

To: Haines Borough Planning Commission  
From: CUP 23-87 Appellants

1/30/2024

Dear Members of the Planning Commission,

You were tasked with the remand of CUP 23-87 at the 1/9 Borough Assembly hearing. The Assembly motion noted the applicant could consider submitting two new applications, one for Site A and one for Site B. Although it is unclear how an applicant can submit two new applications for a permit that already exists from a previous application, the Assembly decision to suggest the submission of new applications implied the previous permit application should be considered void. Regardless, without new information and applications submitted to Borough staff in time for the required legal review, drafting of staff recommendations, public notice to the Planning Commission, Appellants, and adjacent landowners, the only information you can judge on February 8<sup>th</sup> is what was already submitted into the record prior to the Assembly hearing.

It is clear the previous Planning Commission decision on CUP 23-87 was in error; numerous general and specific review criteria were inadequately supported by a preponderance of the evidence as required by Code.

Haines Borough Code General Criteria 18.60.020 requires the activity not endanger public health or safety, or lower the property value of neighboring properties. As we described in detail in our appeal, the absence of any engineering reports describing why blasting and excavating in a defined hazard zone (>30% slope) adjacent to a busy road might *not* endanger the public and impact ongoing uses of the area by commuters and tour operators should have been enough reason on its own to deny the application. It is worth noting that the recent multiple rockslides at 15-17 mile on the Haines Highway occurred in an area that was excavated in a similar method to this proposal, and many long-time users of the Highway have no memory of slides in that area prior to the Haines Highway reconstruction project.

As we previously stated, the application also failed to adequately address additional General Criteria requirements related to traffic, peak use, off-site impacts, and the creation of nuisance conditions. With respect to the specific criteria you are required to consider under HBC 18.50.040 (1-8), *all of which have to be met*, the application should have been rejected as well.

- #1 The use has the reasonable potential to create significant noise, nuisances and other dangers.
- #2 The use has the reasonable potential to impact the value of adjoining properties.
- #4 The use is inconsistent with the Comprehensive Plan, which states that Lutak Road be managed for the “scenic, fish, and wildlife viewing, historic, and cultural values, and opportunities they offer.”
- #5 The use has significant potential to harm public safety, health and welfare.
- #6 The use could easily create erosion and surface water contamination issues.
- #7 The use/application required permits from the State that were not obtained prior to submission.
- #8 AMHS, an adjacent land-owner, was not contacted regarding their concerns for the proposed use.

In addition: (1) ADEC’s Best Management Practices for gravel operations that recommend testing to determine whether toxic substances could be released were not followed, which would have been prudent given the proximity to the sockeye, pink, and eulachon runs in Lutak Inlet, and (2) the Project’s Total Value was grossly undervalued, which significantly limits the Borough’s capacity for enforcement.

For these reasons, the appellants request you revoke CUP 23-87 in its entirety. As so moved by the Assembly, the applicant can choose to reapply in the future with two separate applications, which should be legally required for two separate parcels with different intended uses.

Sincerely,

Kathleen Menke, Carol Tuynman, Gershon Cohen, Tim McDonough, Ann Myren