



Title 9 Conditional Use Permit No.: 106-03-21
Date of Issue: December 17, 2020
Permit Expires: December 31, 2025

Permit Issued By:

Northwest Arctic Borough, Planning Department
c/o John Chase
PO Box 1110
Kotzebue, AK 99752
Tel 907.442.8212 / 800.478.1110 extension 112
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Permittee:

Karen Kim Franklin
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Permittee Contact Information:

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Project Description:

Karen Kim Franklin (FRANKLIN) proposes to extract sand and gravel at the project site located north of the mouth of Sadie Creek. Material extracted from this location will be used to support the Alaska Department of Transportation & Public Facilities (ADOT&PF) roadway project Kotzebue to Cape Blossom Road - Stage 1, and future project Kotzebue to Cape Blossom Road - Stage 2.

FRANKLIN proposes to commence project activities annually from April 2021 through November 2022. Material extracted from this project will be transported from the project site to Kotzebue.

Specific details of the project are contained in the permit application (21-02-106) and documents submitted by FRANKLIN to the Borough Planning Department. These documents are incorporated into the Borough's administrative record. Project Activities are summarized below.

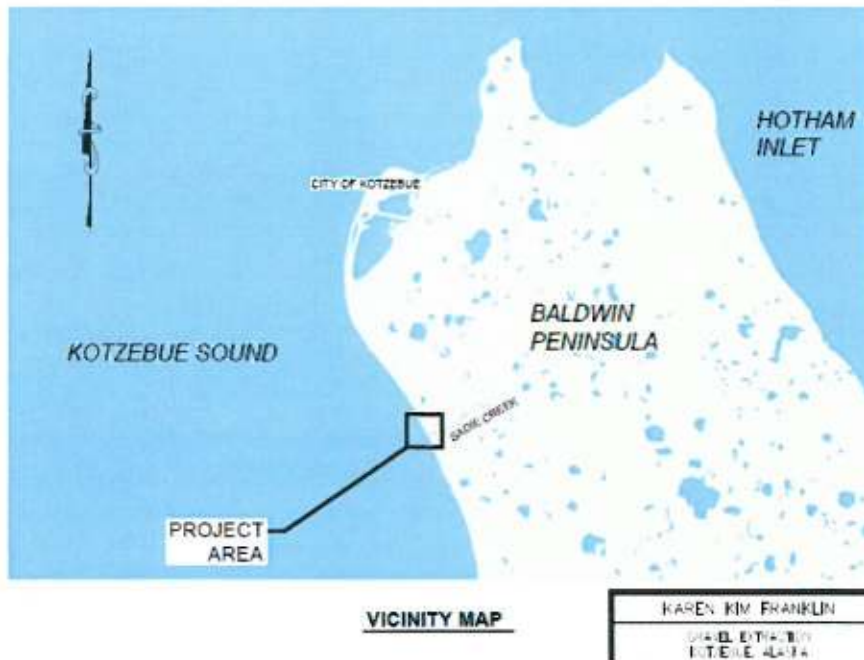
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Project Location:

The project location is at Township 16 North, Range 18 West, Section 3, Kateel River Meridian (See Figure 1 below). The project site is located on Tract A, U.S. Survey No. 10663, situated on the eastern shoreline of Kotzebue Sound north of the mouth of Sadie Creek, approximately six miles southeast of Kotzebue. This unrestricted land is owned by Bish Gallahorn & Associates, Inc.



The project location is in the Borough's Subsistence Conservation District.

The project site is an undeveloped 158.90-acre tract of land with a broad sand and gravel beach berm, behind which are approximately 60-foot bluffs and tundra beyond. The area of extraction has no vegetation or overburden soils. The proposed development includes extraction of sand and gravel soils within 7.68 acres of the subject property in three phases (Blocks 1-3). The extraction site is a gravel beach berm with an average height of three feet above the high tide line elevation.

No roads exist to access the material site. Access to the site will be by beach landing craft and/or deck barge with landing ramp adjacent to the extraction site (or by ice road along Sadie Creek, which would be permitted at a later date). Other vehicle traffic to the site will be employee four-wheelers and/or snow machines along the beach to/from Kotzebue.

Public access along the beach will be maintained during extraction operations.

Winter extraction is not anticipated, unless an ice road is developed, because there is limited access to the project site due to offshore ice.

Gravel Extraction and Equipment:



Sand and gravel extraction will occur along the shoreline above high tide line north of the mouth of Sadie Creek along the beach berm. Prior to extraction each year the site will be surveyed and temporary BMPs will be constructed and/or installed. Approximately 40,000 cubic yards of sand and gravel will be extracted from the material source, above the high tide line elevation.

The proposed start date for material extraction is April 2021 with a completion date of November 2022. Work will take place 12 hours per day, 7 days per week.

Extraction will be performed with a combination of excavators and front-end loaders excavating the material. The material will be transported across the site to a barge for transport to the City of Kotzebue by either front-end loaders or articulated dump trucks. If the material is found to be loose (easily removed) front end loaders will be utilized for extraction of the material. Dense material may require the use of excavators for removal and loading into articulated dump trucks.

Initially, the site will be surveyed by an Alaska licensed land surveyor to determine property lines, mean high water (MHW), and high tide line (HTL) prior to material extraction. When extraction activities are completed, reclamation will begin.

The material site will be covered by the Alaska Department of Environmental Conservation Construction General Permit (CGP) Storm Water Pollution Prevention Plan (SWPPP) that will be developed before extraction activities commence. Best Management Practice (BMP) to be used during extraction will include BMP 16.00 Rock Filter Berm. Rock filter berm will be used as a perimeter sediment control device to prevent sediment laden sheet flows from leaving the project site. A water truck may be utilized for dust control, as needed.

All available material will be removed within a Block prior to moving into the next Block. If extraction temporarily ceases for more than 14-days or at end of the season, all disturbed areas will be regraded to stabilize slopes. The phases of extraction are described below.

Equipment and supplies will be stored onsite in the project staging area, shown on **Figure 4** on page 6.

SITE PLAN



Figure 3. View from Block 2, looking north. Image taken from summer of 2020

RECLAMATION PLAN

Reclamation will begin after material extraction has ceased within a Block. All slopes will be graded to two horizontal to one vertical or flatter slopes. The extraction area will be graded level with no overburden or vegetation placed, matching pre-extraction conditions. No permanent drainage structures and/or ditches are included in this project.

A reclamation plan (as required by ADNRC pursuant to AS 27.19) will be filed with the state before extraction activities commence. A draft reclamation plan has been developed for this project.

Barge Loading and Unloading:

As material is extracted it will be transported directly to a barge located at the northern end of the project site. No stockpiling of material will occur onsite. The loaded barge will be towed/pushed to the City of Kotzebue for unloading and transportation to the ADOT&PF project site for processing and/or placement.

The barge ramp will be constructed from sands and gravels from the beach berm. The ramp will be approximately 30-feet in width and out to a depth to safely meet the barge. The vehicles will travel across the site within the extraction area. Material will be delivered to the ramp and on to the barge. Safety procedures will follow OSHA protocol.

Equipment and supplies will be tracked or driven off the barge either to the project staging area or to the extraction area for use. An off-highway fuel truck will travel from the



barge to the staging area to fill the above ground storage tank. Smaller fuel tanks and barrels will be transported directly either within the connex or on spill pallets to the staging area.

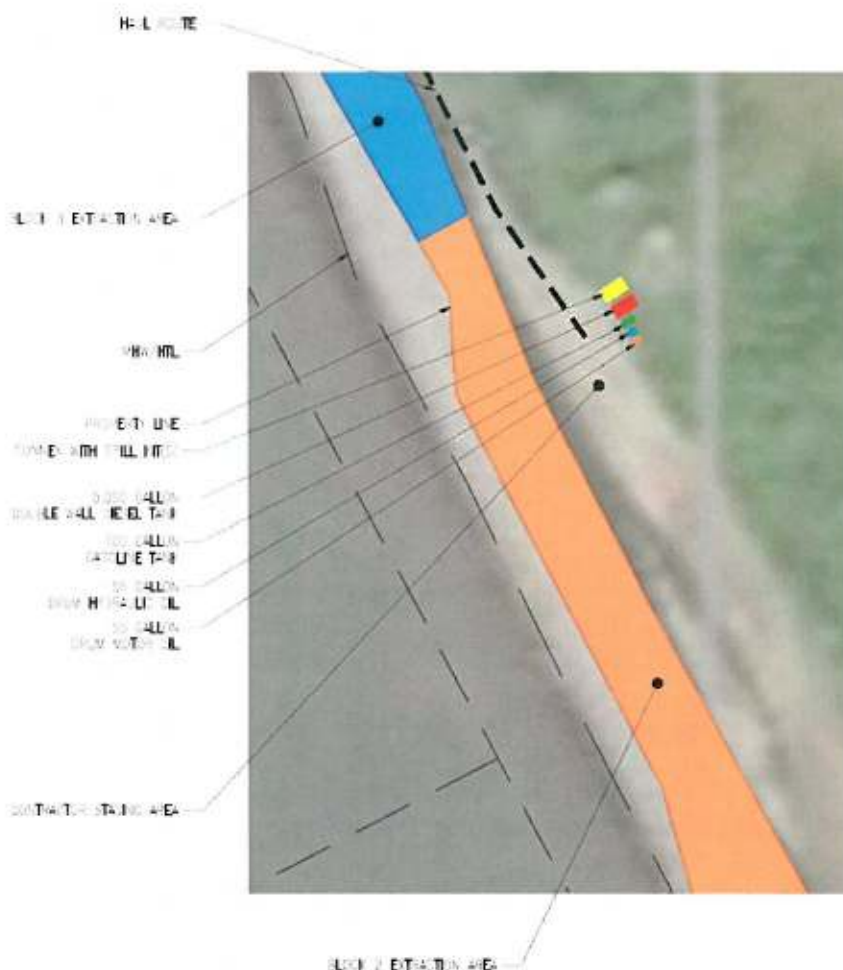


Figure 4. Project equipment staging, storage area, and haul route

Public Traffic in the Area:

Because the project area is frequently traveled by Kotzebue residents in all-terrain vehicles (ATVs) during the summer season, the extraction area will be flagged and all work will be confined within that flagged area (which is private property) except where the vehicles cross the high tide line to get to the barge. During loading and offloading, the beach area directly around the loading/offloading area will have truck crossing signage in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and the Alaska Traffic Manual Supplement (ATMS).

The flagged area will be the boundary around each block during active extraction.



Bulk Fuel Storage:

Fuel storage in the staging area will be either steel double wall skid-mounted tank and/or 55-gallon drums on spill pallets and will not exceed 6,000 gallons (See Figure 4 on page 6).

Refueling activities will take place in the staging area. Fuel will be delivered to the site via barge. Fuel transfer operations at the site will occur using a pump and fuel hose with a drip pan placed under the nozzle. Trained personnel operating the fuel pump will carefully monitor all fuel transfers. Spill Response Kits (Spill Kit) will be kept on-site for quick response in the event of a spill. An assigned knowledgeable employee will also visually inspect the dispensers at the fuel transfer area for indications of deterioration and discharges, including the transfer hoses and fittings.

Multiple Spill Kits will be located at the staging area, on-site, throughout the life of the project. Two Spill Kits will be stored inside a Connex in the fuel storage area. A Spill Kit will also be located in the mobile refueling truck cab. When materials from a Spill Kit are used, they will be replaced as soon as possible.

Federal laws require a Spill Prevention, Control and Countermeasure Plan (SPCCP) be developed for any above ground fuel storage capacity greater than 1,320 gallons. The Borough having more stringent standards requires a SPCCP be prepared for bulk fuel storage greater than 660 gallons, as defined in Title 9.04.070 Definitions "Bulk fuel storage." The applicant has submitted a draft SPCCP and states the SPCCP will be finalized after the project is permitted and a contractor is selected. A final copy of the approved SPCCP must be provided to the Planning Department and filed for the administrative record. This copy must be submitted before the commencement of project activities.

Current Approvals:

There are no current approvals for this project. Federal approval is not required for this project, per Ryan Winn, North Section Chief from the U.S. Army Corp of Engineers, Regulatory Division.

The following State of Alaska approvals will be prepared and submitted prior to extraction:

- Alaska DNR Material Site Reclamation Plan/Annual Reclamation Statement (this will be submitted at least 45 days before mining begins per state requirements)
- Alaska DEC Storm Water Pollution Prevention Plan & NOI (this will be prepared and the NOI filed prior to earth disturbance per state requirements)

Permit Authorization and Documentation:

FRANKLIN submitted a Title 9 Land Use Permit application (21-02-106) for the following "Uses": Gravel extraction and Bulk fuel storage (Conditional Uses in the Subsistence Conservation District).



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The Title 9 application was received on October 9, 2020. On November 19, 2020 the Borough Planning Department deemed the application was complete. A draft permit was issued and posted for public comment on November 20, 2020. There were no public comments for this project.

Permit fees due totaled to \$500.00. 'Gravel extraction' as a use is \$250 and 'bulk fuel storage' as a use is \$250.

Pursuant to Northwest Arctic Borough Code (NABC) 09.12.030, the **Planning Commission** has the authority to permit:

- Gravel extraction (Conditional Use in the Subsistence Conservation District)
- Bulk fuel storage (Conditional Use in the Subsistence Conservation District)

Permit Terms and Conditions:

1. Karen Kim Franklin (FRANKLIN) shall comply with the terms of the permission, permits and/or agreements granted by the federal government, State of Alaska, Northwest Arctic Borough, NANA Regional Corporation and other applicable agencies.
2. FRANKLIN shall comply with any and all applicable local, borough, state and federal laws. Failure to abide by any part of this permit, or violations of any pertinent borough ordinances or state or federal law or regulation, will be considered grounds for revocation of the permit or denial of future permit requests and may result in issuance of fines or other penalties. This provision applies to all persons working under the authority of this permit.
3. The Permittee is responsible for ensuring that all employees, contractors, sub-contractors, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
4. All trash and human waste generated at the property must be properly disposed of in accordance with Northwest Arctic Borough Ordinance 9.25.020(M), establishing standards disposal of refuse, human body waste, and chemicals. All remedial activities shall comply with any and all other applicable state and federal laws, including all applicable hazardous waste and disposal requirements, all waste disposal and landfill requirements, and all open burning and air quality standards.
5. During and after mining activities, the permittee must conduct activities in a manner to maintain natural drainage patterns; water shed protection, and permafrost stability, to prevent runoff and erosion into water supplies and to minimize alteration of vegetation.
6. Loading and unloading activities shall be planned and conducted in a manner to minimize or eliminate siltation, surface runoff, and pollution to the Kotzebue Sound.
7. All project activities shall utilize measures to minimize noise and nuisance affecting surrounding residential and camp properties including excessive noise, fumes, odors,



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glare, smoke, vibration, dust, litter, interference in any telephone, radio or television receivers, and/or significant line voltage fluctuation.

8. FRANKLIN shall post public notices (at the Borough offices and US Post Office at a minimum) and provide public service announcements on KOTZ radio informing the community regarding the date and times of barge hauling operations between Kotzebue and Sadie Creek to promote boater safety.
9. When traveling at night or adverse weather, FRANKLIN shall ensure the operators of the tug and barge operate all navigation lights and ensure the lights are functional. During adverse weather the operational speeds shall be reduced for added safety. In addition, barge/tug Lights, radar equipment, VHF Radios and Horns shall be maintained in good working order for added safety.
10. Uses permitted shall cease upon the discovery of archaeological, prehistoric, historic or cultural resources during the mining activities, and FRANKLIN shall immediately contact both the Planning Coordinator at the NAB Planning Department and Alaska State Historic Preservation Office to determine the conditions to continue.
11. The siting, design, construction and monitoring of the project activities are required to minimize alteration of shorelines, water courses, wetlands, and minimize significant disturbance to important habitats, and avoid critical fish, and other species' migration periods.
12. Any development by the project in floodplains and shoreline areas are to be constructed to minimize loss of life or property due to seasonal flooding, ice movement, and shoreline erosion.
13. Bulk fuel and petroleum storage (onshore and offshore) are required to have an oil spill control and clean-up plan. The plan must contain a risk analysis indicating where oil spills are likely to flow under various sets of local meteorological, oceanographic, hydrologic or soil conditions.
Impact areas must be identified and strategies fully developed to protect environmentally sensitive areas; the spill control and clean-up equipment which is available to the operator and the response time required to deploy this equipment under the various scenarios must be contained in the risk analysis.
Depending on the nature of the activity, adequate spill response equipment may be required to be kept on-site. Duplicative borough oil spill and clean-up plans will not be required where a state or federally approved plan meeting these criteria is in effect.
14. Project equipment/vehicle servicing and fueling operations are prohibited within 100 feet of any surface water body, including any rivers, drainage channels, sloughs and lakes.
Equipment and vehicles are to be maintained to eliminate or minimize any fuel spills and fluid leaks. Equipment and vehicles must be monitored prior to use for hydraulic leaks. If equipment is in continuous use, it shall be inspected daily for hydraulic



leaks.

Project equipment shall not be abandoned.

15. FRANKLIN shall immediately notify the borough (at least within 24 hours) of any damage to the tundra and shoreline due to project activities in excess of those identified in or different from those notes in the permit application (21-02-106), including but not limited to scraping of vegetation and spill of fuel or other chemicals.
16. FRANKLIN shall immediately notify the Borough (at least within 24 hours) of any change in the project plans and seek modification of the permit. FRANKLIN shall suspend uses until approval is given by the Planning Director/Title 9 Administrator. If the proposed action(s) constitutes an emergency, FRANKLIN shall comply with NABC 9.16.040 for emergency actions and shall make reasonable efforts to conduct modified uses in a manner that avoids or minimizes significant harm to the environment, consistent with the need to protect property and human life.
17. FRANKLIN shall be required in consultation with the Administrator to post a cash bond or other suitable surety in an amount and form consistent with the requirements of NABC 9.08.040(A) to guarantee performance of all obligations under this permit.
18. FRANKLIN is subject to all penalties and civil actions pursuant to section 9.08.240 for violation of the permit conditions and stipulations prescribed herein.
19. During the fall caribou migration, FRANKLIN or any project contractors shall not, during the migration of caribou, locate any operation and/or equipment so as to block or cause diversion of the migration of caribou. FRANKLIN and/or any project contractors shall cease any activity that may interfere with the seasonal fall caribou migrations and/or caribou summer movements, such as marine, ground and airborne transports, ground and airborne surveys or movement of equipment, until such time as the migration or summer movements have cleared $\frac{1}{4}$ of a mile from the location of the project activity. Concern for human safety will be given special consideration when applying this policy.
As a general guideline, caribou migration means an area where 500 or more caribou are travelling or congregating. However, during the seasonal fall period of mid-August through mid-November, FRANKLIN shall take extra precautions to avoid deflecting even small numbers (e.g. group sizes of 5-10) of the first caribou moving through the area as these groups/bands set trails as "lead caribou" that subsequent caribou later follow during the migration. The intent of these guidelines are to ensure free passage of caribou through the area to avoid impacting caribou and the communities that historically and currently depend upon it as well as preserving existing and important adjacent land uses. These guidelines may be revised based upon updated information and research (including local traditional knowledge) which is approved by the Borough Planning Commission.
20. All project activities shall utilize measures to avoid or minimize disrupting wildlife and bird migration, or subsistence activities including fishing, trapping, waterfowl hunting,



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egg gathering, berry picking, wild greens, muskrats, seals, moose and caribou hunting. FRANKLIN will ensure reasonable access to subsistence users to subsistence resources.

21. Native allotments and camp sites are common to the area, and FRANKLIN shall ensure that staff/personnel/contractors do not disturb or trespass on these areas.
22. The propulsion engines / transmission shall be either turned off or disengaged so that the propellers do not rotate while being loaded at the landing site except in an emergency or severe weather conditions.
23. FRANKLIN shall avoid subsistence set nets along the transit route between their Kotzebue facilities and the Sadie Creek site. All incident reports or conflict shall be immediately reported to the borough (at least within 24 hours) for corrective action.
24. Vehicles, vessels and aircraft that are likely to cause significant disturbance must avoid areas where species that are sensitive to noise or movement are concentrated. Concentrations may be seasonal or year-round and may be due to behavior (e.g., flocks or herds) or limited habitat (e.g., polar bear denning, seal haul-outs). Horizontal and vertical buffers will be required where appropriate. Concern for human safety will be given special consideration when applying this policy.
When adverse effects are likely and cannot be avoided, the Borough Planning Director/Title 9 Administrator may require FRANKLIN to prepare and submit a mitigation plan to minimize impacts. The effects addressed in this standard may result from a single project or from a series of projects. The mitigation plan, if required, shall be approved by the borough planning director and/or borough planning commission.
25. At the conclusion of each season the Borough Planning Department shall evaluate the effectiveness of the permit conditions. The Title 9 Administrator shall be authorized to adopt corrective measures for ineffective or inadequate permit conditions.
26. At the completion of each season, the permittee shall file a written report with the Borough Planning Department describing the following:
 - (a) aggregate number of trips between Kotzebue and the Sadie Creek site supported with maritime transit logs,
 - (b) complete report of any fuel or other hazardous substances discharges and clean-up activities completed,
 - (c) report the incidents of caribou migration and dates/times of ceased operations for allowing migration of caribou,
 - (d) report the incidents of commercial fishing periods and dates/times of ceased operations for allowing fisheries to be conducted,
 - (e) report of incidents involving subsistence fishing set nets within the transit route describing corrective measures taken,
 - (f) other matters as reasonably required by the Administrator/Planning Director.



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27. FRANKLIN shall, if requested by the Administrator, provide periodic activity reports to the following entities: the City of Kotzebue, the Native Village of Kotzebue, and the Kotzebue Fishermen's Association.
28. Access by Borough personnel and their agents. Authorized personnel and/or their agents of the Northwest Arctic Borough when on official business and displaying proper identification shall be allowed access to the sites without interference. Borough personnel and/or agents may conduct scheduled or unscheduled inspections or tests to determine compliance with this permit or respond to emergency situations.
29. FRANKLIN will not commence ANY project activities (to include barging and hauling of aggregates) before April 1st and shall cease ALL operations (to include barging and hauling of aggregates) by 11:30 p.m. November 15th of each season.
30. This permit will expire December 31, 2025, unless revoked by the Title 9 Administrator and/or FRANKLIN.

Permit Approval

NORTHWEST ARCTIC BOROUGH

Conditional Use Permit Approved by the Northwest Arctic Borough Planning Commission through Resolution PC 20-13

Authorized signatory: Eva Harvey, Planning Director/Title 9 Administrator

December 17, 2020

Date

CC: Native Village of Kotzebue, City of Kotzebue, NANA Regional Corporation, Maniilaq Association, Kikiktagruk Inupiat Corporation, Alaska Department of Transportation & Public Facilities, Drake Construction, Inc.

Posted at: www.nwabor.org

**NORTHWEST ARCTIC BOROUGH PLANNING COMMISSION
RESOLUTION PC-20-13
A RESOLUTION OF THE NORTHWEST ARCTIC
BOROUGH PLANNING COMMISSION APPROVING
KIM KAREN FRANKLIN'S
DRAFT CONDITIONAL USE PERMIT #106-03-21,
AND FOR RELATED PURPOSES**

WHEREAS: The Northwest Arctic Borough Planning Department received a Title 9 Permit Application (21-02-106) on October 9, 2020 from Kim Karen Franklin for the following Uses in the Subsistence Conservation District:

- Gravel extraction; and
- Bulk fuel storage; and

WHEREAS: On November 19, 2020, the Borough Planning Department deemed the application complete with all necessary information; and

WHEREAS: The Borough Planning Department has published a public notice for this permit on November 20, 2020, as required in borough code 9.20.030; and

WHEREAS: The Northwest Arctic Borough Planning Commission has the authority to approve: Gravel extraction and Bulk fuel storage in the Subsistence Conservation District by conditional use permit according to borough code 9.12.030, following a public hearing as required under borough code 9.20.030E.

NOW THEREFORE BE IT RESOLVED, The Northwest Arctic Borough Planning Commission hereby authorizes the Planning Director/Title 9 Administrator to approve the DRAFT Conditional Use Permit #106-03-21 dated November 20, 2020, as discussed during the commission meeting;

PASSED AND ADOPTED THIS 16th DAY OF DECEMBER, 2020.



Harold Lambert, Planning Commission Chair

SIGNED AND ATTESTED TO THIS 16th DAY OF DECEMBER, 2020.



Helena Hildreth, Borough Clerk