14403072</u>	Legal De	scriptionT1N R1W S27 SM That portion of the E388 ft of
	the West 718 ft of the W1/2 NE1/4 lying so	outh 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 <u>not</u> for entire parcel, describe sp acres", or "5 acres in center of parcel".	ecific location w	ithin parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10 acres, as shown on exhibits
HI.	APPLICATION INFORMATION	eck" boxes bel	ow to indicate items included.
\checkmark	\$1,000.00 permit processing fee payable to:	: Kenai Peninsul	a Borough. (Include Parcel # on check comment line.)
V	parcel boundaries		
	Iocation of boundary stakes within	n 300 ft. of	Iocation/depth of testholes, and depth to groundwater if encountered
	excavation area (to be in place at time		Iocation of all wells within 300 ft. of parcel boundary
	 proposed buffers, or requested buffer proposed extraction area(s), and acre 	. ,	 location of water bodies on parcel, including riparian wetlands
	proposed location of processing area((s)	surface water protection measures
	all encumbrances, including easement	ts	north arrow and diagram scale
	points of ingress and egress		preparer's name, date and seal
	anticipated haul routes		
<u> </u>	Site Plan Worksheet (attached)		
\checkmark	Reclamation Plan (attached) and bond, if re bonding requirements pursuant to AS 27.19.	equired. Bond 050	requirement does not apply to material sites exempt from
<u> </u>	Please Note: If a variance from the co attached. (A variance is NOT the same th	onditions of Ki ing as a waiver	PB 21.29 is requested, a variance application must be
IV.	CERTIFICATION STATEMENT		
	The information contained on this form and permission for borough staff to enter onto the	attachments are ne property for th	true and complete to the best of my knowledge. I grant e purpose of processing the permit application.
_	PL	4/18/2023	
7	Applicant	Date	Landowner (required if not applicant) Date

E3-6

Revised 7/11/22

Page 1 of 4

Site Plan Worksheet for Conditional Land Use Permit Application

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

А	Applicant Colaska Inc. dba QAP Owner Colaska Inc. dba QAP
	KPB Tax Parcel ID # 14403072 Parcel Acreage 25.6
1. 2. 3.	Cumulative acres to be disturbed (excavation <u>plus</u> stockpiles, berms, etc.) <u>12.5</u> acres Material to be mined (check all that apply): gravel sand peat other(list) 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):
	\checkmark 50 ft. of natural or improved vegetation \checkmark N S \checkmark E W \square minimum 6 ft. earthen berm \square N S E W \square minimum 6 ft. fence \square N S E W \checkmark other waiver on south & west \square N \checkmark S E \checkmark W
5.	Proposed depth of excavation:ft. Depth to groundwater: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 _XNo
10.	Expected life span of site? 10years
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)
	Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)
Ċ.	

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.
- Total acreage to be reclaimed each year: <u>0</u>_____acres
- 4. List equipment (type and quantity) to be used in reclamation:

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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 t he reclamation plan, although not all will be applicable to every plan – ☑ "check" <u>all</u> that apply to your plan.

Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will b e protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

The area will be backfil led, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

Sufficient quantities of stockpiled or imported topsoil will b e spread over the reclaimed area to a depth of four inches to promote nat ural plant growth that can reasonably be e xpected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if th e soil is fou nd 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 bran ches greater than 3 in ches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

ADDITIONAL APPLICATION COMMENTS

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

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.



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.

- 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 vegetationSouth:No buffer, applicant requesting buffer waiverEast:50-foot native vegetationWest: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 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.
- **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

Aerial Map: 144-030-72





Area Land Use Map: 144-030-72



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, a irrent, or otherwise reliable. Do not use for navigation.

Date Printed: 5/11/2023



Lidar Map: 144-030-72



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





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:

- 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,

amonthe

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 $\frac{1}{2}$ 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	Please turn over for map.
Landowner:	Colaska Inc - QAP	Flease turn over for map.
Parcel Number:	144-030-72	
Legal Description:	T 1N R 1W SEC 27 SEWARD MERIDIAN SW 388 FT OF THE WEST 718 FT OF THE W1/2 LEIRER RD & THAT PORTION OF THE EAS NORTHEAST OF SEWARD CITY LIMITS	NE1/4 LYING SOUTH OF HERMAN

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: <u>https://www.kpb.us</u>

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 with 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: <u>https://us06web.zoom.us/j/9077142200</u>. 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: <u>rraidmae@kpb.us</u>, 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



Kenai Perinsula Borough Parcels Within 1/2 Mile of Proposed CLUP 5/3/2023 2:59

DESK PACKET (MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

3. Conditional Land Use Permit: PC RES 2023-11 Applicant/Landowner: Coalaska Inc. - QAP May 18, 2023 Via Email Transmission

Planning Commission Chairman Attn: Ryan Raidmae (rraidmae@kpb.us) 144 N. Binklev St. Soldotna, AK 99669

Subject: 31825 Herman Leirer Road, Seward, Alaska 99664 – Parcel Number 144-030-72

Dear Chairman Raidmae,

My name is Fernando Salvador, I am the Vice President and General Manager of CATC Alaska Tourism Corporation ("CATC") the owners of the Seward Windsong Lodge ("SWL") which is located very near to the site being proposed for material processing as further described in the Notice of Public Hearing received on May 8, 2023.

In addition to the Seward Windsong Lodge, CATC owns and operates Kenai Fjords Tours boat company, the Kenai Fjords Wilderness Lodge, as well as The Talkeetna Alaskan Lodge, and The Denali Cabins. You can see all our experiences here at www.pursuitcollection.com

CATC is deeply involved in and supports tourism in Alaska along with serving as a responsible employer of choice (by investing in our team members and facilities,) and providing excellent quality jobs for Alaskans.

I write this letter on behalf of CATC in strong opposition of the proposed conditional land use application. Our reasons for opposing the application are as follows:

- The guest experience at Seward Windsong Lodge will be dramatically impacted in the form of . lower air quality, noise, visual impacts, odor, and material particles (dust, silt etc.) by virtue of having a material processing site so nearby.
- Our staff that work at Seward Windsong Lodge have become accustomed to walking on that side . of the river and for all the above-mentioned reasons, that will soon become untenable.
- CATC does not feel this is a step in the right direction for Seward as a town that bases its • livelihood on tourism. This would have impacts not just on CATC but on the broader tourism community.
- This will impact the revenue and guest service scores of Seward Windsong Lodge, one of Seward's premier hotels, and we anticipate it will drive business down now and in the future.
- Even currently the area has poor aesthetic appeal and permitting this application will no doubt • only decrease the aesthetics.

For the above-listed reasons, CATC would urge the Planning Commission to reject the land use application.

If you would like to discuss this matter at any time, please feel free to reach out to me via email at fsalvador@pursuitcollection.com or by cell phone at 907-529-9881.

Sincerely.

pure you

Fernando Salvador Vice President CATC Alaska Tourism Corporation

Raidmae, Ryan

From:	Kris Lillemo <kklillemo@gmail.com></kklillemo@gmail.com>					
Sent:	Wednesday, May 10, 2023 7:55 PM					
То:	Raidmae, Ryan					
Subject:	<external-sender>CLUP for QAP in Seward</external-sender>					

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.

Good evening,

I am writing you in response to the CLUP for Coalska-QAP on parcel number 144-030-72. My wife and I live about a quarter mile from this gravel pit.

We don't have a problem with this permit as far as gravel operations are concerned. We drive on roads. Roads need repair.

What concerns us is the asphalt plant. A few years ago the City of Seward did a major street repaving project. The asphalt plant for that project was located about a half mile away.

During the operation of this plant it filled the ENTIRE Resurrection Bay bowl area with heavy blue smoke. The smell was terrible. People with respiratory issues had to curtail their activities or stay inside. Some residents had to be admitted to the hospital for treatment.

It was reported to the DEC who apparently contacted the contractor and was told that's normal!

This can't be allowed to happen again. KPB should put conditions in place to prevent a repeat of this problem. The contractor should be mandated to monitor air quality in various places around the permit area and insure their equipment is operating properly.

KPB should have someone on-site to verify this is being done. The cost of monitoring should be born by the contractor and not the borough taxpayer.

The last thing I want to point out is the access to this gravel pit is Herman Leirer Road which is also the access to Exit Glacier. This is a busy road in the summer with tourists and RV's. The speed limit from the pit entrance to Seward Highway is 25 mph. There is a speed transition from 40mph to 25mph right as the haul trucks will be entering and exiting.

Please ask the contractor to make his drivers aware of the speed limit and ask them to have patience when entering and exiting the pit.

Thank you for your time and consideration,

Kris Lillemo and Kim Strehlow

Kris Lillemo 612-922-2044

E. NEW BUSINESS

4. Conditional Land Use Permit – Materials Extraction PC Resolution 2023-08 Applicant/Landowner: Richard Gregoire/Jerold Vantrease Happy Valley Area

Conditional Land Use Permit for a Material Site

STAFF REPORT

PC MEETING: May 22, 2023

Applicant:	Richard Gregoire
Landowner:	Jerold Vantrease
Parcel Number:	159-360-09, 10, 11, 12
Legal Description:	T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4
Location:	Mile 1.4 of Tim Ave, Ninilchik, Alaska 99639

<u>BACKGROUND INFORMATION</u>: The applicant wishes to obtain a Conditional Land Use Permit for material extraction and processing on a portion of the parcels listed above.

The submitted application and site plan indicates that 4 contiguous parcels be combined under one permit. The ingress and egress of the parcels will utilize Tim Ave a Kenai Peninsula Borough Road. The material haul route will then travel West on Tim Ave. to the Sterling Highway a State Maintained facility.

The site plan and application propose the following buffers:

- North: 6-foot-high earthen berm
- South: 6-foot-high earthen berm
- East: 6-foot-high earthen berm
- West: 6-foot-high earthen berm

Note: The applicant proposes to excavate the material under the earthen berm in 100-foot sections prior to its construction.

The subject property is bordered on the North side by the 66-foot-wide Tim Ave. On the East side of the property is the 120-foot undeveloped right of way for Jacob Samuel St. To the South is a large undeveloped lot that is privately owned. On the Westside of the property is the 150-foot-wide airstrip owned by Hoffman Acres Homeowners association Inc.

The site plan completed by McLane Consulting Inc., claims ground water is approximately 16 feet below the existing surface based on 9 test holes. The application states that the proposed depth of material excavation will equal 14-feet. Plan notes state that there are no wet lands or surface waters within the property boundaries. A Northern Central area will be maintained as a processing, staging and stockpile area. This processing area is at least 300-feet from the North, East and South property lines. The applicant requests a waiver from the 300-foot processing distance on the West side of the property due to the approximately 150-foot-wide adjacent airstrip. The applicant also requests a buffer waiver to remove the required buffers from between Lots 1, 2, 3, and 4. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates 1 well located within 300-feet from the proposed use area.

The application indicates that a permit modification to enter the water table will be submitted in the future. Accompanying notes state groundwater monitoring wells will be installed and a ground water study will be completed as weather permits.

Plan notes state that final reclamation will include a float plane basin with appurtenances. Grading and recontouring will incorporate strippings, overburden, and topsoil to a condition that allows for the reestablishment of natural vegetation. Slopes steeper than 2:1 will be seeded. The application also states that 2-5 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends. The applicant estimates a life span of 15 years for the site and an annual quantity will be about 40,000 cubic yards. This amount of material will make the site eligible for a Small Operation Exemption pursuant to AS 27.19.050 and therefore bonding will not be required.

PUBLIC NOTICE: Public notice of the application was mailed on May 4, 2023 to the 123 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was also sent to the postmaster covering the Happy Valley area and requested that the notice be placed in the nearest Post Office.

<u>KPB AGENCY REVIEW</u>: Application information was provided to pertinent KPB staff and other agencies on April 28, 2023.

ATTACHMENTS

- Conditional Land Use Permit application and associated documents
- Aerial map
- Ownership map
- Lidar map
- FAA Determination of No Hazard
- Memo of Postponement

FINDINGS OF FACT

- 1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
- 2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
- 3. On March 6, 2023 the applicant, Richard Gregoire, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 159-360-09, 10, 11, 12, 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 52 acres.
- 6. On April 28, 2023 the applicant submitted to the Borough Planning Department a Determination of No Hazard from the FAA for the proposed 6-foot-high earthen berms.
- 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 the seasonal high-water table is 16-feet below the surface.
- 9. The applicant's intended depth of excavation will be 14-feet 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 no wells located within 100 feet of the proposed excavation and 1 well located within 300 feet.
- 13. The application states that work is not anticipated to be completed in the water table at this time.
- 14. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
- 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: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 an access will be constructed onto Tim Ave. and the haul route will then then travel West to the Sterling 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 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.
- 23. The site plan and application propose the following buffers:
 - North: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

- 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: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 April 10, 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: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side 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-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 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

	ion
Applicant Richard Gregoire	Landowner
Address PO Box 2372	Address PO Box 1730
City, State, Zip Alaska 99603	_ City, State, Zip
Telephone 007-235-1588 Cell Cell	Cell
EmailEmail	Email

II. PARCEL INFORMATION

KPB Tax Parcel ID#_______ 15936009 thru 15936012____ Legal Description______ T3S R14W Section 4 Seward Meridian

Hoffman Acres Lowell Field Phase 1 Lot 1, Lot 2, Lot 3 and Lot 4

If permit is <u>not</u> 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".

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:

- parcel boundaries
- □ location of boundary stakes within 300 ft. of excavation area (to be in place at time of application)
- proposed buffers, or requested buffer waiver(s)
- proposed extraction area(s), and acreage to be mined
- proposed location of processing area(s)
- all encumbrances, including easements

- location/depth of testholes, and depth to groundwater, if encountered
 location of all wells within 300 ft. of parcel boundary
- location of water bodies on parcel, including riparian wetlands
- surface water protection measures
- north arrow and diagram scale
- preparer's name, date and seal

□ anticipated haul routes Site Plan Worksheet (attached)

points of ingress and egress

Reclamation Plan (attached) and bond, if required.

ond, if required. Bond requirement does n ot apply to material sites e xempt from \$ 27.19.050

<u>Please Note:</u> 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.

63/03/2012 Applicant downer (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.

ŀ	Applicant Gregoire Owner Vantrease				
	KPB Tax Parcel ID #				
1. 2.	Cumulative acres to be disturbed (excavation <u>plus</u> stockpiles, berms, etc.) $\frac{50.6}{4}$ acres Material to be mined (check all that apply): $\sqrt{gravel \sqrt{sand \sqrt{peat other(list)}}}$				
3.	Equipment to be used (check all that apply):				
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 $N S E W$ \checkmark minimum 6 ft. earthen berm $\checkmark N \checkmark S \checkmark E \checkmark W$ \square minimum 6 ft. fence $N S E W$ \square other $N S E W$				
5.	Proposed depth of excavation:ft. Depth to groundwater:ft.				
6.	How was groundwater depth determined? Testholes at time of platting				
7.	A permit modification to enter the water table will be requested in the future: X Yes No				
8.	Approx. annual quantity of material, including overburden, to be mined: cubic yards				
9.	Is parcel intended for subdivision?Yes _XNo				
10.	Expected life span of site?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) Phase I consists of the northern 25 acres to be excavated and reclaimed over approximately 5 years. Phase I				
is the southern 25 acres to be excavated and reclaimed after. Development of both phases will begin at the					
	northerly limits and proceed south.				
12.	Voluntary permit conditions proposed (additional buffers, dust control, limited hours of				
	operation, etc.)				
Α.					

Material Site Reclamation Plan for Conditional Land Use Permit Application

- 1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
- 2. All revegetation shall be done with a "non-invasive" plant species.
- 3. Total acreage to be reclaimed each year: 2-5 _____acres
- 4. List equipment (type and quantity) to be used in reclamation:

Excavator, loader, dozer, hydroseeder

5. Describe time schedule of reclamation measures:

Reclamation will be completed on an annual basis prior to fall freeze-up. Areas to be seeded will be seeded prior

to August 15th annually.

6. The following measures must be considered in preparing and implementing t he reclamation plan, although not all will be applicable to every plan – 🗹 "*check"* <u>all</u> that apply to your plan.

Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will b e protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

The area will be backfil led, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

Sufficient quantities of stockpiled or imported topsoil will b e spread over the reclaimed area to a depth of four inches to promote nat ural plant growth that can reasonably be e xpected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if th e 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 bran ches greater than 3 in ches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

ADDITIONAL APPLICATION COMMENTS

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

Site access is from KPB owned gravel road, Tim Avenue to Sterling Highway.

The proposed CLUP is comprised of 4 adjacent parcels. Buffer waivers are requested for the interior lot lines of the site.

Proposed buffers are 6' berms on all site boundaries. It is proposed that marketable material be extracted from under the

berm area prior to construction of the berm. This will be conducted in sections not to exceed 100' length.

Due to the width of the property, a processing setback waiver is being requested for the west property line that abuts

a gravel airstrip which is part of a recognized airpark. The processing area will be maintained for the life of the CLUP.

CLUP reclamation includes dressing excavation slopes to 2:1 or shallower, stabilizing and seeding per typical section B/3.

The Applicant plans to install monitoring wells when weather permits and begin a groundwater study. If the hydrology

allows, an MCLUP will be submitted to mine below groundwater. The ultimate reclamation of the material site would be

development of a float plane basin with appurtenances. This development plan aligns with the subdivision devlopment

as it is immediately east of a platted air strip.









E4-14

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2023-08 HOMER RECORDING DISTRICT

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4, Homer 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 March 6, 2023 the applicant, Richard Gregoire, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcels 159-360-09, 10, 11, 12, which is located within the rural district; and
- WHEREAS, public notice of the application was mailed on or before May 4, 2023 to the 123 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 Happy Valley area requesting that it be posted at the local Post Office; and
- **WHEREAS**, public notice of the application was published in the March 30, 2023 and April 6, 2023 issues of the Clarion News; and
- **WHEREAS**, a public hearing was held at the April 10, 2023 meeting of the Kenai Peninsula Borough Planning Commission; and
- **WHEREAS**, during the public hearing, planning staff requested a postponement until the applicant could obtain an Obstruction Evaluation and/or Airport Airspace Analysis form the FAA; and
- WHEREAS, on April 28, 2023 the applicant Richard Gregoire, submitted to the Borough Planning Department a Determination of No Hazard from the FAA for the proposed 6-foot-high earthen berms; and
- **WHEREAS**, public notice of the application was mailed on or before May 4, 2023 to the 123 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 Happy Valley area requesting that it be posted at the local Post Office; and
- WHEREAS, public notice of the application was published in the May 11, 2023 and May 18, 2023 issues of the Homer News; 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 March 6, 2023 the applicant, Richard Gregoire, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 159-360-09, 10, 11, 12, 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 52 acres.
- 6. On April 28, 2023 the applicant submitted to the Borough Planning Department a Determination of No Hazard from the FAA for the proposed 6-foot-high earthen berms.
- 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 the seasonal high-water table is 16-feet below the surface.
- 9. The applicant's intended depth of excavation will be 14-feet 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 no wells located within 100 feet of the proposed excavation and 1 well located within 300 feet.
- 13. The application states that work is not anticipated to be completed in the water table at this time.
- 14. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
- 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:6-foot-high earthen berm.South:6-foot-high earthen berm.East:6-foot-high earthen berm.

West: 6-foot-high earthen berm.

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 an access will be constructed onto Tim Ave. and the haul route will then then travel East to the Sterling 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 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.
- 23. The site plan and application propose the following buffers:
 - North: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
- 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: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

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 April 10, 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 the seasonal high-water table is at an approximant depth of 16 feet, and the applicant's intended depth of excavation is 14 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 2:1 slope between the buffer zone and pit floor on all inactive site walls and shall not allow buffers to cause surface water diversion too negatively impact adjacent properties.
- 3. Material site standard 21.29.040(A)(3) is met because the permittee will use water and calcium chloride on the driveways throughout the excavation area to minimize the movement of off-site dust.
- 4. Material site standard 21.29.040(A)(4) is met because site plan indicates the following noise buffers:
 - North: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.

Material site standard 21.29.040(A)(4) is also met, because any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties

- 5. Material site standard 21.29.040(A)(5) is met because the site plan indicates the following visual screening buffers:
 - North: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.
- 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 159-360-09, 10, 11, 12. The disturbed area within the parcel is approximately 52 acres;
- 2. Legal Description: **T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES** LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4, Homer Recording District, Third Judicial District, State of Alaska.
- 3. The applicant, Richard Gregoire proposes to:
 - a. Extract gravel and sand from the subject parcel;
 - a. Process materials on the subject parcel;
 - b. 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: 6-foot-high earthen berm.
 - South: 6-foot-high earthen berm.
 - East: 6-foot-high earthen berm.
 - West: 6-foot-high earthen berm.
 - 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 North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side 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-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 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	ΒY	THE	PLANNING	COMMISSION	OF	THE	KENAI	PENINSULA	BOROUGH	ON
THIS			DAY	OF			. 2022	2.		

Jeremy Brantley, Chairperson Planning Commission

ATTEST:

Ann Shirnberg Administrative Assistant

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

Aerial Map: 159-360-09, 10, 11, 12





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: 3/27/2023


Lidar Map: 159-360-09, 10, 11, 12



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: 3/27/2023





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DATE PRINTED: 3/27/2023

E4-24

MEMORANDUM

TO:	Jeremy Brantley, Planning Commission Chair Members of the Kenai Peninsula Borough Planning Commission
THRU:	Robert Ruffner, Planning Director Samantha Lopez, Senior Manager
FROM:	Ryan Raidmae, Planner
DATE:	April 6, 2023
RE:	PC Resolution 2023-08 ⁻ Conditional Land Use Permit for Richard Greec

RE: PC Resolution 2023-08: Conditional Land Use Permit for Richard Gregoire -Request for Postponement

If approved, PC Resolution 2023-08 would grant a Conditional Land Use Permit (CLUP) to Richard Gregoire for material extraction and processing on approximately 52 acres in Happy Valley on Tim Avenue.

The proposed material site is immediately adjacent to Lowell Field Airport, which is classified as a Federal Aviation Administration (FAA) runway.

Comments received through the public noticing process indicated that further information regarding the project's proximity to the runway is needed before the application is reviewed by the Planning Commission. As such, postponement is being requested so the applicant can obtain an Obstruction Evaluation and/or Airport Airspace Analysis from the FAA. This study would help the FAA determine if the proposed material site would affect aircraft operations. Because the outcome of this study could change parameters of the CLUP application, we recommend postponement until brought back by staff.

Also note that once the CLUP application is ready to return to the Planning Commission a second public noticing process, including vicinity mailouts, will occur.

Your consideration is appreciated.

Aeronautical Study No. 2023-AAL-159-OE



Mail Processing Center Federal Aviation Administration Southwest Regional Office Obstruction Evaluation Group 10101 Hillwood Parkway Fort Worth, TX 76177

Issued Date: 04/27/2023

Richard Gregoire Gregoire Construction PO Box 2372 Homer, AK 99603

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Terrain 6' High Earthen Berm
Location:	Homer, AK
Latitude:	59-56-57.00N NAD 83
Longitude:	151-41-32.60W
Heights:	264 feet site elevation (SE)
	8 feet above ground level (AGL)
	272 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

This determination expires on 10/27/2024 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO

SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (206) 231-2993, or lynnette.farrell@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2023-AAL-159-OE.

Signature Control No: 581241057-583068083

Lynnette Farrell Technician

Attachment(s) Map(s)

Page 2 of 3

(DNE)





Planning Department

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

Peter Micciche Borough Mayor

Please turn over for map.

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

KENAI PENINSULA BOROUGH PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Public notice is hereby given that a conditional land use permit application has been received for materials extraction on parcels in Happy Valley Area. This notice is being sent to landowners located within 2,640 feet of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Richard Gregoire

Landowner: Jerold Vantrease

Parcel Number: 159-360-(09, 10, 11, 12)

Legal Description: T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1, 2, 3, 4

Location: Approximately 1.4 miles down Tim Ave. Ninilchik, Alaska 99639

Proposed Land Use: The applicant wishes to obtain a permit for materials extraction and processing on a portion of the parcels 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: <u>https://www.kpb.us</u>

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday April 10, 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: <u>https://us06web.zoom.us/j/9077142200</u>. 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: <u>rraidmae@kpb.us</u>, or faxed to (907) 262-5992. Written statements must be provided by 1:00 pm Friday, April 7, 2022. Persons, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

For additional information about this application, please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Kenai Peninsula Borough).

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



Kenai Peninsula Borough

Parcels Within 1/2 Mile of Proposed CLUP 3/20/2023 11:49



DESK PACKET (MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

4. Conditional Land Use Permit: PC RES 2023-08 Applicant: Richard Gregoire Landowner: Jerold Vantrease James Lack PO Box 2999 Homer, Alaska 99603

May 18, 2023

KPB Planning Commission

To Whom it may concern,

I am in receipt of the KPB Planning Commission Notice of Public Hearing on the proposed CLUP for material extraction by Richard Gregoire, Parcel No 159-360-(09,10,11,12)

I have owned lot 13 in the same subdivision as the proposed site for about 10 years with the goal of building a hangar and home to retire in. It is a beautiful peaceful subdivision. I have finally saved sufficient funds to start the project only to be notified of a possible gravel pit 150' from my back yard. Faced with this the lot may no longer be suitable for a residence, and am stuck with paying taxes on a lot I cannot use or sell.

Considerations impacting the community. Tim Ave. has been identified as the access route to the site. There are a large number of residents that use, and live adjacent that will be impacted by the truck traffic. All of Tim Ave is gravel. No mention in the application of dust or noise mitigation from the trucks or how to prevent dust damage to properties. This is in conflict with KPB 21.29.040 A. 2, 3, and 4. The first mile of Tim Road between the Sterling Highway and Creekview Road is just wide enough for two passenger vehicles, and is questionable if wide enough for end dump or other large truck to get by a passenger vehicle. There are no pullouts, only private driveways. This presents a safety issue to vehicles using the road as well as pedestrians. The remaining section of Tim Ave between Creekview Road and the site is a single lane, with just enough room for one vehicle without any pullouts for trucks to let cars by. It has a steep blind hill and the portion that passes over the culvert at Happy Creek at the base of the hill is very narrow. This presents a significant safety issue to other users expected to share the road with commercial trucks. This section of road is very fragile, and at times has to be repaired by residents. The section crossing Happy Creek sloughs off into the creek at times, and will not support regular usage by trucks. The crossing has been repaired in the past thanks to efforts of Danny Presley, Walter Blauvelt, and dues collected from the Hoffman Acres Lowell Field Homeowners. Regular use of this section of Tim road by commercial trucks will inevitably damage it. No mention of dealing with this or the previously mentioned issues of dust and noise mitigation. This is in direct conflict with KPB 21.29.040 A. 2, 3, and 4.

Regarding the runway, a gravel pit on Hoffman Acres, Lowell Field is not consistent with the subdivision's purpose as a residential neighborhood and airpark.

Regarding a possible float basin, AOPA recommends a minimum of 105' between the runway and the float basin. Any closer presents a safety hazard. Pursuant to this; excavation between the runway and float basin would not serve the building of a float plane basin, and would most likely result in a deviation from the 50:1 grade in the areas adjacent to the runway.

Regarding the FAA letter of no hazard; it appears that the FAA was not informed of the scope of the project, as there is no mention of the distance of the proposed berm from the runway or allowing a deviation from the 50:1 grade in the 250' Runway obstacle free zone (ROFZ), allowing the proposed excavation to 14' in the same area, or the float basin. If the applicant were to adhere to the 50:1 grade standard it would be 300' from the r

edge of the runway to the top of the berm. I suggest that a 50' buffer of undisturbed vegetation pursuant to KPB Chapter 21.29.050 A.2.a.i would be more appropriate, and would give the proper separation to meet FAA recommended safety standards. The applicant mentioned in the previous meeting that he did not have a market for a large amount of material from the site, so the minimal reduction in size most probably would not have a significant impact. In the interest of safety and the primary intended use of the subdivision for aviation, development should be done following guidelines set forth by the FAA in AC No. 150/5300-13B. and AOPA.

Concerns regarding the application:

The provided site plan shows only test holes on lots 2, 3, &4 with the water table at 16'. There is anecdotal evidence that the original developer found the water table between 8' & 9' at the southern portion of subdivision. The applicant neglected to include test hole information regarding the southern lot #1. Prior to approval of the proposed 14' excavation depth, depth of water table should verified on the South end of the site.

In the comments section and the site plan, the applicant requests a waiver to KPB 21.29.050 A. 3. Requiring material processing equipment to be operated at least 300' from the parcel boundaries This deviation should not be allowed as it is apparent that the applicant did not exercise due dillingence in the procurement of the property for material processing, or willfully intended to circumvent this requirement. In any event if the applicant cannot meet the 300' standard, material processing should not occur at the site. The applicant has the option of processing the material at another location more suitable to this activity. The burden should fall on the applicant to comply with the standards, not the community to bear the negative safety and quality of life impacts. At the previous meeting the applicant commented that there was not a lot of rock at the site so probably wouldn't need to use a crusher, so not allowing material processing wouldn't be a deal breaker. I would ask, what is the point of having an ordinance if only to grant waivers to it? The planning commission should not grant waivers to the standards that would have such negative impacts on the community.

Other considerations:

The runway adjacent to the site has no significant vegetation or buffers to inhibit disturbances of noise, fugitive dust, and allows an uninhibited view from adjacent properties into the site. Due to this the 50' buffer of natural undisturbed vegetation in addition to a minimum 6' earthen berm with at least a 2:1 slope should be used pursuant to the buffer requirements set forth in KPB21.29.050 A.1.2.

Findings of fact item 19, dust mitigation. Winds in the area could drive dust from the project across the runway onto adjacent properties damaging structures and aircraft, and aggravating respiratory ailments of residents. It is doubtfull that mitigation of dust through application of Calcium chloride and water will be adequate due to the drying nature of the winds. Calcium chloride is corrosive and poses a threat to aircraft in the vicinity and should not be used. These are violations of KPB 21.29.040 A.2.3.4.5.

The applicant should apply dust mitigation products that are not corrosive in nature and damaging to aircraft. Due to the magnitude of the proposed project, and the scope of negative impacts on the community the requirement of bonding per KPB 27.19.050 would be appropriate, and voluntary compliance on the part of the applicant would be an indication of good faith to complete the project in a conscientious manner.

In closing the project seems ill conceived.

There are conflicts with KPB Ordinance 21.29

There are significant deviations from FAA and AOPA safety standards that address runways.

E4-32

The mention of a float plane basin on the surface appears to be a feeble ruse to grease the wheels of a questionable project.

There is no regard given to the safety of users of the roads in the community.

There is no regard given to the safety of airport operations.

There is little regard given to compliance with KPB ordinances to protect the community from physical damage to properties.

There is little regard for minimizing noise, visual, and dust impacts to the community.

In its' present form I am opposed to the CLUP.

If the applicant is indeed sincere with the intent of building a float plane basin, I would suggest it would more productive to engage in dialogue with property owners in the subdivision to conceive a plan that would be beneficial to the community as well as the developer.

I often use gravel products on the Kenai Peninsula, and in the event that I proceed to develop my lot in the subject subdivision I will need a substantial amount of gravel. Another nearby source would be a resource to utilize. I would be supportive of such developments when done in a proactive manner, and considerate of the community.

Thankyou James Lack

Raidmae, Ryan

From:	inua2@alaska.net
Sent:	Wednesday, May 17, 2023 9:27 PM
То:	Raidmae, Ryan
Subject:	<external-sender>comment on conditional land use permit Hoffman acres Lowell field phase 1</external-sender>

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.

This letter is to register my objection to the proposed conditional use permit, Hoffman acres Lowell field Phase 1- LOT 1,2,3,4 I am currently an owner in the adjacent lots, 31 and 32. This development is designed for residential lots and housing. A gravel pit is in no way compatible with the intended use of the property. Granting this conditional use permit will negatively impact not only the quality of life for current and future residents, but will destroy any property value that is currently held. Access to the proposed gravel pit is on Tim ave., which is not borough maintained, thus any commercial traffic on the unmaintained portion of the road will destroy access for current and future residents. The current stream crossing is already so narrow that any increase in heavy truck traffic will compromise the crossing. In addition, the proposed permit borders an Aircraft runway. The liability and inherent danger to aircraft should be evident. The proposed development also borders large swaths of marsh and wetland, again the non-compatibility should be evident. I implore that this permit be denied, as the monetary gain of one should not come at the expense of many.

Sincerely William Lovett Lots 31 – 32

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05/19/2023

Kenai Peninsula Borough Planning Commission Chairman 144 N Binkley St Soldotna, AK 99669

RE: Conditional Land Use Permit: Parcels 159-360-(09,10,11,12)

Dear Sir:

As a property owner in the Lowell Field area, owner of a lot directly adjacent to the proposed extraction site, I feel it is appropriate to give testimony regarding the proposed use of some (not all) of my properties there for extraction of gravel and sand. I listened online to the hearing held on that topic on Monday, April 12, and I took note of a few items of interest. For the sake of clarity, I will list them in numerical order.

- 1) Few of the folks who testified on Monday 4/12 actually live on their properties near Lowell Field. This should serve to limit most concerns about traffic safety, as it seems unlikely that folks who neither live not work in the Lowell Field Subdivision will drive there often.
- Every property owner who spoke had purchased their property with the knowledge that there
 was <u>already</u> an operational gravel pit in close proximity to the West side of Lowell Field.
 Evidently they did not feel enough concern regarding the potential for danger or annoyance
 from that existing pit to prevent them from purchasing their properties near to it.
- 3) The existing, active gravel pit uses the exact same roadway (Tim Avenue) as that which Gregoire Construction proposes to use. They transport gravel from that pit with dump trucks. I am not aware of any reports of traffic incidents regarding that usage, and no testimony to that effect was presented.
- 4) The existing portion of Tim Avenue to the East of the Borough maintained portion was most recently improved by a logging outfit, at little or no expense to the current property owners in the Lowell Field subdivision or to the taxpaying public. It is not marked or treated as a private drive. There is little doubt that Gregoire Construction will choose to make some improvement to the roadway in order to have good operational conditions for equipment transit, but this should not be required for approval of the conditional use permit currently under consideration.
- 5) Some of the testimony on 4/12 expressed concern regarding the weight of the loads which might be hauled out of the proposed extraction site on the East side of Lowell Field. The thought was that the loads might be too heavy for the road bed. The axle load on those trucks used by Gregoire Construction will be no greater than that of a standard 10-yard end dump such as any gravel operator might use, and when side-dump trucks are used the axle load will actually decrease.
- 6) The property proposed for gravel extraction is on the East side of the Lowell Field runway, well away from the property owners who have expressed opposition to this new development. Since they occupy properties to the West of Lowell Field, they will be separated and sheltered from any unpleasant activity by no less than the full 150 foot width of the runway, as well as by any intervening real estate West of the runway, in addition to the berm mandated in Borough ordinance. The terrain in the area under discussion is generally level, so no homeowner will be

forced to look downhill from their property and view the operation of a gravel pit from any residential vantage point in the vicinity.

Given these facts, and the fact that our proposed property use violates no Borough ordinance and that gravel extraction is, in fact, a necessary element of development on the Kenai Peninsula, I am asking that the Commission move to approve the conditional permit and allow our lawful request to proceed unhindered.

Respectfully submitted,

Jerold Vantrease

P O Box 1730

Homer, AK 99603

Testimony, Anne Kahn, property owner on Hoffman Acres, Lot 10

This testimony is in regard to the application for a gravel pit adjacent to Lowell Field (Parcel Numbers 159-360-, 09, 10, 11, 12) in Happy Valley, Kenai Peninsula Borough. The applicant is Richard Gregoire, the owner is Jerold Vantrease.

My first comment is that the time frame for adjacent property owners to receive and digest this proposal is wholly inadequate. The borough's allotted two weeks for notifying those potentially negatively impacted by gravel pits needs to be lengthened. The time frame should be one month minimum. Please pass this on to the borough assembly. I understand that this would mean a CODE CHANGE.

The letter was postmarked March 22. We received it on March 29 (Wednesday) and others reportedly received it two days prior, on March 27 (Monday). With the public comment meeting set for April 10 (Monday) we were scrambling to gather information. Written testimony is due even earlier, on April 7.

The "map" on the reverse side of the letter is totally inadequate. There is no legend, no street signage, no directional orientation. Surely the planning department can do better than this. At the very least, letters to property owners should include a link to a detailed and readable map.

Code 21.29.030 B Planning director shall provide vicinity, aerial, land use & ownership maps for each application.

Note mapS (plural). This single fuzzy map does not designate land use and ownership. The airstrip is not visible. This is a violation of code.

Ryan Raidmae in the Planning Department did return a call (both my husband and I left messages) and he led us through how to access the application. It was quite convoluted to navigate the website, and the application was only recently posted. This should be easily accessible and time-considerate public information.

Now that I have actually seen the application, I can quit, to some extent, operating on rumors. The application shows that once the gravel is excavated, a float plane basin will be established. This is not practical. My understanding is that a 105-foot setback for a parallel float plane basin from an existing airstrip is the minimum requirement. The borough should be bound to follow these regulations. I echo concerns of other property owners in the area regarding safety for aircraft.

"Plan notes state that final reclamation will include a float plane basin with appurtenances."

No reclamation plan is present in this application. To state that a float plane basin will be included in the reclamation but no specificities offered regarding how this project will be implemented, is a violation of :

21.29.060. - Reclamation plan.

A. All material site permit applications require a reclamation plan.

KPB 21.29.040 A.2. protects against physical damage to other properties.

With inadequate buffer zones between the airstrip and the mining area (50 feet of natural vegetation, or a 6' earthern berm, or a minimum 6' fence) there is every possibility of sloughing and damaging the shoulder of the airstrip. This is a community airstrip belonging to all residents in Hoffman Acres.

I request that the applicant amend the application to provide for a larger buffer on the west side of the excavation site where it abuts the existing airstrip to include a 50 foot natural vegetation buffer PLUS a 6-foot high berm.

No mention is made in the application of what will happen to all the trees. Will the big spruce and birch be buried? Sold for firewood? I request that the developer consult with property owners who might be interested in purchasing firewood from the clearcutting. This should be offered at a reduced market price to those in proximity, as it would save the developer time from hauling the trees to another location.

According to the original developer, there are differences in the water table levels from one end of the airstrip to another. These need to be documented since they contradict what is cited on the application. Depth of water table should be verified on the South end of the site by the applicant.

With so much subsurface gravel and sand, how will the lake be filled and replenished? There is no stream nearby, and not enough clay to keep the basin from draining and drying up without a liner. NEEDS STUDY& CLARIFICATION, AS WELL AS INPUT FROM PROPERTY OWNERS

If this theoretical float plane basin is ever realized, who will have access to it? Will there be fees for landing? How would it be operated? NEEDS STUDY & CLARIFICATION, AS WELL AS INPUT FROM PROPERTY OWNERS

Access to Hoffman Acres/Sonny Street is difficult due to several factors: 1. The Borough does not maintain the last half-mile 2. The road is quite narrow from the Sterling Hwy and narrows even more on the last, non-borough maintained stretch 3. This last stretch essentially allows for only one vehicle on the road at a time, and big trucks hauling gravel would be a huge

SAFETY hazard 4. The culvert at Happy Creek , where the road dips down, cannot handle huge equipment going back and forth repeatedly. NEEDS STUDY

The creek has washed out the culvert in the past, and Dan Presley and Walt Blauvelt repaired it. At the very least, if the Gregoire application is approved, road improvement needs to be part of the plan. Furthermore, posting as to when this road work would occur is essential. Several people who live in Hoffman Acres have jobs and need to access the road. Those who fly in may unexpectedly find that they can't drive out for supplies because the road is under construction. NEEDS STUDY & INPUT FROM PROPERTY OWNERS

Road noise and fugitive dust are huge concerns for those living adjacent to the proposed gravel site. Everyone with land in the subdivision and beyond, whether living on the property or not, would be affected by a decrease in property values. Tim Avenue is a gravel road. No mention in the application of dust or noise mitigation from the trucks or how to prevent dust damage to properties. This is in conflict with KPB 21.29.040 A. 2, 3, and 4.

Dust Control by water and Calcium Chloride. Water ok, but Calcium Chloride is salt, toxic to wildlife, plant life and airplanes (metal fuselage and engines). How much, and where, would this be spread? Where will the water be pulled from, Happy Creek? Again, how much? NEEDS STUDY & CLARIFICATION Damage to personal property- aircraft and other vehicles would be a violation of KPB 21.29.040 A.2.

-"The site plan indicates that an access will be constructed onto Tim Ave. and the haul route will then travel East to the Sterling Highway." The Sterling Highway is to the WEST, not the EAST. NEEDS MAP TO SHOW ACTUAL ROUTE

Specific questions regarding things in the application:

-What plants or microbes would be used for phytoremediation? I understand that this method is used to clean up contaminants. Why would this be necessary? What contaminants will the gravel extraction process produce? NEEDS CLARIFICATION

-"The application indicates that a permit modification to enter the water table will be submitted in the future." What is this modification and why is it necessary? What is "the future"? NEEDS CLARIFICATION

-the float plane basin will be equipped with "appurtenances." Specificity needs to be made as to what would be offered. NEEDS CLARIFICATION & DEFINITION OF APPURTENANCES

-"slopes steeper than 2:1 will be seeded." Seeded with what? Grass seed? Would it be Native to Alaska? NEEDS CLARIFICATION

-"Bonding will not be required." With no bonding, who is responsible if there are accidents or contamination? BONDING SHOULD BE REQUIRED

-"If water is encountered…" What if the excavator digs too deep and the 2-foot high barrier collapses and floods the airstrip? I have severe concerns about the liability here. NEEDS CLARIFICATION & STUDY Potential violation of KPB 21.29.040 A.2.

-"The site plan indicates that an access will be constructed onto Tim Ave. and the haul route will then travel East to the Sterling Highway." The Sterling Highway is to the WEST, not the EAST. NEEDS MAP TO SHOW ACTUAL ROUTE

-Noise disturbance: Equipment cannot be operated between 10pm and 6pm. That does not leave many potential quiet hours in the day. What about weekends? I recommend a CODE CHANGE

-Please describe the appeals process and timelines.

I urge the borough to turn down this application as written. Specificity is sorely lacking. It does not illustrate thorough planning. It has been rushed, and property owners have been forced to do the homework that the Borough Planning Commission and the applicant should be doing. This takes a tremendous amount of time, for which we are not compensated.

Thank you, Anne Kahn

Brian and Tiffany Wilkes 50192 Silverspring Lane Nikiski, AK 99635

April 6, 2023

Good afternoon Planning Commission Chairman,

This letter concerns the CLUP for material extraction by Richard Gregoire, Parcel No 159-360-09, 10, 11, 12 Happy Valley Area, properties located within a planned recreational/residential airpark. Please see attached Plat 2006-36.

9/12/22 we purchased a new log cabin on Lot 14 Hoffman Acres Lowell Field in Happy Valley with the intent to turn it into a VRBO. We are currently enjoying the beautiful, peaceful wooded area on weekends while we prepare the cabin for renters. Our cabin would provide work for local maintenance and cleaning people and potentially provide business to local fishing and flying guides.

10/20/22 and 11/23/22 Mr. Vantrease closed on 4 properties across the airstrip from us. Our realtor had mentioned someone was potentially purchasing them, but nothing was said about turning them into a gravel pit or float plane basin, nor was the Airport Manager notified.

During the winters months a snowmachine crossed our property between our well and a tree so closely that we feared someone would rip the wires out of the well. We installed an orange stake with reflectors to protect it. We have concluded the snowmachiner was hired to measure the distance from the proposed pit, but no one communicated this to us. We have no objections with the measurement, but a notification would have been appreciated.

Our preference would be for you to deny the application, but we have come to understand that as long as the Applicant follows KBP Ordinance that is not an option. With that in mind we propose the following:

1) The ridge on which the subdivision is built is very windy and we would appreciate the protection of a 50' buffer of natural undisturbed vegetation along the West border.

2) We respectfully request the processing setback waiver be denied. But, if not, please waive the East side instead of the West as no one lives East of the properties.

3) As previously submitted, road maintenance from Creek View Road to Sonny Street is funded by the residents of Hoffman Acres. We have strong concerns that the Happy Creek crossing will not withstand heavy truck traffic. Should the Application be approved, we request the Applicant improve the road and creek crossing to ensure everyone's safety, including their workers.

We have purchased gravel from an existing pit near another property and appreciate the service they provide, but this isn't the best location for another one.

Thank you for your consideration of requests, Brian and Tiffany Wilkes



Raidmae, Ryan

From:	wilkesworks@alaska.net
Sent:	Monday, April 3, 2023 8:44 PM
То:	Raidmae, Ryan
Subject:	<external-sender>Conditional Land Use Permit Packet for Richard Gregoire Tim Ave. Happy Vallev</external-sender>
Attachments:	Creek View Rd intersection.JPG; Happy Valley Creek Crossing.JPG; Sonny St intersection.JPG

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.

Good evening Planning Commission Chairman,

I would like to bring to your attention that the first sentence on page 4 of Richard Gregorie's CLUP application is not entirely accurate.

"Site access is from KPB maintained gravel road, Tim Avenue to Sterling Highway."

This error is repeated in the Background Information of the Staff Report.

"The ingress and egress of the parcels will utilize Tim Ave a Kenai Peninsula Borough Road." Only the first mile of Tim Ave. is Borough maintained. After that it is reduced to single lane. Road maintenance from Creek View Rd. to Sonny Street is funded by the residents of Sonny St., Maule Ave and Lowell St. There is no maintenance on Tim Ave., past Sonny Street.

We have strong concerns that the Happy Valley creek crossing will not withstand heavy truck traffic.

Please see attached photos. I have more pictures of the creek crossing construction, if you would like them.

If the application is approved, we request you require the Applicant to bring the road up to Borough Road Standards .

Thank you, Brian and Tiffany Wilkes

On Mon, 3 Apr 2023 16:30:31 +0000, "Raidmae, Ryan" <rraidmae@kpb.us> wrote:

Hi Tiffany,

Please find the attached Conditional Land Use Permit for Richard Gregoire and the Anchor Point Advisory Planning Commission Agenda for April 6. Please let me know if you have any questions.

Thanks,

Ryan Raidmae

KPB Planner

Donald E. Gilman River Center

Ph: (907) 714-2462





Creek View Rd Intersection



Happy Valley Creek Crossing



Sonny St Intersection

To the board concerning Hoffman Home Acres Lowell Field Parcel Numbers 159-360-, 1, 2, 3, 4

Hello, I am Dan Presley, manager of the Hoffman Home Owners Association. The very first thing I noticed is that the KPB Borough ordinance 21.25 060 isn't being totally followed. A note to the borough planning- one thing all the Home Owners will say is that there has not been enough lead time to take all this in. From getting a letter informing us that a gravel pit is about to come, to having any and all comments in by 2 weeks from when the letter was sent- and some didn't even know about, to having a ridiculous zoom meeting rather than a public meeting is absurd.

KPB 21.25 060 states:

Notice of pending application shall be published two times in a newspaper of general circulation in the local area in which the land use is proposed. The notice shall be posted in the post office of the impacted community. At the beginning of notice period, a copy of the notice shall be sent by regular mail to the affected owner and/or leaseholders of record of property with in a radius of ½ mile of the subject property. The notice shall contain a description of the proposed location, the type of land use, the applicants name, where written comments may be submitted, and the date time, and location of the public hearing.

I called the Homer news; on 4/1- they had no notice of application submitted to them for posting. The clarion told me it was posted 3/30. Yet was it twice? There has been no Notice of application for land use posted in the Ninilchik post office or the Anchor Point post office.

Letters did get sent out the 27th or so of March with a comment period of only allowed to April 7th. This quick notice seems way to rushed to be an honest effort.

The 2nd question I have-is how the Applicants Richard Gregoire and owner Jerold Vantrease will address the road and culvert crossing? The culvert is approximately 5' diameter, 20 foot long, steel boiler taken from Valdez and put in beside a smaller galvanized culvert that is half filled with gravel. This road is not in very good shape- it was put in by loggers on the section line and was primarily used during winter operations. The high Sept. rainfall of 12.79" in 2012 nearly washed the road out.

In June of 2013, Walt Blauvelt did some mitigation, of which the Hoffman HOA paid for half, restoring it to its present condition, which is passable for cars and pickups, but not good enough to have a constant stream of trucks hauling gravel. The present road is not able to handle that traffic.

Safety for people that live and travel this road is paramount.

Currently the road west of Sonny Avenue is narrow and steep, on both sides of the Happy Valley creek. When a gravel truck pulling doubles, comes down the hill, there is no place for home owner traffic to get out of the way. If a person is driving East-and there is a huge truck coming West at them: where are they go? There are no pullouts, and the road is not wide enough. For sure, the culvert is not wide enough. Discussions with the developer were that they would put in turnouts, which is a must. They also said they would work on the culvert situation, although they didn't specify. Will a culvert replacement take a review from US Army Corps of Engineers?

The 3rd question is- what is the end game? How will this gravel pit be mitigated? I here rumors of a floatplane basin. If so, where is the plan/application for that? On 4/4 Richard and Jerold met with a couple of us. He did show us a future plan and how they might carry that out. Where will this be put in action, other than on a piece of paper?

Not only that, the original developer said the water observed in the test wholes to the 2nd half of the runway was around 8'.

How close to the Airstrip will be the gravel pit? There should be a buffer of at least 105 feet- the applicant is asking for a waiver of the 300' exclusion and discussions with Richard and Jerold said basically the 45' from the edge of the strip and a 26' foot addition for berm or level ground- after the gravel is extricated below. 45+ 26 is 71' short for a suggested 105'. For me to be ok with this project going forward, the applicant Richard Gregoire and owner Jerold Vantrease should:

- 1. **Safety!** Upgrade the road to wide enough and thick enough that the road will not deterioate with gravel truck usage and that 2 vehicles can pass safely. They have assured us that they intend to make it safe with some pullouts and an upgrade on the culverts. Corp of Engineer application? Before this is approved, are the KPB planning commission going to take any of these concerns into consideration? Or will the answer be that it is a private road? Can the homeowners see some kind of assurance in writing that these safety concerns will be addressed?
- 2. **Safety!** Shallow up the grade of the hills on both the east and west side of Happy Valley creek.
- 3. **Safety!** Dust mitigation controls- use calcium Chloride or some other option. But that needs more study
- 4. **Safety!** What about the rest of Tim Avenue? It is barely wide enough for 2 pickups, much less for a large gravel truck and a pickup.
- 5. What is to be the final outcome? Jerold and Richard showed us a drawing of a proposed floatplane basin. If so what is the time frame for that to be completed? They mentioned a possible 7-8 years. Is there a way for them to put it in part of the Proposed land use? The water table is 16'. The proposed depth is for 14'. How will that be filled with water? How will that be maintained? There was mention of clay as a barrier to keep the water in. All of these things have possibilities, but there is nothing in writing. **Safety!** After talking with AOPA rep, a floatplane basin should be no closer than 105 feet from the edge of the runway.

Raidmae, Ryan

From:Devan Wilson <DWilson@ci.homer.ak.us>Sent:Tuesday, April 4, 2023 4:53 AMTo:Raidmae, RyanSubject:<EXTERNAL-SENDER>Tim Ave Comments about the Conditional Land Use Permit for a Material Site

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.

Good morning,

I am a current resident living off of Tim Ave and have some comments about the potential gravel pit.

Tim Ave is not maintained by the borough passed Muir Street. The applicant either lied or was not aware because they failed to do their research or didn't see the "end of borough road maintenance" at Muir Street. From Muir to Sonny street the roads are maintained by the homeowners. Also it is extremely important to know that the culvert placed in Happy Creek is not rated for heavy equipment or oversized vehicles and if that culvert is damaged or becomes unpassable then that would leave multiple families stranded, because that's our only road out. Another thing to take into consideration is that Tim Ave is one of the main access roads to Native and DNR land for multiple recreation uses and hunting. Having more traffic and hazards on this road without borough helping to maintain it is unfair to the home owners and out right wrong. Please take my comments into consideration before processing this permit.

Thank you.

Respectfully, Devan Wilson



Homer Police Dept Public Safety Dispatcher I 625 Grubstake Ave Homer, AK 99603 P: (907)235-3150 F: (907)235-3151 dwilson@ci.homer.ak.us James Lack PO Box 2999 Homer, Alaska 99603

April 5, 2023

KPB Planning Commission

To Whom it may concern,

I am in receipt of the KPB Planning Commission Notice of Public Hearing on the proposed CLUP for material extraction by Richard Gregoire, Parcel No 159-360-(09,10,11,12)

I have owned lot 13 in the same subdivision as the proposed site for about 10 years with the goal of building a hangar and home to retire in. It is a beautiful peaceful subdivision. I have finally saved sufficient funds to start the project only to be notified of a possible gravel pit 150' from my back yard. Faced with this the lot may no longer be suitable for a residence, and am stuck with paying taxes on a lot I cannot use or sell.

Considerations impacting the community. Tim Ave. has been identified as the access route to the site. There are a large number of residents that use, and live adjacent that will be impacted by the truck traffic that are outside of the 2640' notification area. They should be notified and be given the opportunity to respond considering the safety concerns and potential damage to their properties.

All of Tim Ave is gravel. No mention in the application of dust or noise mitigation from the trucks or how to prevent dust damage to properties. This is in conflict with KPB 21.29.040 A. 2, 3, and 4.

The first mile of Tim Road between the Sterling Highway and Creekview Road is just wide enough for two passenger vehicles, and is questionable if wide enough for end dump or other large truck to get by a passenger vehicle. There are no pullouts, only private driveways. This presents a safety issue to vehicles using the road as well as pedestrians, as the shoulder is steep and there is nowhere for pedestrians to get out of the path of trucks.

The remaining section of Tim Ave between Creekview Road and the site is a single lane, with just enough room for one vehicle without any pullouts for trucks to let cars by. It has a steep blind hill and the portion that passes over the culvert at Happy Creek at the base of the hill is very narrow. This presents a significant safety issue to other users expected to share the road with commercial trucks.

This section of road is very fragile, and at times has to be repaired by residents. The section crossing Happy Creek sloughs off into the creek at times, and will not support regular usage by trucks. The crossing has been repaired in the past thanks to efforts of Danny Presley, Walter Blauvelt, and dues collected from the Hoffman Acres Lowell Field Homeowners. Regular use of this section of Tim road by commercial trucks will inevitably damage it. No mention of dealing with this or the previously mentioned issues of dust and noise mitigation. This is in direct conflict with KPB 21.29.040 A. 2, 3, and 4.

Regarding the runway, a gravel pit on Hoffman Acres, Lowell Field is not consistent with the subdivision's purpose as a residential neighborhood and airpark. The site plan as provided is not conducive to the mentioned intent of a float plane basin.

FAA standards for runways serving small aircraft mandate a Runway Obstacle Free Zone (ROFZ) of 250'with a grade of no more than 50:1. This extends 50' into the lots bordering the runway. The proposed 6' berm, and 2:1 slope is in direct violation of this standard. The proposed 6' berm is a significant hazard to aircraft using

the runway, and knowingly violating this standard will open up associated parties to legal liability in the event of a mishap.

The runway is currently usable by small aircraft to include B90, B100, BE18T, and PA31-350. The proposed 6' berm next to the runway would be an obstruction during takeoff and landing, and the mentioned aircraft would be unable to turn around on the runway due to the lack of wing clearance. Regarding a possible float basin, AOPA recommends a minimum of 105' between the runway and the float basin. Any closer presents a safety hazard. Pursuant to this; excavation between the runway and float basin would not serve the building of a float plane basin, and would most likely result in a deviation from the 50:1 grade in the areas adjacent to the runway.

Concerns regarding the application:

The provided site plan shows only test holes on lots 2, 3, &4 with the water table at 16'. There is anecdotal evidence that the original developer found the water table between 8' & 9' at the southern portion of subdivision. The applicant neglected to include test hole information regarding the southern lot #1. Prior to approval of the proposed 14' excavation depth, depth of water table should verified on the South end of the site.

In the comments section and the site plan, the applicant requests a waiver to KPB 21.29.050 A. 3. Requiring material processing equipment to be operated at least 300' from the parcel boundaries This deviation should not be allowed as it is apparent that the applicant did not exercise due dillingence in the procurement of the property for material processing, or willfully intended to circumvent this requirement. In any event if the applicant cannot meet the 300' standard, material processing should not occur at the site. The applicant has the option of processing the material at another location more suitable to this activity. The burden should fall on the applicant to comply with the standards, not the community to bear the negative safety and quality of life impacts. I would ask, what is the point of having an ordinance if only to grant waivers to it? The planning commission should not grant waivers to the standards that would have such negative impacts on the community.

The CLUP development notes item 4 indicates the applicant intends to excavate the area along the runway where the 6' buffer berm is to be placed. Removal of material in the vicinity and replacement with organic or other material that is potentially not suited for runway construction and disturbing the subject area could damage the shoulder of the runway. This a violation of KPB 21.29.040 A.2. A plan from a civil engineer should be in place prior to excavation in this area as to not damage to the runway.

Other considerations:

The runway adjacent to the site has no significant vegetation or buffers to inhibit disturbances of noise, fugitive dust, and allows an uninhibited view from adjacent properties into the site. Due to this the 50' buffer of natural undisturbed vegetation in addition to a minimum 6' earthen berm with at least a 2:1 slope should be used pursuant to the buffer requirements set forth in KPB21.29.050 A.1.2.

Findings of fact item 19, dust mitigation. Prevalent East and Northeast winds in the area could drive dust from the project across the runway onto adjacent properties damaging structures and aircraft, and aggravating respiratory ailments of residents. It is doubtfull that mitigation of dust through application of Calcium chloride and water will be adequate due to the drying nature of the winds. Calcium chloride is corrosive and poses a threat to aircraft to aircraft in the vicinity and should not be used. These are violations of KPB 21.29.040 A.2.3.4.5.

The applicant should apply dust mitigation products that are not corrosive in nature and damaging to aircraft.

E4-50

As a result of the winds and significant potential for damage to adjacent properties the applicant should retain the services of an independent contractor specializing in dust mitigation to insure compliance, and to insure measures are sufficient.

Due to the magnitude of the proposed project, and the scope of negative impacts on the community the requirement of bonding per KPB 27.19.050 would be appropriate, and voluntary compliance on the part of the applicant would be an indication of good faith to complete the project in a conscientious manner.

In closing the project seems ill conceived.

There are numerous conflicts with KPB Ordinance 21.29

There are significant deviations from FAA and AOPA safety standards that address runways.

The mention of a float plane basin on the surface appears to be a feeble ruse to grease the wheels of a questionable project.

There is no regard given to the safety of users of the roads in the community.

There is no regard given to the safety of airport operations.

There is little regard given to compliance with KPB ordinances to protect the community from physical damage to properties.

There is little regard for minimizing noise, visual, and dust impacts to the community.

In its' present form I am opposed to the CLUP.

If the applicant is indeed sincere with the intent of building a float plane basin, I would suggest it would more productive to engage in dialogue with property owners in the subdivision to conceive a plan that would be beneficial to the community as well as the developer.

I often use gravel products on the Kenai Peninsula, and in the event that I proceed to develop my lot in the subject subdivision I will need a substantial amount of gravel. Another nearby source would be a resource to utilize. I would be supportive of such developments when done in a proactive manner, and considerate of the community.

Thankyou James Lack

RECEIVED

APR 192023

04/14/2023

Kenai Peninsula Borough Planning Commission Chairman 144 N Binkley St Soldotna, AK 99669

KPB PLANNING DEPT.

RE: Conditional Land Use Permit: Parcels 159-360-(09,10,11,12)

Dear Sir:

As a property owner in the Lowell Field area, I feel it is appropriate to give testimony regarding the proposed use of some (not all) of my properties there for extraction of gravel and sand. It is my hope that since the Commission postponed their decision on this topic until 4/24 they will consider this statement as well. I listened online to the hearing held on that topic on Monday, April 12, and I took note of a few items of interest. For the sake of clarity, I will list them in numerical order.

- 1) Few of the folks who testified on Monday 4/12 actually live on their properties near Lowell Field. This should serve to limit most concerns about traffic safety, as it seems unlikely that folks who neither live not work in the Lowell Field Subdivision will drive there often.
- 2) Every property owner who spoke had purchased their property with the knowledge that there was <u>already</u> an operational gravel pit in close proximity to the West side of Lowell Field. Evidently they did not feel enough concern regarding the potential for danger or annoyance from that existing pit to prevent them from purchasing their properties near to it.
- 3) The existing, active gravel pit uses the exact same roadway (Tim Avenue) as that which Gregoire Construction proposes to use. They transport gravel from that pit with dump trucks. I am not aware of any reports of traffic incidents regarding that usage, and no testimony to that effect was presented.
- 4) The existing portion of Tim Avenue to the East of the Borough maintained portion was most recently improved by a logging outfit, at little or no expense to the current property owners in the Lowell Field subdivision or to the taxpaying public. It is not marked or treated as a private drive. There is little doubt that Gregoire Construction will choose to make some improvement to the roadway in order to have good operational conditions for equipment transit, but this should not be required for approval of the conditional use permit currently under consideration.
- 5) The property proposed for gravel extraction is on the East side of the Lowell Field runway, well away from the property owners who have expressed opposition to this new development. Since they occupy properties to the West of Lowell Field, they will be separated and sheltered from any unpleasant activity by no less than the full 150 foot width of the runway, as well as by any intervening real estate West of the runway, in addition to the berm mandated in Borough ordinance. The terrain in the area under discussion is generally level, so no homeowner will be forced to look downhill from their property and view the operation of a gravel pit from any vantage point in the vicinity.

Given these facts, and the fact that our proposed property use violates no Borough ordinance and that gravel extraction is, in fact, provided for as a necessary element of development on the Kenai Peninsula, I am asking that the Commission move to approve the conditional permit and allow our lawful request to proceed unhindered.

Respectfully submitted,

Jerold Vantrease PO Box 1730 Homer, AK 99603

TESTIMONY AGIANST CLUP FOR MATERIAL EXTRACTION AND PROCESSING AT

PARCEL NUMBER: 159-360-09, 159-360-10, 159-360-11, 159-360-12

LEGAL DESCRIPTION: T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1,2,3,4

First I would like to address KPB CODE 21.25.060. - Notice.

Notice of the pending application shall be published two times in a newspaper of general circulation in the local area in which the land use is proposed. The notice shall also be posted in the post office(s) of the impacted community. 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 with 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.

It clearly states that notice shall be posted in the post offices of the impacted community. Our community post office is NiniIchik and it was never posted there and I would have never know about this if it was not for a concerned neighbor. So that leads me to believe that many members of the community have not been given there due notice which goes directly against KPB CODES OF ORDINANCE 21.25.060

The application is supposed to include a list of items per KPB CODE 29.21.030 - Application procedure.

29.21.030(A)4 that a Reclamation plan consistent with KPB 21.29.060 is one of the item to be included. Per the application under number 3 Application Information reclamation plan is not check and was not included with the application. This is in direct violation of KPB CODE OF ORDINANCE 29.21.060(A) All material site permit applications require a reclamation plan. And KPB CODE 29.21.050(A)12b As a condition of issuing the permit, the applicant shall submit a reclamation plan.

KBP CODE 21.29.050(4)c All CLUPS shall be issued with a condition which requires that a two-foot vertical separation from the seasonal high water table be maintained.

The applicant claims the depth of ground water is at 16ft and there proposed excavation is 14ft. If this is the case then they are well in the code but the problem is per the CLUP development notes included in the application.

Number 9: Test holes were excavated and logged in 9 locations by the previous property owners and soil logs were provided to applicant. Test holes were excavated to 18' below ground.

Number 10: Ground water was encountered at approximately 16' below existing ground.

There are several factors that need to be addressed to prove they are not going to be in violation of KPB CODE 21.29.050(4)c

- 1. No test holes have been done to lot 1. So there is no data on where the water is on that lot and no way for anyone to know that the applicate will be with in code with out them doing there due diligence and locating the water before a CLUP is approved.
- 2. Why are the soil logs not included with the application so the community can review them.
- The CLUP development notes state the ground water was encountered at approximately 16'
- below existing ground and that this info was provided by the previous land owners. The applicant should have to do there own due diligence in locating the water to make sure its really at 16' and not above as approximately is use to show something not completely accurate or exact.

All of these things should be considered and rectified before the CLUP is approved because it is important to preserve and protect ground water in the state of Alaska for generations to come.

The KPB CODE OF ORDINANCE is already in conflict with the Alaska DEC Best Management Practice for Gravel/Rock Aggregate Extraction Projects. It states they recommend a minimum of four (4) feet of vertical separation distance between extraction operations and the seasonal high water table, and that they restrict activities that could significantly change the natural groundwater gradient.

The applicant has stated in there application they plan to mine +/- 40,000 cubic yards of material. So let break this down.

One cubic yard of a heavy material like gravel can weigh 3,000 pounds on average.

In general, a dump truck can carry 13 to 25 tons of gravel. More specifically:

- A 10-wheeler can carry 13 tons (or 26,000 pounds) (9.28 cubic yards).
- A large flat bed truck can carry 25 tons (or 50,000 pounds) of gravel (17.85 cubic yards).
- A 12-wheeler can carry 16 tons (or 32,000 pounds) of gravel (11.42 cubic yards).
- A high side-end dump truck and a semi-end dump truck can carry 21 tons (or 42,000 pounds) of
- gravel (15 cubic yards). An industrial belly dump truck can carry a max of 23 tons (or 46,000 pounds) of gravel (16.42)
- cubic yards). A super 16 and a transfer dump truck can haul 24 tons (or 48,000 pounds) of gravel (17.14 cubic yards).

So in looking at this we can see that for them to move 40,000 cubic yard of gravel they would take any where between 2240-4311 truck loads weighing between 26,000 and 50,000 pounds. If they were to only move half that amount of material you are still talking about 1120 - 2156 truck loads.

In Court Case 3KN-20-00034CI Judge Gist rule that

"... The court finds that the Commission does have the authority under KPV 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied."

Knowing that let look at KPB 21.29.040 which states These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts.

There is nothing in the application that was submitted that addresses how they plan to:

- Protect against road damage. To all of the haul road down to the Sterling Hwy
- Protect against dust.

We all know living here that the mining is not actually happing over a year it will happen in a matter of a months each year. So, over the course of a few month the applicate would be running thousands of load of material down a road barely big enough for 2 standard pickup trucks that necks down to a one lane road with a small culvert crossing Happy Valley Creek. The road is only brough maintained part way down Tims Ave and is not built to handle that amount of big commercial traffic it will result in excess dust and a sever road damage. Truck weighing that much going over a small culvert not rated for that weight load over and over again will smash the culvert and has the potential to get the trucks stuck in the creek when it does finally collapse. Not to mention it will cause a huge safety concern with no where for other drivers to go beside in the ditch when a big dump truck is headed toward them. With out some detailed plan in place to address these issues there is no way for the applicant to be in compliance with KPB CODE 21.29.040 and there is no way the standards set forth in KPB 21.29.040 can be sufficiently satisfied.

With all this said I ask the Planning Commission to deny the application for CLUP. Multiple codes have not been met and the standards set forth in code can not be sufficiently satisfied.

Joseph Reynolds
TESTIMONY AGIANST CLUP FOR MATERIAL EXTRACTION AND PROCESSING AT PARCEL NUMBER: 159-360-09, 159-360-10, 159-360-11, 159-360-12 LEGAL DESCRIPTION: T 3S R 14W SEC 4 SEWARD MERIDIAN HM 2006036 HOFFMAN ACRES LOWELL FIELD PHASE 1 LOT 1,2,3,4

First I would like to address KPB CODE 21.25.060. - Notice.

Notice of the pending application shall be published two times in a newspaper of general circulation in the local area in which the land use is proposed. The notice shall also be posted in the post office(s) of the impacted community. 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 with 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.

It clearly states that notice shall be posted in the post offices of the impacted community. Our community post office is Ninilchik and it was never posted there and I would have never know about this if it was not for a concerned neighbor. So that leads me to believe that many members of the community have not been given there due notice which goes directly against KPB CODES OF ORDINANCE 21.25.060

The application is supposed to include a list of items per KPB CODE 29.21.030 - Application procedure.

29.21.030(A)4 that a Reclamation plan consistent with KPB 21.29.060 is one of the item to be included. Per the application under number 3 Application Information reclamation plan is not check and was not included with the application. This is in direct violation of KPB CODE OF ORDINANCE 29.21.060(A) All material site permit applications require a reclamation plan. And KPB CODE 29.21.050(A)12b As a condition of issuing the permit, the applicant shall submit a reclamation plan.

KBP CODE 21.29.050(4)c All CLUPS shall be issued with a condition which requires that a two-foot vertical separation from the seasonal high water table be maintained.

The applicant claims the depth of ground water is at 16ft and there proposed excavation is 14ft. If this is the case then they are well in the code but the problem is per the CLUP development notes included in the application.

Number 9: Test holes were excavated and logged in 9 locations by the previous property owners and soil logs were provided to applicant. Test holes were excavated to 18' below ground.

Number 10: Ground water was encountered at approximately 16' below existing ground.

There are several factors that need to be addressed to prove they are not going to be in violation of KPB CODE 21.29.050(4)c

- No test holes have been done to lot 1. So there is no data on where the water is on that lot and no way for anyone to know that the applicate will be with in code with out them doing there due diligence and locating the water before a CLUP is approved.
- Why are the soil logs not included with the application so the community can review them.
- The CLUP development notes state the ground water was encountered at approximately 16'
- 5. The ctor development notes info was provided by the previous land owners. The below existing ground and that this info was provided by the previous land owners. The applicant should have to do there own due diligence in locating the water to make sure its really at 16' and not above as approximately is use to show something not completely accurate or exact.

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With all this said I ask the Planning Commission to deny the application for CLUP. Multiple codes have not been met and the standards set forth in code can not be sufficiently satisfied.

Kelsea Reynolds Keba M Reynolds

My name is Steve Kahn, I am joint owner of a lot in Hoffman Acres on Lowell Field. This is in regard to the application for a gravel pit adjacent to Lowell Field (Parcel Numbers 159-360-, 09, 10, 11, 12) in Happy Valley, Kenai Peninsula Borough. The applicant is Richard Gregoire, the owner is Jerold Vantrease.

I have had a chance to read the application and have some major concerns. But before I address those concerns specifically, I'd like to comment on a few procedural issues. First, the time allowed for public input is inadequate. Two weeks from the time of mail out isn't enough. The notice was mailed to me on March 22, it was in my mailbox on March 29 with a deadline of April 7 for written testimony. That is, in effect, only 9 days to educate oneself on the many aspects covered in the application. If that time frame is written into the rules/codes then the KPB assembly needs to lengthen the time to at least one month. Also the application wasn't available the entire time, but only was posted on or around March 30th.

The application shows several inaccuracies and some downright errors including:

- Page 3 #20). The site plan indicates that an access will be constructed onto Tim Ave. and the haul route will then travel east to the Sterling Highway. THE STERLING HWY IS WEST OF THE SITE IN QUESTION.
- # 7 & 8). The application indicates that the seasonal high-water table is 16-feet below the surface. THERE IS ANECDOTAL EVIDENCE THAT THE WATER TABLE IS HIGHER ON THE SOUTH END AND THE TEST HOLES HAVE ONLY BEEN DRILLED ON THE NORTHERN HALF OF THE AREA IN QUESTION. IF BOTH PHASES ARE PERMITTED WITH THE APPLICATION THEN TEST HOLES FOR BOTH PHASES SHOULD BE PROVIDED WITH THE PERMIT APPLICATION.
- Page 5 #12) The permittee shall provide dust suppression on haul roads within the boundaries
 of the material site by application of water or calcium chloride. IF THIS MEANS DUST
 SUPPRESION IS ONLY REQUIRED ON SITE THEN WHAT ABOUT THE FUGITIVE DUST FROM
 TRUCKS AS MATERIAL IS HAULED OUT ON TIM AVE. THIS IS UNACCEPTABLE. WHERE WILL THE
 WATER COME FROM? IF HAPPY CREEK IS PLANNED TO BE THE SOURCE THAT IS ALSO
 UNACCEPTABLE.
- Page 4, first line: Site access is from KPB maintained gravel road, Tim Avenue to Sterling Highway. THIS IS INCORRECT. KPB ONLY MAINTAINS TIM AVE THE FIRST MILE OR SO. THE LAST SECTION IS NARROW WITH STEEP HILLS AND A CULVERT OVER HAPPY CREEK THAT WOULD NEED TO BE IMPROVED TO KPB STANDARDS BY THE APPLICANT.
- A permit application to enter the water table will be requested in the future is marked "yes". HOW DOES THIS MAKE SENSE WHEN IT IS REQUIRED TO MAINTAIN A 2-FOOT VERTICAL SEPARATION FROM THE SEASONAL HIGH WATER TABLE? IF GRANTED AT A LATER DATE, LIMITS IN DEPTH OF THE EXCAVATION SHOULD BE CLEARLY STATED.
- The ultimate reclamation of the material site would be development of a float plane basin with appurtenances. This development plan aligns with the subdivision development as it is immediately east of a platted air strip. IF APPURTENANCES IN THIS CASE ARE REFERRING TO A RIGHT OF WAY, WHO WOULD BE ENTITLED TO THE USE OF THE FLOAT PLANE BASIN AND HOW WOULD IT BE MANAGED? WHERE WOULD THE WATER COME FROM TO FILL THE BASIN AND WHO WOULD BE RESPONSIBLE FOR MAINTAINING THE BASIN? WITHOUT DETAILED PLANS THIS

SEEMS LIKE A RUSE TO EXTRACT A LARGE QUANITY OF MATERIAL AND LEAVE A LARGE HOLE IN THE GROUND.

- IT IS REASONABLE TO EXPECT A DECREASE IN PROPERTY VALUES DUE TO NOISE, DUST AND TRAFFIC.
- BONDING SHOULD BE REQUIRED.

Of the many concerns stated above, two stand out as the most egregious:

1) There are safety concerns associated with hauling materials on Tim Ave. Perhaps the applicant wasn't aware of the dangerous conditions he would be subjecting his drivers and local residents who use the road to, but with the testimonies submitted, he should be aware (as it is now in the public record) that the last section of Tim Ave is narrow with a steep blind hill and unsafe for commercial use of this kind. A good faith and prudent action by the applicant would be to improve Tim Ave and the culvert over Happy Creek to KPB standards before any work begins on the gravel pit. This should include several pullouts for passing traffic along the entire length of Tim Ave.

2) Another good faith action would be for the applicant to voluntarily amend the application to provide for a larger buffer on the west side of the excavation site where it abuts the existing airstrip to include 50 foot natural vegetation buffer PLUS a 6 foot high berm.

In summation, I feel strongly that the KPB Planning commission should not approve this application and certainly not without major changes. There are too many unanswered questions and I ask the Planning Commission to, at the very least, delay a decision on this application.

THANK YOU,

STEVE KAHN

From:	Steven Untiet <suntiet@hotmail.com></suntiet@hotmail.com>
Sent:	Wednesday, April 5, 2023 7:47 PM
То:	Raidmae, Ryan
Subject:	<external-sender>Written statement in regards to Hoffman acres/ Lowell field proposed land use permit</external-sender>

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 KPB Planning Commission

In reference to Hoffman Acres Gravel Pit Application

Testimony, Steven & Lucy Untiet, property owners on Hoffman Acres, Lot 11

This testimony is regarding the application for a gravel pit adjacent to Lowell Field (Parcel Numbers 159-360-, 09, 10, 11, 12) in Happy Valley, Kenai Peninsula Borough. The applicant is Richard Gregoire, the owner is Jerold Vantrease.

First off, we would like to note that the notification that was given is inadequate, it lacked important details and information that would allow neighboring landowners to make informed decisions. The absence of details created chaos, confusion and rumors that lead to a great deal of distress. It does give the impression that this CLUP application is rushed and ill-informed.

Our main concern is the road safety. Tim Avenue is not borough maintained after Creek View Road. There is a culvert at Happy Creek that is not stable, additionally, the road is just barely a single passenger car wide with steep hills and blind spots. Heavy trucks traveling up, and down Tim Avenue will be extremely dangerous and damaging to the already fragile gravel road not to mention the culvert crossing over the creek.

We are concerned with not only the safe operation of the gravel air strip but also the visual impact this project will have. We moved here to build our home in a beautiful, quiet neighborhood. What are the plans to keep the dust and debris from the airstrip? How will the "float pond" be maintained and by who? How will the downed trees and shrubs be managed?

How will it be handled if an accident happens, or this project causes damage?

For those reasons we would like to have the planning commission in the least not grant the waiver for the east side set back since that is where all the houses are and to ensure safe clearance from the runway that is already in existent and used by current residents. Also, we would like to have the dust mitigation plan changed to something not corrosive to aircraft since this is an active airpark.

Thank you, Steven and Lucy Untiet

From:	Susie Monte <susanmonte.remax@gmail.com></susanmonte.remax@gmail.com>
Sent:	Wednesday, March 29, 2023 2:59 PM
То:	Raidmae, Ryan
Subject:	<external-sender>Hoffman Acres Extraction</external-sender>

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.

Hi Ryan,

I will plan to attend the zoom meeting regarding Gregorie's request to extract gravel. Of course the land owners have questions, but I did want to make you aware of one serious safety concern.

Last summer we were driving west on Tim and were happy to see it was freshly grated. When we veered slightly to the right, our full size truck went off the edge and with no gradual decline, ended up on its side in the ditch. Fortunately we were not hurt and were going slow enough that we didn't roll. The tow company pulled the truck out and we were able to drive away only to come back upon another car on its side in the ditch a ways from where we went in only hours later.

I just thought that the borough should be aware. I would feel awful if the project moved forward without making safety improvements and someone where to be injured. Thank you~

Helping you find your way home~

Susan Monte, REALTOR ReMax Results Team Lundeen Direct: <u>612.275.7186</u> Team Office: <u>763.552.7477</u> <u>Download our FREE Home Finder App</u> <u>susanmonte.remax@gmail.com</u> Licensed in the State of MN



P.S. We love helping people buy and sell homes...let us know if we can help someone you know as they make a life move

From:	wilkesworks@alaska.net
Sent:	Wednesday, April 5, 2023 5:28 PM
То:	Raidmae, Ryan
Subject:	<external-sender>Hoffman Acres Lowell Field CLUP Wastewater Disposal Concerns</external-sender>
Attachments:	Plat 2006-36.pdf

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Good afternoon Planning Commission!

In reviewing the prosed gravel pit in Hoffman Acres Lowell Field I have come across some notes on the Plat that I wanted to bring to your attention.

Please see attached Plat 2006-36, in particular the notes regarding Wastewater Disposal.

'Wastewater Disposal - Lots 5-28: Soil Conditions, Water Table Levels and Soil Slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough."...

'Wastewater Disposal - Lots 1-4, Tract A & Tract B: These lots are at least 200,000 square feet, or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment or disposal systems."

Thank you, Tiffany Wilkes



From:	Tony Hillegeist <thillegeist@hotmail.com></thillegeist@hotmail.com>
Sent:	Friday, April 7, 2023 7:49 AM
То:	Raidmae, Ryan
Cc:	TLHillegeist@aeraenergy.com
Subject:	<external-sender>CLUP; Materials Extraction; PC RES 2023-08 Public Hearing</external-sender>

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7 April 2023

To: Ryan Raidmae From: Tony Hillegeist

Ryan Raidmae,

I, Tony Hillegeist, am a land owner of **PARCEL ID: 1591114** to the East of the subject properties: T 3S R 14W SEC 4 SEWARD . NO 2009-11 HAPPY CREEK SUB LOT 12. I am also representing my brother Tod Hillegeist (HILLEGEIST FAMILY HOLDING TRUST) **PARCEL. ID: 15911154** : T 3S R 14W SEC 4

1

SEWARD MERIDIAN HM 2011006 ASLS NO 2009-11 HAPPY CREEK SUB LOT 12.

I have a couple comments on the CLUP; Materials Extraction; PC RES 2023-08.

- I am most concerned about the potential noise levels from the Processing Area which its positioned West my Lot-4. A noise buffer/fence should be included, if the land owners around the find the noise levels to be excessive in the future.
- 2. The second item is a concern about possible ground water contamination, if the subject excavation is deepened in the future, for a float plane strip/basin, including possible fuel spills, engine oil, and other run off into the basin, could become a problem. This is the final goal of this CLUP. If the hydrology is

favorable, then they will submit a MCLUP to mine below the water table.

I also wanted to point out a duplication on page E6-15, items 22 and 25. Also item 20 on E6-14 "East" needs to be changed to **West**, and there is a duplication of **"then"**.

Thank you for taking a look at these items. If you have any questions please text, or email.

Tony Hillegeist (907) 440-4216 thillegeist@hotmail.com

From:	inua2@alaska.net
Sent:	Wednesday, April 5, 2023 4:04 PM
То:	Raidmae, Ryan
Subject:	<external-sender>Comment on CUP- Parcel number 159-360-(09,10,11,12)</external-sender>

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.

This comment is to strongly oppose the conditional use permit applied for within the Hoffman acres Lowell field. These lots were clearly marketed as a residential area with the use of an airstrip. The applicant obviously knew this when he purchased the lots and is clearly trying to put a gravel pit in a residential area, and allowing any type of materials extraction, I.e.. a gravel pit, will create a tremendously negative impact on any future residential development and real estate prices. There is also an airstrip directly adjacent to the proposed gravel pit, which obviously presents its own set of safety and liability issues. The road accessing Lowell Acres is not borough maintained, and industrial use such as accessing a gravel pit, would destroy access to private property and very possibly make access to your property impossible during certain times of the year. Immediately to the east of the proposed area are large parcels of wetlands, which would be directly affected by the certainty of runoff from a project such as this. The borough commissions top priority should be the protection of an individuals property and their right for enjoyment of that property. Gravel pits and residential areas are certainly not compatible.

Sincerely, William Lovett Lots 31,32 Hoffman acres Lowell Field