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UNIVERSITY
of ALASKA

Many Traditions One Alaska

UA Facilities and Land Management,
System Office
1815 Bragaw Street, Suite 101
Anchorage, AK 99508-3438
Web: www.ualand.com

November 11, 2015

Borough Administration Building
103 Third Avenue S.
P.O. Box 1209
Haines, AK 99827

Re: Heliport Conditional Use Permit Public Hearing
Lot 10, Sundberg Subdivision II

Dear Planning Commission Members,

The University of Alaska (UA) appreciates the opportunity to participate in the public comment process for the above-referenced Conditional Use Permit.

UA received the Public Notice on November 6, 2015. This provided only 4 business days for review by the University Land Management Office. Upon completing the review of the public records regarding Heliskiing in the Haines Borough and a review of the August 2015 Noise Measurement Survey completed by BridgeNet International ("**2015 Report**"), the University has the following concerns:

- *The Traffic Pattern (departure and approach path shown on the Public Notice) is directly over UA property at a very low altitude. This is a diminution to the value of UA's property.*
- *In the absence of State of Alaska and Haines Borough land use regulations for acceptable land uses and associated noise levels, the basis of the 2015 Report is the federal standard for noise and land use compatibility developed by the Federal Aviation Administration for helicopter and aircraft activity. UA believes the federal standard is not sufficiently restrictive.*
- *The Day Night Noise Level (DNL) at the heliport exceed levels for residential use, thus requiring the use of sound insulation (Page 4 – Bullet One – 2015 Report). This is an additional diminution to UA's property.*
- *As stated in the 2015 Report, "It is important to note that the measurements detailed in this report are measurements, and not fully modeled annual DNL noise contours, so this report cannot make a full comparison to the annualized 65 DNL." The federal standard requires establishment of the noise contours.*

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As context for our comments, UA, State of Alaska – Division of Forestry (DOF), and the Alaska Mental Health Agency – Trust Land Office (TLO) met with Mr. David Sosa and Mayor Hill and local industry in August 2015 as a group of the major land owners in the Haines area. The purpose of the meeting was to begin a collaborative effort in defining long term forest management plans. One eventual goal is to have concurrent land uses that are compatible with each other.

For all of the reasons stated above, UA requests that the Heliport Conditional Use Permit not be issued until further discussion and analysis are completed with participation including UA. I am available to answer any comments or questions regarding this matter. My direct line is (907) 786-7795.

Respectfully submitted,


Patrick Kelly

Cc: Michelle Rizk, Chief Strategy, Planning, and Budget Officer, UA
Mayor Jan Hill, Haines, AK
David B. Sosa, Borough Manager, Haines, AK

November 12, 2015

To: Planning Commissioners

Re: SEABA heliport CUP application

This is an update to my comments of August 13, 2015. (see previous comments below)

In order that the commission can review the helicopter noise study **before** considering the two heliport Conditional Use Permit applications, it seems logical to change the order of the agenda to hold the noise study public hearing before the heliport CUP hearings.

The noise study has been completed and is now on the Planning Commissions agenda for tonight. I suggest that there be a second public hearing on the SEABA CUP for the following reasons.

It is unlikely that the commission can complete its review of the helicopter noise study at this meeting, the first time it has reviewed the study. Even if the review is 'completed,' the public would not have a chance to respond in a meaningful way before the heliport CUP hearings.

HBC 18.50.030 Application., (see below) has not been satisfied since there has been no recommendation to the commission from the manager regarding this CUP application. Even if the manager provides a recommendation at this late date, it wouldn't comply with code because the CUP "application" and the "manager's recommendation for action, with or without proposed conditions" must be forwarded to the commission **"together."** This provision in code allows the commission and the public to review the manager's recommendation in a timely manner.

A second public hearing on SEABA's CUP should be scheduled to allow the public to review the commission's action on the noise study and to comply with HBC 18.50.030 Application.

**Title 18
LAND USE/DEVELOPMENT**

**Chapter 18.50
CONDITIONAL USE**

18.50.030 Application.

.....

D. Manager's Review Procedure.

1. The manager shall determine whether the application is complete and accurately reflects the developer's intentions. The manager shall advise the applicant whether or not the application is acceptable, or if it is not, what corrective action may be taken.

2. After accepting the application, the manager shall schedule a hearing before the commission and shall give notice to the developer and the public in accordance with the public notice provisions of HBC [18.30.020](#).

3. The manager shall forward the application to the commission together with a report setting forth the manager's recommendation for action, with or without proposed conditions, and the reasons therefor.

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One benefit of the noise study is that it reveals the disproportionate magnitude of helicopter noise in comparison to the ambient noise at the location of the study. One of the criteria that must be met for issuing a CUP is:

**18.50.040 Decision.**

.....

A. Before a conditional use permit is approved, the commission must find that each of the following requirements is met:

1. The use is so located on the site as to avoid **undue noise** and other nuisances and dangers;

**Undue** is defined as:

“unwarranted or inappropriate because excessive or disproportionate”

The noise generated by a heliport in this location, when compared to the ambient decibel levels in the study, is ‘excessive’ and ‘disproportionate.’ The heliport cannot be located on the site so as to avoid undue noise, so this requirement cannot be met. Finding that even one of the conditional use requirements is not met requires the conditional use to be denied.

Please deny the SEABA heliport Conditional Use Permit.

Sincerely,

Carolyn Weishahn

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August 13, 2015

To: Haines Borough Planning Commission

Re: Heliport Conditional Use Proposal – 3-CLR-35-0100, Big Salmon Ventures (SEABA)

The manager recommends postponing this decision until the Noise Measurement Study, June 2015 (Study) is completed. The Draft Study is available and there may be additions or changes in the final draft based on public comments received. However, based on current Haines Borough Code and data in the Draft Study, this application does not meet the criteria to “avoid undue noise and other nuisances and dangers.”

The applicant (SEABA) maintains the FAA threshold of 65 DNL as discussed in the Study justifies locating a heliport on their Chilkat Lake Road property. The Study states that the site DNLs can't be directly compared to the FAA 65 DNL significance threshold and yet they refer to the 65 DNL threshold throughout the report.

For this Study, the measured DNL from the sites above cannot be directly compared to the 65 DNL significance threshold because the annual average was not modeled using Integrated Noise Model. However, the measured average levels at the three sites during the study period (outside of the helipad itself) are generally below what measurements would be expected at the significant 65 DNL or higher level.

Even if the Study had used the Integrated Noise Model, the FAA threshold of 65 DNL is not intended to substitute for local land use decisions based on “locally determined needs and values.”

http://www.faa.gov/airports/environmental/environmental_desk_ref/media/desk_ref_chap17.pdf

14 CFR Part 150 land use compatibility guidelines. FAA established land use compatibility guidelines relative to certain DNL noise levels in 14 Code of Federal Regulations (CFR) Part 150. Chapter 5, Table 1 of this Desk Reference provides a copy of the Part 150 Land Use Compatibility guidelines.

(1) Different local land use compatibility standards. Although residential land uses are considered compatible with noise exposure levels below DNL 65 dB under 14 CFR Part 150:

“The responsibility for determining the acceptable and permissible land uses ...rests with the local authorities...Part 150 is not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses. “ -14 CFR Part 150, Table 1.

In addition, the FAA states, “civil helicopter annoyance assessments utilize the same acoustic methodology adopted for airplanes” and “impulsive helicopter noise has not been fully substantiated by a well-correlated metric.”

[“http://www.faa.gov/regulations_policies/policy_guidance/envir_policy/media/04nov-30-rtc.pdf](http://www.faa.gov/regulations_policies/policy_guidance/envir_policy/media/04nov-30-rtc.pdf)

As discussed in “effects on individuals” (Section 3), there are multiple noise metrics utilized to assess noise (EPNL, ASEL, DNL, etc). However, civil helicopter annoyance assessments utilize the same acoustic methodology adopted for airplanes with no distinction for helicopter’s unique noise character. **As a result, the annoyance of unaccustomed, impulsive helicopter noise has not been fully substantiated by a well-correlated metric. The FAA favors the chartering a technical effort to focus on low-frequency noise metric to evaluate helicopter annoyance.** (emphasis added)

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As a result of stakeholder dissatisfaction with the current DNL guideline, the FAA has begun a multi-year study to review their DNL threshold which may result in another methodology for assessing aircraft noise or a lowering of the DNL threshold. Notice in the article below that the FAA currently uses the 65 DNL threshold is used for making environmental review, funding, and mitigation measures, not for making land use decisions.

Use of FAA’s DNL threshold is not appropriate for this CUP decision because the borough is not making environmental reviews, airport funding or noise mitigation decisions. Instead, the borough has the responsibility of making good land use decisions to protect the health, safety, and welfare of the public through the conditional use permit process.

[http://www.kaplankirsch.com/files/Airport\\_Law\\_Alert\\_August\\_2015.pdf](http://www.kaplankirsch.com/files/Airport_Law_Alert_August_2015.pdf)

### **Airport Law Alert - No. 22 August 2015**

#### **FAA to Reevaluate Aircraft Noise Methodology**

On May 7, 2015, the FAA announced that it was beginning work on a multi-year study to update the scientific evidence on the relationship between aircraft noise exposure and its effects on communities. The FAA intends to conduct surveys of residents near 20 airports across the country in order to survey public perception of aircraft noise. The FAA states that this will be the most comprehensive single aircraft noise survey conducted in the United States. The FAA did not identify the communities to be surveyed in order to preserve the scientific integrity of the surveys. **The FAA expects the surveys to be completed by the end of 2016. After that, the FAA will analyze the data to assess whether to update the FAA’s guidelines and methodology for determining exposure to aircraft noise.**

**Since 1981, the FAA has relied on the DNL 65 decibel noise exposure level for its environmental review process and to make funding decisions for most noise projects near airports and for federal approval of noise abatement and mitigation measures pursuant to Part 150 and Part 161.** The DNL metric is based on an average of all community noise over a 24-hour period, with nighttime noise weighted by a factor of 10 to account for the disruptive effects of nighttime noise. **Use of the DNL 65 decibel guideline has not been without controversy, however, and a number of communities and stakeholders have urged the use of a methodology other than DNL and/or the use of a lower DNL decibel level.**

A change in the current 65 DNL decibel guideline could have significant impacts on airport operators. The use of a different noise metric or DNL threshold could increase or decrease the number of homes eligible for federally funded acoustic treatment, home-buyouts, or other noise mitigation measures; could change mitigation obligations; and could change the scope of environmental reviews. In addition to federal issues, a new federal guideline, and publication of the survey results supporting the new guideline could affect airport operators under state lawsuits for inverse condemnation, trespass, and nuisance.\_\_\_\_

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SEABA's last application for a heliport CUP was denied by the Planning Commission and subsequently overturned by the Assembly. The decibel ratings in the Study for the helicopters SEABA uses for heliskiing support the denial of heliport CUP at the SEABA property. Criteria #1 for a CUP (avoid undue noise and other nuisances and dangers) would not be met and the noise Study bears this out. In the Study, the decibel level for a helicopter at the proposed heliport ranged from 100-110 decibels. According to a decibel soundproofing chart, a dog kennel is rated at 110 decibels.

<http://static1.1.sqspcdn.com/static/f/605239/14918070/1320157349257/dBSoundproofingChart.pdf?token=tQio%2Fkr1VyonOCh%2BT05%2BAv9qi0M%3D>

The Planning Commission recently turned down an application for a conditional use permit for a dog kennel on the basis of undue noise for that neighborhood. This application for a conditional use permit for a heliport on Chilkat Lake Road would likewise create undue noise and thus does not meet Haines Borough Code, 18.50.040 Decision., Criteria #1, for a CUP. A heliport simply does not belong in this very quiet neighborhood.

I urge the Planning Commission to deny a Conditional Use Permit for a heliport at SEABA's 3-CLR-35-0100, Big Salmon Ventures property.

Thank you for considering my comments.

Sincerely,

Carolyn Weishahn

Kathy Friedle

From: Xi Cui
Sent: Thursday, January 28, 2016 1:56 PM
To: Kathy Friedle
Subject: FW: letter to planning commissioners

From: Xi Cui
Sent: Monday, November 09, 2015 12:01 PM
To: Mike Case; Brenda Josephson; 'Don Turner III'; Heather Lende; Lee Heinmiller; Rob Goldberg; Rob Miller; Robert Venables
Cc: 'mark and mardell'
Subject: RE: letter to planning commissioners

FYI

From: mark and mardell [<mailto:mardiz@aptalaska.net>]
Sent: Monday, November 09, 2015 11:57 AM
To: Xi Cui
Subject: letter to planning commissioners

Tracy, Could you please forward this on to all of the Commissioners before the Thurs. meeting? I can't seem to find their contact info on the website. I really appreciate your doing this for me. Mardell

Planning Commissioners:

I am writing to you regarding the recent heli-port CUP application from Mike Wilson. I appreciate your taking a moment to think about my perspective as a resident at 38 mile. My concern is that soon I may have 2 heliports within 5 miles of my home!

I actually think the proposed 35 mile location makes more sense for a heli-port than 33 Mile, but as I understand it, because 33 Mile was "grandfathered in", it is not likely to be discontinued. This means that there would be 2 active heli-ports out here. I am sure that on the sunny days in March and April, when we like to be out enjoying our local area, we will have helicopters from both sites buzzing over our ski and snowshoe trails. If the conditions are good out here all 3 companies will want to utilize as much time as they can get. They continue to ask for more days. There could be twice as many helicopters as 2-3 companies could be operating at the same time now on those primo winter days we all so enjoy!.

SINCE HELISKIING HAS COME TO OUR VALLEY MY GOAL HAS BEEN TO HAVE IT MANAGED, REGULATING ITS EXPANSION AND IMPACT TO US. THIS IS AN OPPORTUNITY FOR MANAGEMENT. ALLOW ONLY ONE HELIPORT OUT THE ROAD!... You will have to make the choice of which one based on details I do not know.

If the 35 mile site is granted I ask that you require them to use the same flight paths that are used flying from the 33 Mile site. This is very important in protecting us from the noise that echoes in the river valley. After the application was submitted, another letter was written stating they intend to have year round operations at this site. Yikes! that likely means intent to do heli-tours in the summer. The next argument we will hear from this company is that they need to have summer tours to make the site profitable for them. This will probably lead to a tour permit being given even though our town has been historically opposed to

summer help-tourism. We already have the mining helicopters flying in the summer, so again the impact will be larger to us by having multiple help-ports.

This viewpoint is large compromise for me as I think the best solution is to have all helicopter activity come from the airport, but my next best solution is to limit heli-ports in our community.

Thank you,
Mardell Gunn

Kathy Friedle

From: Xi Cui
Sent: Tuesday, November 17, 2015 10:16 AM
To: Kathy Friedle
Subject: FW: residential LZ's

From: Heather Lende [mailto:hlende@aptalaska.net]
Sent: Thursday, November 12, 2015 12:20 PM
To: Xi Cui; Rob Goldberg; Don Turner; Robert Venables; Lee Heinmiller; Rob Miller; Brenda Josephson; David Sosa
Subject: Fwd: residential LZ's

This came in my mail for us -- see you tonight

Heather Lende

<http://www.heatherlende.com>

Find the Good

Begin forwarded message:

From: "Scott & Teresa Visscher" <visscher4@gmail.com>
Date: November 12, 2015 at 11:30:18 AM AKST
To: hlende@aptalaska.net
Subject: residential LZ's

I am a supporter of the Heli-ski industry. I make income from renting to Heli guides. My daughter attended guide school. I don't care how many user days there are in the season. The only thing that the borough should be concerned with is establishing flight paths and landing zones to mitigate the impact of the unique noise characteristics of helicopters. Allowing a helicopter landing zone in a residential area is bad precedent for the borough as well as being rude to the neighbors. I am opposed to putting an LZ in the 26 mile residential area or any other residential area. The borough should help this misguided applicant find a more suitable place.

This issue was dealt with in Juneau in the 90's with the growth of Heli-tourism there. For example one flight path to the ice fields was routed over Thunder ridge and away from the subdivisions of the Mendenhall valley. As far as I can tell business is booming and the residents are satisfied. Lets get it right in this valley. We can have happy people and healthy business with smart decisions by our borough and perhaps with more creativity and less combativeness by some in our Heli-ski industry. Imagine if after the first rejection of the LZ at 26 mile the applicant had become proactive and found a more suitable place. Lots of borough time and money would have been saved. The applicant would be well on the way to completion of their lodge. A far better business model than whats transpired.

Thankyou for your consideration, Scott Visscher @ bug lake

From: Katya Kirsch [<mailto:katyakirsch@hotmail.com>]

Sent: Wednesday, November 11, 2015 5:59 PM

To: Xi Cui

Cc: Brenda Josephson; Don Turner III; Heather Lende; Lee Heinmiller; Rob Goldberg; Rob Miller; Robert Venables; Krista Kielsmeier

Subject: SEABA 26 mile heliport

Dear Haines Borough Planning Commission Members,

Please do not support issuance of a conditional use permit to SEABA for a helipad at 26 mile. The proposed development is not consistent and in harmony with surrounding land uses or with the Haines Comprehensive Plan. The location of the proposed use does not avoid excessive noise, other nuisances, and dangers.

Helicopter noise levels are not acceptable in a residential neighborhood, even in a big city. Helicopter noise would be tremendously louder than the neighborhood's ambient noise levels. The Haines Comprehensive Plan says that heliports should be sited away from residences and the helipad site in question is surrounded by private property, with homes within a couple of hundred feet from the proposed landing pad. Residents who live there will be severely impacted. The proposed SEABA helipad was the subject of an expensive flawed noise study. GPS data showed that SEABA was flying unlawfully during the study, hiding its noise from the sensors.

The World Health Organization and EPA recognize health and safety effects of excessive noise, particularly helicopter noise. Health effects include stress-related diseases, cognitive and behavioral disorders, and heart problems. The noise will also likely reduce the value of their property. An FAA study found that an increase in decibels due to aircraft noise resulted in a significant quantifiable decrease in property values. HBC 18.50.040 does not permit this. This residential area should be protected from heavy industrial development, especially by SEABA, which just last year pled guilty to trespassing on BLM land closed to helisking 54 times – 2/3rd of the time they were operating. The judge increased their sentence because they lied about their illegal behavior. The helipad is fifty feet from a state identified anadromous stream. The temporary CUP specified that SEABA should have DEC approved fuel containment before commencing operations. SEABA is already violating this requirement. Public processes, including how to use the recent noise study, should be complete before making major development decisions related to heliports. Two times in the past, the Planning Commission has sided with the public and with Borough law and denied the CUP for a heliport at the site. Please do so again.

Thank you very much for your serious consideration.

Katya Kirsch
PO Box 521
Haines, AK 99827

Kathy Friedle

From: Xi Cui
Sent: Thursday, January 28, 2016 1:57 PM
To: Kathy Friedle
Subject: FW: SEABA heliport CUP

From: Xi Cui
Sent: Tuesday, November 10, 2015 10:50 AM
To: Brenda Josephson; 'Don Turner III'; Heather Lende; Lee Heinmiller; Rob Goldberg; Rob Miller; Robert Venables
Cc: Mike Case; 'sherrie@grantway.us'; Krista Kielsmeier
Subject: FW: SEABA heliport CUP

FYI

From: Sherrie [<mailto:sherrie@grantway.us>]
Sent: Tuesday, November 10, 2015 10:44 AM
To: Xi Cui
Subject: SEABA heliport CUP

To the Members of the Haines Borough Planning Commission,

This letter is to urge you to not support the issuance of a conditional use permit to SEABA for the helipad at 26 mile.

The eight requirements in the Borough Code for granting such a permit have not been met.

The Haines Comprehensive Plan proposes that heliports should “be sited away from residences” and the helipad site in question is surrounded by private property, with homes within a couple of hundred feet from the proposed landing pad. The siting of a heliport in this neighborhood should not be allowed. That neighborhood is extremely quiet and helicopters are very loud – there is no way the people who live there won’t be severely impacted.

This residential area should be protected from high impact, heavy industrial development especially by a company that just last year pled guilty to trespassing on BLM land closed to helisking 54 times – or 2/3rd of the time they were operating. The judge in that case increased their sentence because they lied about their illegal behavior.

The proposed SEABA helipad was as you know the subject of an expensive and flawed noise study. GPS data showed that SEABA was flying unlawfully throughout the duration of the study, hiding their noise from the sensors and cheating the test. SEABA is a known scofflaw.

Excessive noise like that created by helicopters will be harmful to the health and safety of the residents. Stress-related diseases, cognitive and behavioral disorders, heart problems, and other health effects have been directly linked to aircraft noise. The noise will also likely reduce the value of their property. An FAA study commissioned by the US Chamber of Commerce found that *an increase in decibels due to aircraft noise resulted in a significant and quantifiable decrease in property values.*

If that isn’t enough, the helipad is 50 feet from an identified anadromous stream yet SEABA has been operating there without a fuel spill containment under their tank which was sitting on a pallet in the snow even though the temporary conditional use permit required that they have DEC approved fuel containment before commencing operations. As usual, SEABA defies Borough regulations and the Borough doesn’t enforce its own permit requirements. The temporary conditional use permit should never have been issued.

The flawed noise study is still being reviewed by the Borough and no regulation changes have been made. The full public process should be complete before making major development decisions related to heliports.

I urge you as strongly as possible to, please, not support a Conditional Use Permit for a heliport in the 26 mile residential neighborhood.

Thank you for your consideration of these comments.

Sincerely,

Sherrie Goll

Sherrie Goll
P.O. Box 261
Haines, AK 99827
Cell 907.314.0961

November 10, 2015

As residents of the Eagle Vista subdivision between mile 26 and 27, Haines Highway, we are vehemently opposed to the proposed establishment of a heliport in our long-established, quiet residential neighborhood. In fact, we moved from Juneau to this neighborhood specifically to move to a quieter locale, and escape the noise of helicopters and traffic in Juneau. We believe an introduction of such facilities in our established neighborhood violates the longstanding (and successfully litigated) principle of quiet enjoyment of home property. What is more, a strong majority of our neighbors feel the same way.

In short, this quiet residential neighborhood was here first. The written covenants for the Eagle Vista subdivision clearly demonstrate the value that this neighborhood has always placed on its extremely quiet rural character. Inserting a heliport in our midst would be both disruptive and incompatible. There is no comparing the occasional noise of a local sawmill to that of a busy heliport operating the bulk of daylight hours during season.

The expensive noise study was skewed in its parameters, methodology, and interpretation. There is no way you can mix in A-Stars taking off and landing in sequence in a narrowing, sound-amplifying valley and come up with any manner of relative quiet. We deserve protection from the incursion of helicopters taking off and landing less than a mile from our homes. We obviously moved here because we value that rural peace over convenience. As residents of the Haines Borough, we implore the planning commission to sustain our rights to quiet enjoyment of our property. Our relatively few numbers do not extinguish our rights as residents of the Haines borough. I venture to point out that if this proposed heliport were in the middle of Fort Seward, we wouldn't be having this conversation. Are our rights as borough residents any less because there are fewer of us to raise our voices?

It's not as if Mr. Sundberg's business can't operate profitably without a heliport on his property near Mile 26. His business can continue to thrive with his clients and guides utilizing already-established and permitted heliports with less proximity to so many rural residents who value their peace and quiet.

Sincerely,

Nick and Sherrie Jans

Block 2, Lot 4, Eagle Vista

HC 60 Box 2628

Haines, AK 99827