



Memo from the Borough Clerk

Date: November 9, 2023
To: Haines Borough Assembly and Mayor
From: Alekka Fullerton
Re: Procedure regarding Quasi-Judicial Appeals

I wanted to provide some procedural information in preparation for the appeal request you will hear on November 14, 2023.

1. QUASI-JUDICIAL: As you know, sometimes the borough assembly wears two hats. One hat is a legislative hat. For the vast majority of your actions, you make legislative decisions. The other hat is an occasional one and is what could be called "a jury hat". When considering appeals, you are essentially acting as a jury...a quasi-judicial board. When acting as a jury, **assembly members must come into the appeal hearing process without having pre-judged the merits of the appeal** just like a jury must begin a criminal trial without having pre-judged the guilt or innocence of the defendant. This is why jurors are screened before they are allowed to be on a jury. This is completely different from most legislative issues where assembly members are free to come to the meeting already having decided how they intend to vote.
2. RECORD ON APPEAL: When acting in the capacity of a quasi-judicial board, the assembly should evaluate the merits of the appeal on the evidence presented, which means assembly members must avoid forming an opinion based on information presented outside of the hearing and official record. The official record ("Record on Appeal") will be provided in your meeting packet. **You have an obligation to make decisions based on information presented as part of the application or appeal process and not on the basis of your own individual fact-finding or any third-party lobbying.**
3. DECISION TO BE MADE:
The only decision to be made at the 11/14/23 meeting will be the consideration of the appeal request. Ann Myren/Tim McDonough, Gershon Cohen and Carol Tuynman have requested an appeal timely. Per HBC 18.30.060, following the appellant's presentation, and comment from those who wish to be heard, the assembly must decide, by motion, whether or not to rehear the Planning Commission's decision and, if so, whether to rehear the entire decision or a portion. Any rehearing will take place at the next meeting (11/28/23) and include a duly-noticed public hearing. **The burden the appellants must meet is whether they have raised sufficient questions in your mind that leads you to question whether the Planning Commission erred in their decision to grant Conditional Use Permit 22-87.**

4. VOTING: Since this is a procedural, not a substantive decision, the “regular” voting rules apply per HBC 2.10.200A. Meaning, there must be four affirmative votes, by either four assembly members or three assembly members on a tie vote, plus the vote of the mayor, to rehear the matter. Since THIS review is not considering the “judgment” on the merits of the matter, Charter Section 5.06(D) does not apply so a supermajority is not necessary.
5. MOTIONS: Possible motions might be:
 - A. To “rehear the Planning Commission’s granting of Conditional Use permit #23-87 for Resource Extraction”
 - B. To “rehear the Planning Commission’s finding regarding Conditional Use Permit #23-87 that criteria #x per HBC 18.50.040 has (or has not) been met”
 - C. To “deny the rehearing of the Planning Commission’s grant of Conditional Use Permit #23-87 for Resource Extraction”.

Please feel free to contact me with questions.

18.30.060 Appeals to the borough assembly.

An appeal made to the borough assembly of the commission's decision on any permit shall be requested by filing with the borough clerk, within 10 business days of the date of the decision appealed, a written notice of appeal stating with particularity the grounds for the appeal. At the next regularly scheduled borough assembly meeting the borough assembly, by passage of a motion, may choose to rehear the commission's decision. Any aggrieved person, including the developer, may appear at that meeting and explain to the borough assembly why it should rehear the commission's decision.

A. If the borough assembly chooses to rehear the decision, it may choose to rehear the entire decision or any portion thereof. If it decides to rehear a decision or any portion thereof, it shall give public notice, conduct a public hearing and make its decision at its next regularly scheduled meeting.

B. In all re-hearings the burden of proof shall be on the party challenging the decision of the commission.

1. Findings of fact adopted expressly or by necessary implication shall be considered as true if, based upon a review of the whole record, they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record as a whole affords a substantial basis of fact from which the fact in issue may be reasonably inferred, the fact is supported by substantial evidence. The burden of proof shall be on the appellant to demonstrate the facts and resolution of the issues on appeal by substantial evidence. The evidence shall be limited to a review of the record, although further argument may be allowed.

2. In all decisions the burden of proof shall be on the party challenging the decision of the planning commission.

3. The borough assembly may confirm the commission's decision, reverse the commission's decision, or change the conditions which the commission placed on approval. The borough assembly shall support its action with written findings.

C. A decision by the commission shall not be stayed pending appeal, but action by the appellee in reliance on the decision, shall be at the risk that the decision may be reversed on appeal.

D. The borough assembly hereby provides for an appeal by a municipal officer or person aggrieved from a decision of a hearing officer or other body to the superior court. An appeal to the superior court under this section is an administrative appeal heard solely on the record established by the hearing officer or other body. (Ord. 12-05-291 § 6; Ord. 05-02-091; Ord. 04-05-078)



HAINES BOROUGH, ALASKA
P.O. BOX 1209
HAINES, AK 99827
(907) 766-6400 FAX (907) 766-2716

Glacier Construction Inc., dba Southeast Road Builders
rschnabel@colaska.com

November 2nd, 2023

Re: Conditional Use Permit #23-87, Resource Extraction | October 23rd, 2023 Planning Commission Meeting | Site A: C-LTR-04-0090/0700/0010, Site B: C-LTR-04-1000/2940/0900/0800 | Waterfront Industrial Zone

Thank you for submitting a conditional use permit to perform resource extraction activity at the above listed location. Your application has been approved by the Planning Commission per plans submitted and the conditions listed below under the definition "Resource Extraction" which is a Conditional Use in the Waterfront Industrial Zone per Haines Borough Code (HBC) 18.70.040.

If you wish to appeal the Planning Commission's decision on this application, you must file an appeal in writing with the Borough Clerk within ten business days of the date of this letter.

EXPIRATION: November 2nd, 2028

This permit is valid for five years.

CONDITIONS:

1. Provide design and engineering for resource extraction in Hazard Areas. Provide a copy of plans to the Borough prior to working:
 - a. Within the stream's one percent floodway,
 - b. On slopes greater than 30 percent.
2. Submit a reclamation plan, developed and sealed by a professional engineer, for Planning Commission review that addresses the final conditions of site, including:
 - a. Relation to adjoining land forms and drainage features,
 - b. Relation of reclaimed site to planned or established uses of the surrounding area,
 - c. Demonstration that the final land form will have a viable land use compatible with land use trends in the surrounding area,
 - d. Relation of reclaimed site to initial site conditions including land use, vegetation, soils, geology and hydrology;
 - e. Work to maintain the existing waterfront view shed.
3. Contact the United States Fish & Wildlife Service approval for all work within 660-feet of an eagles nest; or to perform blasting operations within ½ mile of an eagles nest. Email: ak_fisheries@fws.gov
4. Provide a copy of State approval for legal access to Site A before beginning any work at this location. Coordinate access, traffic plans, and roadway maintenance during resource extraction with the State of Alaska's Department of Transportation & Public Facilities Southcoast Region Right-of-Way office. Contact Michael Schuler, email: michael.schuler@alaska.gov.

5. Provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.
6. No significant negative impacts on the surrounding properties are allowed. Including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises or be unsightly or become a nuisance as defined in HBC 8.12.020(I).
7. This permit does not relieve the owner or authorized representative to comply with the provisions of federal, state or local regulations applicable to the activity.
8. Coordinate with the Alaska Marine Highway System for blasting within 2 hours of ferry arrivals and departures.
9. Provide a copy of all plans and Storm Water Pollution Prevention Plans to the Borough before implementation of the project.

Per the requirements of Haines Borough Code 18.30.010 (I), this permit is consistent with the comprehensive plan, its uses are harmonious with other activities allowed in the zone, and the development will not disrupt the character of the neighborhood.

Please do not hesitate to contact our office with any questions, comments, or concerns,



Andrew Conrad, Planner
Planning & Zoning, Assessment & Planning Department
(office) 907-766-6412 | planner@haines.ak.us

Ec: dlaframboise@colaska.com
TJMASON@COLASKA.COM

Attachments:

1. Permit Application, Site Plan



Haines Borough

Planning and Zoning
 103 Third Ave. S., Haines, Alaska, 99827. Box 1209
 (907) 766-6401 * Fax: (907) 766-2716

APPLICATION FOR CONDITIONAL USE PERMIT

Permit#: 23-87

Date: _____

Use this form for approval by the Planning Commission. **\$150 non-refundable application fee**

I. Property Owner/Agent		Owner's Contractor(If Any)	
Name: Glacier Construction Inc. dba Southeast Road Builders		Name:	
Mailing Address: HC 60 Box 4800, Haines Hwy Haines, AK 99827		Haines Borough Business License #:	
Contact Phone: (907) 766-2833		Alaska Business License #:	
Fax: (907) 766-2832 rschnabel@colaska.com		Contractor's License #:	
E-mail: dlaframboise@colaska.com		Mailing Address:	
		Contact Phone:	
		Fax:	
		E-mail:	
II. Property Information			
Size of Property: Approx. 27 Acres total; Site A = 5.2 Acres, Site B = 21 Acres			
Property Tax #: SITE A: C-LTR-04-0090, C-LTR-04-0700, and C-LTR-04-0010 SITE B: C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, and C-LTR-04-0800			
Street Address: See attached Site Maps; Approx. MP 4 Lutak Road			
Legal Description: Lot (s) _____ Block _____ Subdivision _____			
OR Parcel/Tract _____ Section _____ Township _____ Range _____			
[Attach additional page if necessary.] See attached Site Maps			
Zoning: <input type="checkbox"/> Waterfront <input type="checkbox"/> Single Residential <input type="checkbox"/> Rural Residential <input type="checkbox"/> Significant Structures Area <input type="checkbox"/> Rural Mixed Use <input type="checkbox"/> Multiple Residential <input type="checkbox"/> Heavy Industrial <input checked="" type="checkbox"/> Waterfront Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial Light Commercial <input type="checkbox"/> Recreational <input type="checkbox"/> Mud Bay Zoning District <input type="checkbox"/> Lutak Zoning District <input type="checkbox"/> General Use			
III. Description of Work			
Type of Application (Check all that apply) <input type="checkbox"/> Residential <input type="checkbox"/> Commercial _____ sq. ft. _____ seating capacity if eating/drinking establishment <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Church <input type="checkbox"/> Other _____	Project Description (Check all that apply) <input type="checkbox"/> Single Family Dwelling <input type="checkbox"/> Change of Use <input type="checkbox"/> Multi-Family Dwelling Total # of Units _____ <input type="checkbox"/> Cabin <input type="checkbox"/> Addition <input type="checkbox"/> Accessory Structure <input checked="" type="checkbox"/> Other <u>Resource Extraction</u> _____	Water Supply Existing or Proposed <input checked="" type="checkbox"/> None <input type="checkbox"/> Community well <input type="checkbox"/> Private well <input type="checkbox"/> Borough Water System <input type="checkbox"/> Other _____	Sewage Disposal Existing or Proposed <input checked="" type="checkbox"/> None <input type="checkbox"/> Septic Tank <input type="checkbox"/> Holding Tank <input type="checkbox"/> Borough Sewer System <input type="checkbox"/> Pit Privy <input type="checkbox"/> Other _____

Per HBC 13.08.100 and 18.60.010, If a property on which a use is proposed is within 200 feet of an existing, adequate public water and/or sewer system, the developer shall be required to connect to the public systems. Failure to connect will result in a minor offense subject to penalties.

Valuation of Work: \$100,000

Current use of adjacent properties: See attached for more information; Zoned Waterfront Industrial Use, Vacant State Land, Inactive Timber Mill Site, Ferry Terminal, AML Dock, Fuel Terminal

Attach the following documents to the permit application:

Site plan (see Attachment A) showing lot lines, bearings and distances, buildings, setbacks, streets, etc.

PREAPPLICATION (Required)

Pre-application Conference Date: 8/10/2023

Prior to submission of an application, the developer shall meet with the manager for the purpose of discussing the site, the proposed development and the conditional use permit procedure. The manager shall discuss these matters with the developer with special attention to policies and approval criteria that may pose problems or constraints on the site or the proposed development activity and policies or approval criteria that may create opportunities for the developer.

APPLICATION

Please provide a written narrative explaining how your project will meet the following requirements. You may use the space provided on this form or attach your answers. A variance may only be granted if the Planning Commission finds that these six standards are met.

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

Describe what safeguards are being provided (i.e. setbacks or buffers) to meet the condition.

Referenced Sections:

Section V. Site Conditions, Paragraph D, G
Section VI. Methods

2. Explain how the development of the use is such that the value of the adjoining property will not be significantly impaired.

Referenced Sections:

Section II. Site Features & Zoning
Section V. Site Conditions, Paragraphs G

3. Explain how the size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use.

Referenced Sections:

Section V. Site Conditions, Paragraph B, C

4. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

Referenced Sections:

Section II. Site Features & Zoning
Section VIII. Comprehensive Plan

5. Explain how the granting of the conditional use will not be harmful to the public safety, health or welfare.

Referenced Sections:

Section V. Site Conditions, Paragraph A, B, F

6. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

Referenced Sections:

Section V. Site Conditions, Paragraph E, F
Section VII. Reclamation Plan

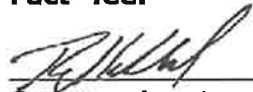
NOTICE

Per HBC 18.50.040, Comments received from property owners impacted by the proposed development will be considered and given their due weight. Additionally, the Planning Commission may impose one or more of the following conditions:

1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.
4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.
5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.
6. Commitment Letter. The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.
7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.
8. Design. The conditions may require the adoption of design standards specific to the use and site.

IV. CERTIFICATION

I hereby certify that I am the owner or duly authorized owner's agent, that I have read this application and that all information is correct. I further certify that I have read, understand and will comply with all of the provisions and permit requirements outlined hereon. I also certify that the site plan submitted is a complete and accurate plan showing any and all existing and proposed structures on the subject property and that the use will comply with all required conditions and specifications, will be located where proposed and when developed, will be operated according to the plan as submitted. All contract work on this project will be done by a contractor holding valid licenses issued by the State of Alaska and the Haines Borough. **I am aware that if I begin construction prior to receiving permit approval, I will be assessed a \$250.00 "After-the-Fact" fee.**

 Roger Schnabel, Area Manager
Owner or Agent

8/24/2023
Date

PROVISIONS: The applicant is advised that issuance of this permit will not relieve responsibility of the owner or owner's agents to comply with the provisions of all laws and ordinances, including federal, state and local jurisdictions, which regulate construction and performance of construction, or with any private deed restrictions.

Office Use Only Below This Line

Non-Refundable Application Fee \$ <u>150.00</u>		Information/Documentation	
Payment Method: <u>Credit Card</u>		Req'd	Rec'd
Receipt #: <u>053247</u>		<input type="checkbox"/>	<input type="checkbox"/> State Fire Marshal
Received By: <u>TOLSON</u>		<input type="checkbox"/>	<input type="checkbox"/> State DEC
Date: <u>8.23.2023</u>		<input type="checkbox"/>	<input type="checkbox"/> Variance/Conditional Use Permit
		<input type="checkbox"/>	<input type="checkbox"/> Sign Permit

Zoning	Bldg. Height	Lot Coverage %	Const. Type	Occupancy	# Stories
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If Application is Complete: Yes No

Notified Via: _____ Notified By: _____

Date: _____

If yes, Approved By: _____ Planning Commission Chairman Permit ID #: _____ Permit Effective Date: _____	If no, Denied By: _____ Planning Commission Chairman Date: _____ Reason: _____
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Approval Special Requirements: This application meets all applicable Borough policies and a permit is issued, conditional on the **substantial completion of construction within two** years and the following special requirements:

Notice of Right to Appeal: All decisions of the Borough Officials are appealable per HBC 18.30.050

ATTACHMENT A

SITE PLAN REQUIREMENTS

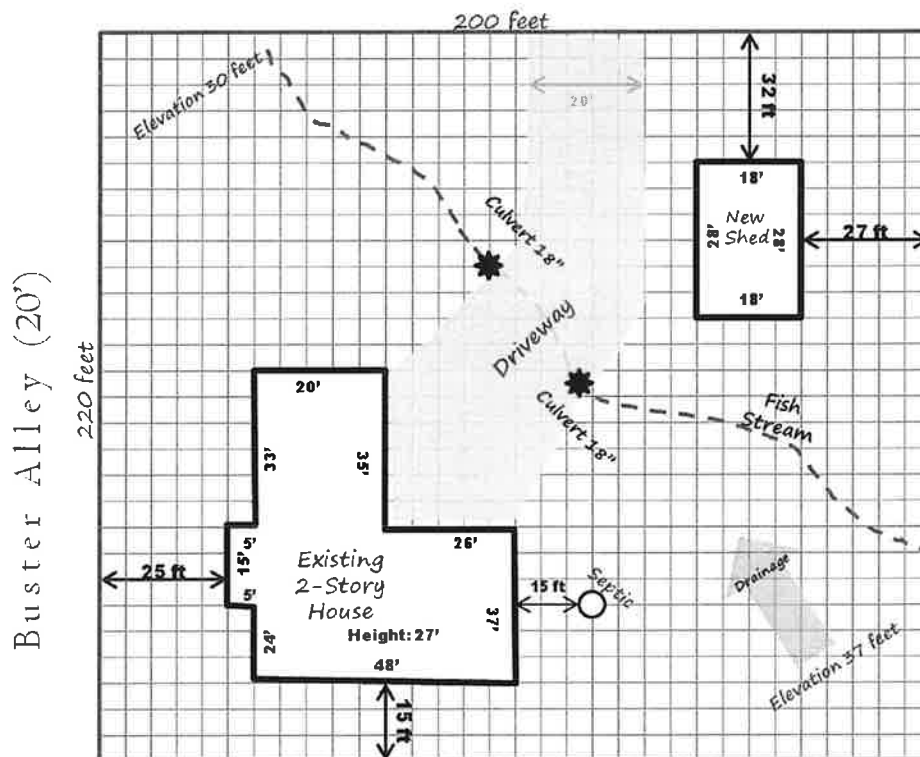
1. Drawing showing dimensions of all buildings, including elevations, of lot on which activity/use/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction—including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that an as-built survey be performed prior to submittal of the application.

EXAMPLE SITE PLAN

John Doe Property Tax ID X-XXX-XX-XXXX

Ripinsky Street (60')



APPROVAL CRITERIA

See HBC 18.60.010 for more information.

- A. **Plans.** The proposal is substantially consistent with the borough comprehensive plan and other applicable borough-adopted plans.
- B. **Reviewing Parties.** Due deference has been given to the comments and recommendations of reviewing parties.
- C. **Fire Safety and Emergency Access.** As determined by the State Fire Marshal or the borough fire chief.
- D. **Access.** All lots on which development is planned are required to have legal road access completed to borough standards.
- E. **Traffic.** The proposed use shall not overload the existing street system with traffic or result in unsafe streets or dangers to pedestrians.
- F. **Public Maintenance.** The proposed use shall not significantly increase the impact on the surrounding area from glaciation or drifting snow and shall not create significantly increased difficulty for snow removal or street maintenance.
- G. **Foundation.** All buildings intended for residential or commercial use shall be placed on a permanent foundation.
- H. **Parking.** See parking requirements in HBC 18.80.040.
- I. **Utilities.** If property on which a use is proposed is within 200 feet of an existing, adequate public water and/or sewer system, the developer shall be required to connect to the public systems. All regulations of the State Department of Environmental Conservation pertaining to water extraction and wastewater disposal, as well as the requirements of HBC 13.04.080(G) pertaining to on-site wastewater disposal, shall apply.
- J. **Drainage.** The applicant for a proposed use shall provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.
- K. **Walkways, Sidewalks and Bike Paths.** Easements for pedestrian access or bicycle paths may be required where shown by the borough to be necessary to provide reasonable circulation or access to streams, lakes, tidewater, schools, playgrounds, transportation facilities or other public facilities.
- L. **Construction Guarantees.** The borough may require the posting of a bond or other surety approved by the assembly to ensure that all required and necessary improvements are constructed as approved. The surety may provide for partial releases upon acceptance of the improvement by the borough.
- M. **Peak Use.** The peak use characteristics are the same as surrounding uses or other uses allowed in the zone.
- N. **Off-Site Impacts.** The proposed use shall not have significant negative impacts on the surrounding properties, including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises or be unsightly or become a nuisance as defined in HBC 8.12.020(I). Buffering may be required to alleviate impacts between residential and nonresidential uses. The owner of the property upon which the buffering is constructed is responsible for the maintenance of the buffering in a condition that will meet the intent of this criteria.
- O. **Habitat.** A reclamation or landscaping plan may be required as a condition of approval of any use within 100 feet of a state-identified anadromous stream. The purpose of the reclamation or landscaping plan includes the control of dust, soil erosion, water runoff and siltation which otherwise would be generated on the lot and affect the surrounding area.
- P. **Anadromous Fish Stream Setbacks.** All development along state-identified anadromous fish streams will be consistent with the Haines coastal zone management program. Unless approved by variance, no development shall occur within 25 feet of the banks of anadromous fish streams, designated as such by the Alaska Department of Fish and Game. Variances from this requirement may be granted by the commission based upon the unique conditions of individual properties, the proposed development, and the recommendations of a qualified fisheries biologist.
- Q. **Open Space and Facilities.** The developer may be required to dedicate land for open space, drainage, utilities, access, parks or playgrounds. Any dedication required by the commission must be based on a written finding that the area is necessary for public use or safety and the dedication is in compliance with adopted municipal plans and policies.
- R. **Historic Resources.** The proposed use shall not adversely impact identified historic resources prior to the assessment of that resource by the borough or state. Uses located within the significant structures area must comply with the specific approval standards of this chapter. See also HBC 18.60.020 (G) and HBC 18.70.050, Historic Building Districts.
- S. **National Flood Plain Regulations.** All permits shall be reviewed for compliance with HBC 18.120, Flood Plain Regulations.
- T. **Hazard Areas.** Development which is not designed and engineered to mitigate the risk of loss of life or property is prohibited in the following hazard areas: (1) The one percent floodway of all rivers and streams; (2) Avalanche outfall areas; (3) Within 500 feet of a major fault; (4) Slopes greater than 30 percent; (5) Within 300 feet of a wildfire chute; (6) Rock and mudslide areas.
- U. **Waterfront.** The following requirements apply in all waterfront zones:
 - (1) For residential use, setbacks shall be the same as those required in the residential zone. All other uses shall be required to set back 10 feet from lot lines adjacent to every street and alley and five feet from all other lot lines; (2) Public access to the waters of Portage Cove is required to be included in all permits for development on land adjacent to Portage Cove.

SPECIAL APPROVAL CRITERIA MAY APPLY

See HBC 18.60.020 for more information.



OPERATIONS PLAN

Lutak Road Property

Conditional Use Permit Application

Prepared for:

Haines Borough
103 Third Ave. S
PO Box 1209
Haines, AK

August 2023

I. SITE DESCRIPTION

The proposed project consists of a total of approximately 27 acres of land located 4 miles North of downtown Haines along Lutak Road. Site Maps can be found in Appendix A.

Site A, totaling 5.2 acres, is entirely located on the uplands side of Lutak road and consists of parcels C-LTR-04-0090, C-LTR-04-0700, and C-LTR-04-0010. Site B, totaling 21 acres, is located on the uplands and lowlands side, divided by Lutak Road and consists of parcels C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, and C-LTR-04-0800. The proposed parcels are in ownership of Glacier Construction dba. Southeast Road Builders.

II. SITE FEATURES & ZONING

The proposed parcels are zoned Waterfront Industrial Use. Site A is comprised of undeveloped parcels made up of dense Spruce Forest. Adjacent parcels are vacant lots owned by the State of Alaska, zoned Waterfront Industrial, and Heavy Industrial Use. Site B is comprised of a developed pit site and provides existing access to the Lutak Inlet via boat ramp. Adjacent parcels consist of a timber mill site owned by Chilkoot Lumber Company to the West and vacant State of Alaska land, all zoned Waterfront Industrial Use.

The proposed development is in alignment with the use of adjoining properties. The site is located near the Alaska Marine Lines dock, timber mill site, and ferry terminal which is a heavy industrial use area. There is existing truck traffic to and from the AML yard and to the stockpile site located on Site B.

III. EXISTING PERMITTING & USE

The existing sites are currently being developed under Site Development Permits #23-33 and #23-42, issued on May 23rd, 2023, and Land Use Permit #23-71, issued on August 14, 2023. Existing permitted development consists of clearing, grubbing, and grading of the sites. Permitted activity on Site B also consists of bulk material storage and aggregate transloading.

The existing sites are permitted with a ADEC MSGP SWPPP Permit # AKR06AB42.

Initial site development, including clearing, grubbing, and grading of the site began on Site B in June 2023 and is nearly complete. Clearing, grubbing, and grading of Site A is anticipated to begin in Fall 2023. Southeast Roadbuilders began using Site B for bulk material storage and aggregate transloading in August 2023. The proposed resource extraction is anticipated to begin in Fall 2023, or as soon as all applicable permits are approved. These sites are potential future sources of materials for local improvement projects beginning in Spring of 2024, therefore timing of development is critical.

IV. PROPOSED USE

Southeast Road Builders is proposing to use the referenced parcels as a material source and is pursuing a conditional use permit with the Haines Borough to perform resource extraction.

Initial exploration of Site B reveals that the soil primarily consists of coarse grained gravel and sand. Proposed use includes mobilization of a wash plant and crusher unit to process material onsite, reducing truck traffic from the site to the existing processing facilities at 4.5 Mile Haines Highway. A staging area on the North side of Lutak Road has been developed to stockpile and process materials. This area will be used to stage equipment, process, and stockpile materials. The area to the South of Lutak Road has been cleared, grubbed, and scaled to provide access. Southeast Road Builders is proposing to extract material from this site for use on local State and Borough projects.

Initial site investigation of Site A reveals bedrock to be present below the surface proposing a potential source for rock excavation. Southeast Road Builders is proposing to use this site as a rock source for local improvement projects to provide fill and riprap materials. Rock excavation activities may include drilling, blasting, and crushing operations onsite.

V. SITE CONDITIONS

A. ACCESS. The parcels that make up Site B are currently accessible via existing access points from previous landowners. Site A has no current access from Lutak Road. Legal access to these parcels is being developed in coordination with the Alaska Department of Transportation (AKDOT&PF). Coordination with the AKDOT&PF will be ongoing throughout the duration of development to ensure compliance with all permits and guidelines. The number of access points will be limited to ensure safety of the travelling public and ensure adequate sight distance for trucks to navigate the roadway. Access will be limited to the public to ensure public safety. Adequate access for fire and emergency vehicles will be maintained at all times.

B. TRAFFIC. Use of these sites will limit truck traffic from Southeast Road Builders current material source at 4.5-mile Haines Highway to the proposed site. This will significantly limit truck traffic through the Haines townsite. The safety of the public and impact on the existing two-lane paved roadway has not been significantly effected by the truck traffic from adjacent operations or material stockpiling operations that have previously taken place. Trucking operations are not anticipated to significantly differ from existing use.

C. MAINTENANCE. Southeast Road Builders proposes to use street sweepers and water trucks to control and limit dust or debris that may impact public health and safety. The site will have seasonal use limiting any impact for snow removal or winter conditions.

D. LIGHTING & UTILITIES. No permanent lighting is proposed for this development. There are no existing public sanitary sewer or water services onsite. Water will be provided by water truck from a source approved by the ADEC.

E. DRAINAGE. Stormwater control is in compliance with the current ADEC MSGP Permit. The site will be graded to control runoff and prevent sediment from leaving the site. The proposed use includes the installation of culverts to provide adequate drainage through the site and maintain existing drainage ditches. A SWPPP will be maintained throughout the duration of the project. There are no state-identified anadromous streams located on the site.

F. HAZARD AREAS. Proposed work within the one percent floodway includes the installation of culvert pipes to improve the drainage onsite and mitigate the risk of impact on streams and drainage facilities. This will allow for the control of runoff and prevent washouts from any severe weather. Southeast Road Builders is working in cooperation with the

Department of Fish and Game to ensure the protection of fish habitat throughout the duration of development. The DF&G has surveyed the existing streams onsite and has identified them as non-anadromous streams.

The proposed development is within areas that contain steep slopes greater than 30 percent. Once the site development is complete, the area will be stabilized in accordance with the ADEC SWPPP. To mitigate the risk of slope failures, rock benches will be created, and overburden will be sloped back at a 2:1 slope and stabilized with vegetation or rock.

G. NOISE. A natural buffer of 25' will be maintained between the proposed development and the adjacent roadway and properties. The proposed development is in alignment with adjacent property use. The nearest residential dwelling is approximately a mile from the site. Any blasting operations will be completed during the regular hours of operation. Adequate notice of drilling and blasting operations will be given to the public, FAA, and nearby landowners.

VI. METHODS

The proposed hours of operation for the site will be from 6:00 AM to 6:00 PM. Materials transloading activities may differ outside of normal hours of operation but will not impact residents as all work will be done onsite.

No hazardous material or fuel will be stored onsite. Southeast Road Builders has a service oiler that will mobilize to the site to fuel and grease equipment as needed.

No explosives will be stored onsite, except when they are immediately necessary for blasting operations.

VII. RECLAMATION PLAN

Throughout the duration of construction, the site will be reclaimed as necessary. Exposed rock faces will be benched with standard 30'-40' lifts. Floors will be graded to promote adequate drainage. Final slopes will be seeded, or rock lined for final stabilization as needed.

A final reclamation plan will be developed as the project progresses.

VIII. COMPREHENSIVE PLAN

The proposed development is in alignment with the following goals that the Borough has outlined in the current Comprehensive Plan:

A. Goal 3. Achieve a strong, diversified local economy that provides employment and income for all citizens that desire to work while protecting the health of the environment and quality of life. Build on local assets and competitive advantages to create economic opportunity.

There is currently no active rock source to provide riprap material for local improvement projects. Development of this site would provide the opportunity to build on local resources and reduce the need to depend on outside sources for material. The site is currently being used to stockpile material for use at the Greens Creek mine and future use could allow for the extraction and use of this material for the Greens Creek mine and local State and Borough projects. The proposed development would also provide additional employment opportunities for local residents and workers.

B. Goal 4. Provide a safe, convenient, reliable, and connected transportation network to move goods and people to, from, and within Haines Borough. Aggressively maintain road, port, and harbor facilities to maximize public investment, enhance public safety and access, and provide economic opportunity.

The proposed use would allow for increased transfer of goods and resources in and out of Haines. The location of the site is optimal for stockpiling of material for transshipment and is located in the vicinity of future proposed local development projects that would benefit from its use by reducing costs and limiting truck traffic through the townsite.

C. Goal 5. Guide infrastructure and land development to provide an adequate supply of land for commercial and industrial development, varies residential living, and diverse recreational opportunities.

The development of this site could facilitate future use for transportation of goods and resources in and out of Haines as well as provide a resource for material for improvement to local projects such as the Lutak Dock Replacement project and roadway improvements along Lutak Road. There are no nearby sources of material adequate to provide for the resources that these projects require.

D. Goal 10. Support responsible development of renewable and non-renewable resources within Haines Borough.

The proposed development is in compliance with environmental regulations and contains no anadromous streams onsite, mitigating the impact to fishery habitat. Development of this non-renewable resource would create economic opportunity to extract resources in an area that would otherwise rely on outside sources.

SITE A - PARCELS
C-LTR-04-0090
C-LTR-04-0700
C-LTR-04-0010

SITE PLAN

Haines Ferry Terminal



C-LTR-04-0090
Lot 9, Section 10
T30S, R59E, CRM

Lutak Rd.

C-LTR-04-0700
SW1/4, SE1/4, SE1/4, SW1/4
T30S, R59E, CRM

C-LTR-04-0010
Lot 10, Section 10
T30S, R59E, CRM

100 ft

ArcGIS Web Map



SITE A - PARCELS
C-LTR-04-0090
C-LTR-04-0700
C-LTR-04-0010

PROJECT LIMITS

8/22/2023, 8:22:18 AM

- Contours - contour25ts
- Parcels

1:4,514
0 0.02 0.04 0.07 mi
0 0.03 0.06 0.12 km
Maxar

SITE A - PARCELS
C-LTR-04-0090
C-LTR-04-0700
C-LTR-04-0010

PROPOSED ACCESS ROAD

MIN. 25' BUFFER

AREA TO BE
CLEARED/GRUBBED THIS FALL
PROPOSED FOR RESOURCE
EXTRACTION

500 ft

Haines Ferry Terminal

Lutak Rd Lutak Rd

Lutak Rd

Lutak Rd

Lutak Rd

SITE B - PARCELS
C-LTR-04-0010
C-LTR-04-2940
C-LTR-04-0900
C-LTR-04-0800

SITE PLAN



(C-LTR-04-0900)

C-LTR-04-0800
Parcel 1
Lot 3, Sec 10

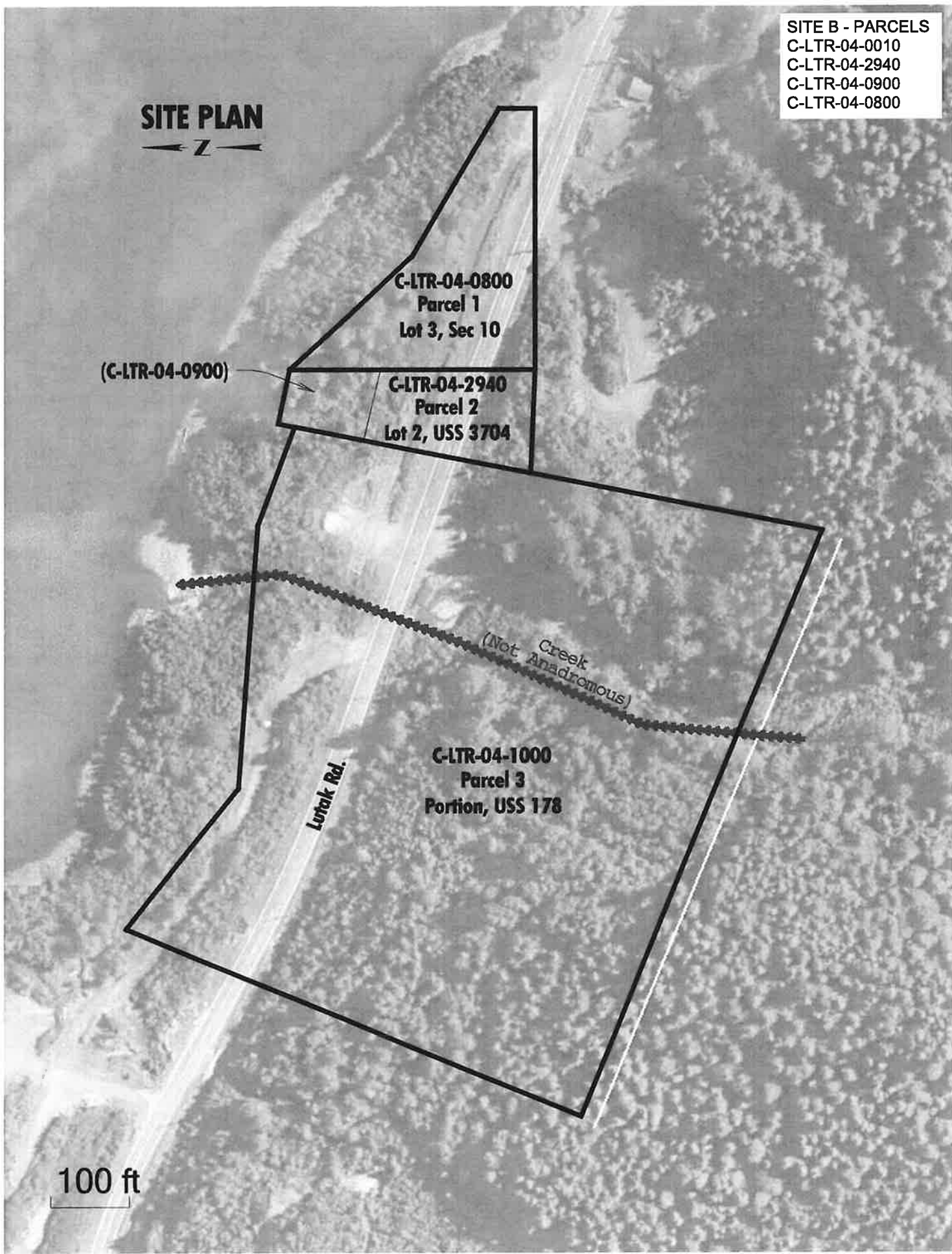
C-LTR-04-2940
Parcel 2
Lot 2, USS 3704

C-LTR-04-1000
Parcel 3
Portion, USS 178

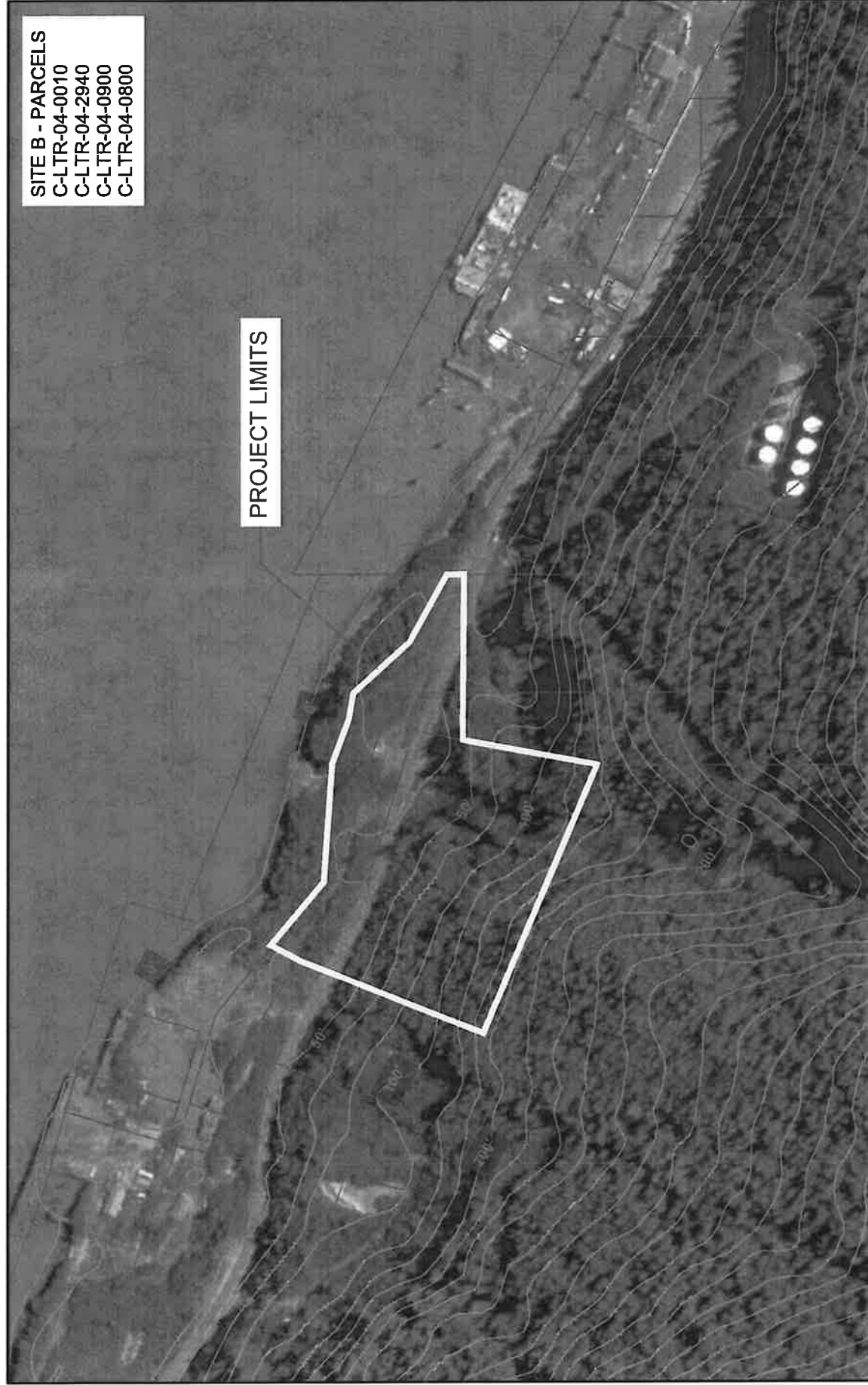
Lutvik Rd.

Creek
(Not Anadromous)

100 ft



ArcGIS Web Map



SITE B - PARCELS
C-LTR-04-0010
C-LTR-04-2940
C-LTR-04-0900
C-LTR-04-0800

PROJECT LIMITS

8/2/2023, 7:16:17 AM

Contours - contour25'ts

Parcels

1:9,028
0 0.04 0.07 0.15 mi
0 0.05 0.1 0.2 km

Maxar

SITE B - PARCELS
C-LTR-04-0010
C-LTR-04-2940
C-LTR-04-0900
C-LTR-04-0800

PROPOSED
CULVERT
INSTALLATION

PROPOSED
CULVERT
INSTALLATION

EXISTING ACCESS
POINTS TO BE
MAINTAINED

AREA CURRENTLY USED
FOR BULK MATERIAL
STORAGE; PROPOSED
STORAGE/STAGING AREA

AREA PREVIOUSLY
CLEARED/GRUBBED
PROPOSED FOR
RESOURCE EXTRACTION

November 1, 2023

To: Haines Borough Assembly

From: Ann Myren and Tim McDonough

Re: Appeal to Planning Commission Decision on Conditional Use Permit (CUP) 23-87

Dear Haines Borough Assembly Members,

We are filing an appeal to reconsider CUP 23-87 passed by the Planning Commission (PC) on 10/23/23. We have been residents of the Lutak area since 1984 and regularly use the Lutak Road to go to and from Haines.

We are filing within the 10-day requirement stipulated under HBC 18.30.060. The CUP application and its review by staff and the PC were deficient in numerous aspects, including violations of the General Use Criteria [HBC 18.60.010] as well as criteria specific to the approval of Conditional Use Permits [HBC 18.50.040]. These deficiencies should have resulted in a rejection of the application by Borough staff prior to its referral to the PC, and a denial by the PC after it was brought to them for review.

Specific deficiencies:

1. HBC 18.60.010 General Use Criteria states in part:

...a conditional use permit...may be granted if all of the following general approval criteria and applicable specific approval criteria of HBC 18.60.020 are complied with...the burden of proof is on the developer to show that the proposed use meets these criteria...no use will be approved that will materially endanger the public health or safety or decrease the value of property in the neighboring area...

Sites A and B in the CUP are immediately adjacent to areas designated as a “Natural Hazard” in the 2007 Haines Coastal Zone Management Plan [Pg. 5-9], with the same slope contours.

“The areas mapped on Figure 5 in the Haines coastal district are designated as Natural Hazard areas (in accordance with 11 AAC 112.210(a) and 11 AAC 114.250(b))...Lutak Highway Hazardous Slopes Area. This is the area of cliffs and very steep slopes greater than 30% along the east side of Mt. Ripinski, and immediately upland of the Lutak Highway from the coastal management program boundary to extend north of the AMHS terminal. This area shall be managed to prevent erosion and subsequent avalanching by protecting the natural trees and vegetation on the steep slopes...”

The CUP application acknowledges that the site contains steep slopes with a grade of greater than 30%, which is defined as a Hazard Area according to HBC 18.60.010 (T) (see below). Removing the trees and other vegetation from CUP Site A, blasting with explosives, and excavating significant quantities of the exposed rock wall has the potential to trigger landslides and avalanches that could reach Lutak Road and endanger the health and safety of the community. The applicant’s argument that blasting and excavation might make the area safer from landslides and avalanches was unsupported by any technical analyses from credible sources specific to this area. Citing anecdotes from other areas in S.E Alaska that may have very different geologic conditions should have been insufficient “proof” to the PC. One PC member raised the issue of potential instability for the hillside above the planned excavation site but was dismissed by the rest of the body, even after the applicant responded

that the area in question above their planned excavation was beyond their control. The PC ignored a suggestion from a member of the public who advocated for a delay in the decision while the State completes a new publication on slope stability for the Lutak area.

The highway is used on a regular basis by locals driving to and from town, visitors arriving and departing on the ferry, and many pedestrians and bicyclists (both locals and tour excursions.) Many municipalities, ski resorts, etc., routinely use explosives to *purposefully* trigger avalanches; allowing the use of explosives on a hillside adjacent to a high-traffic area known to have landslide potential presents an unnecessary risk to the general public.

The following subsections of the Borough's General Use Criteria are also relevant:

- a. *Criteria B. Reviewing Parties. Due deference has been given to the comments and recommendations of reviewing parties.*

The zoom link to the PC meeting was non-functional, denying members of the public the opportunity to participate and have their concerns addressed.

- b. *Criteria E. Traffic. The proposed use shall not overload the existing street system with traffic or result in unsafe streets or dangers to pedestrians.*

The applicant did not provide accurate estimates of truck traffic, however, it was noted that they currently fill 3-4 barges /year with aggregate for export and that level of activity could increase if they secure more contracts. Trucks would be crossing the road (as opposed to driving down the road,) and could present a much higher danger to other users of the highway, especially given the proximity to the ferry terminal and the use of Lutak Road by residents, visitors, and tour operators. While the PC added a condition that would prohibit blasting two hours before the ferry arrives and two hours after a ferry departs, no condition was established regarding the truck traffic that would be crossing the road as a result of the blasting.

- c. *Criteria M. Peak Use. The proposed use shall not result in significantly different peak use characteristics than surrounding uses or other uses allowed in the zone.*

Blasting/excavation activities would significantly change the peak use characteristics for other uses such as commuting traffic and the operation of bike and bus tours.

- d. *Criteria N. Off-Site Impacts. The proposed use shall not have significant negative impacts on the surrounding properties including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter...or become a nuisance as defined in HBC 8.12.020...*

The blasting and excavation will create significant levels of noise, dust, fumes, odors, vibration, etc., and nuisance is defined in Code as: (B) to annoy, injure or endanger the safety, health, comfort, or repose of the public; and (C) to interfere with, obstruct, or render dangerous any street, highway, sidewalk, right-of-way, navigable lake, or stream.

- e. *Criteria T. Hazard Areas. Development which is not designed and engineered to mitigate the risk of loss of life or property is prohibited in the following hazard areas: ...4. Slopes greater than 30 percent...6. Rock and mudslide areas...*

Sites in the CUP qualify as "hazard areas" because the slope is greater than 30% and there have been numerous landslides and rockslides in past years (See Chilkat Valley News article 3/10/2016.) Between October

27th and October 29th of this year there were 39 reported earthquakes centered less than 40 miles from Haines with two measuring over 5.0 on the Richter scale - seismic events and blasting activities coupled to major rain or snow events in a steep slope area could lead to significantly increased risks to the public.

2. Approval criteria specific to the issuance of a CUP [HBC 18.50.040] were insufficiently supported. The sites listed in the CUP are within the Townsite Service Area and zoned Waterfront Industrial, which allows for natural resource *export* but not resource *extraction* as a use by right, unlike Heavy Industrial. Therefore a CUP is required and the following criteria must be met:

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

The use cannot be located on this site such that undue noise, nuisances (described above) and other dangers are avoided.

b. *Criterion #5: The granting of the conditional use will not be harmful to the public safety, health or welfare...*

See discussion under General Use Criteria above re: endangering public health and safety.

c. *Criteria #8: Comments received from property owners impacted by the proposed development have been considered and given their due weight...*

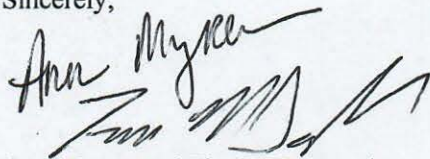
See response under General Use *Criteria B* above.

Final remarks:

Borough Code requires the applicant to demonstrate by a preponderance of the evidence that their application for a CUP should be granted. The absence of a professional evaluation of the dangers to public safety and welfare from the proposed blasting and excavation in a landslide-prone area, coupled to the prohibition against creating a nuisance to the general public should raise a red flag for the Borough. With or without a catastrophic event, the increased traffic, noise, dust, and danger will compromise other uses of the road and any injury, death, or financial impact that might result from this Borough-approved development could lead to significant legal and financial liability.

We respectfully request the Borough Assembly schedule a hearing on the PC decision at its next meeting.

Sincerely,



Ann Myren and Tim McDonough
Box 951
Haines AK 99827

11/7/23

To: Haines Borough Assembly and Mayor Morphet
From: Gershon Cohen
Re: Request for Hearing to Appeal CUP 23-87

Dear Haines Borough Assembly Members and Mayor Morphet,

Please grant this request for a hearing to review the Planning Commission's decision of October 23rd on CUP 23-87. Technical and procedural shortcomings should have precluded the CUP 23-87 application from being reviewed, let alone approved for the following reasons (this list is not exhaustive):

1. The review of blasting/excavating a 30% slope "hazard area" (HBC 18.60.010 (T)) without a site-specific engineering design didn't adequately address public safety and welfare concerns (HBC 18.60.010), and
2. The impacts on peak use, traffic patterns and other off-site uses of the area by commuters, tour operators and cyclists were inadequately considered (HBC 18.60.010 (E), (M), (N)), and
3. A CUP should not be granted if it will create nuisance conditions (HBC 18.12.020 (B), (C)), and
4. Waterfront/Industrial zones should not allow resource extraction when the activity could compromise marine-related uses (HBC 18.70.030(A)(3)).

Based on the inadequate review and potential violation of these Code provisions and/or insufficient support from the applicant, a hearing on this permit is clearly justified. Furthermore, prompted by the specifics of this particular application/review, two fundamental questions for the Assembly and the Planning Commission also need to be addressed:

1. How elected officials should approach land use decisions in the Borough when there is a potential conflict between private gain and the common good, and
2. At what point in the review process should the Borough have a full description of a developers' intent, so permit decisions are based on a clear understanding of the downstream impacts from the activity?

The fact that we have planning and zoning rules and we can and do impose conditions on developments in the Borough demonstrates the right to make a profit does not automatically trump the needs and concerns of the greater community. Where the balance point might be in any specific case is up to you. The applicant of CUP 23-87 wants to make a profit through resource extraction and claims there could be an additional benefit by reducing the risk from future landslides, which is not only unproven by their submission, the opposite may in fact be true. They assert having a gravel-producing operation near the dock will reduce truck traffic through town from their Chilkat River facility, but we have no reason to assume they won't operate both facilities if it is in their best interest, since both will be permitted. These benefits to the applicant need to be weighed in terms of the common good, and our Code provides the standards to do so.

Last spring the applicant requested the minimal Site Development Permit to remove vegetation and grade the parcel. They didn't mention future use, and the Borough didn't ask. Aside from their unpermitted activities and the Borough's acceptance of a ridiculous value assessment that limited the amount of fines for violating Code, are we supposed to believe the developer didn't already plan on the property becoming a gravel pit?

Defining activities as minimally as possible at each step so that each individual step is hard to oppose is a strategy used to generate momentum towards an internal goal. This strategy is known as "permit creep," and Congress passed a law to address this problem over fifty years ago when federal permits are required. The National Environmental Policy Act (NEPA) requires the cumulative social, economic, and environmental

impacts of related activities of a project to be considered up front. The Borough should incorporate the NEPA principle into its permit review processes so elected officials and the broader community go into permitting decisions with eyes wide open.

The permitting of development activities can have significant consequences; it is your responsibility to adequately weigh these consequences in terms of the best interests of the community as a whole.

Thank you for considering this request.

Gershon Cohen
Box 956
Haines, Alaska 99827

Appeal of Conditional Use Permit #23-87 Resource Extraction - Glacier Construction Inc. dba Southeast Road Builders - Site A: C-LTR-04-0090, et al; Site B: C-LTR-04-1000, et al - Waterfront Industrial Zone

18.60.010 - D. Access - Primary and fundamental grounds for appeal to deny: “Access: All lots on which development is planned are **required to have legal road access before an application for a development may be considered** and physical road access must be completed to borough standards before any work on the development is started.”

In **V A.** CUP 23-87 acknowledges that Site A has no road access and per applicant: “Legal access to these parcels is being development in coordination with the Alaska Department of Transportation (AKDOT&PF). Coordination with the AKDOT&PF will be ongoing throughout the duration of development to ensure compliance with all permits and guidelines....”

18.60.010 - T. Hazard Area - Secondary and fundamental grounds for appeal to deny: “Development which is not designed and engineered to mitigate the risk of loss of life or property is prohibited in the following hazard areas: 2. Avalanche outfall area; 4. Slopes greater than 30%; 6. Rock and mudslide areas. (For information regarding the location of the hazard areas, see the most recent version of the borough map entitled ‘Flood Plain and Flood Hazards Map.’)” Note: Map(s) for conditions 2. And 6. Are not referenced, yet should be required.

CUP 23-87 should not be granted or further considered until August 2024 or later when the Manager, Planner, and Planning Commission are able to consult the University of Alaska LiDAR Report subsequent to the December 2020 slide incident.

The borough has a responsibility to the public and by above referenced code to know if the report addresses possible slide conditions on the proposed section of uplands for CUP23-87 or any other proposed development along Lutak Road, and to consider decisions based on the LiDAR Report. There is no reference to the pending report or a statement that the LiDAR Report would not be relevant to CUP 23-87.

The added burden on borough staff and elected officials as well as significant public push back resulting from insufficient public relations and public information are highlighted by this now contested CUP.

The Borough states that there were **no comments received on CUP 23-87 prior to the October 6, 2023** Managers report - Although the people who drive Lutak Road to go to or from home; hike, bicycle or participate in tours to Chilkoot State Park are not residents within the prescribed 500 feet for notice, this heavy industrial resource extraction permit will impact far more people and businesses than the highly contested permit and drawn out hearings involving Southeast Road Builders blasting and transporting for resource extraction that impacted residents along Young Road several years back.

Respectfully submitted,

Carol Tuyenman

From: [Steve Virg-In](#)
To: [Alekka Fullerton](#)
Subject: Conditional Use Permit 23-87
Date: Friday, November 3, 2023 11:38:28 AM

EXTERNAL EMAIL: Do not open links or attachments unless you recognize the sender and know the content is safe.

To whom it may concern.

Sarah and I want to express our total support for the current conditional use permit issued for the Lutak Road gravel project.

As homeowners at the end of Lutak Road since 1988, We are thankful that development and use of idle land is underway for the benefit of businesses and the community of Haines.

We believe that any opposition to this permit is detrimental to the overall welfare of the community and oppose any changes or restrictions.

Respectfully,

*Steve and Sarah Virg-In
#777 10 Mile Lutak Road*

From: [Mandy Reigle](#)
To: [Alekka Fullerton](#)
Subject: CUP 23-87
Date: Friday, November 3, 2023 11:52:15 AM

EXTERNAL EMAIL: Do not open links or attachments unless you recognize the sender and know the content is safe.

Hi,

I'd like to see this issue revisited.

I don't think it is safe to disrupt this section of Lutak Rd.

The people of Lutak are submitting an appeal of this permit. I support this appeal. Please do not allow further destabilization of this area.

Thanks,

Mandy Reigle

--

Mandy Reigle

REALTOR serving Haines and Skagway, Alaska

907-465-7555

Coldwell Banker Race Realty

From: [Greg Folta](#)
To: [Alekka Fullerton](#)
Subject: Lutak conditional use permit
Date: Saturday, November 4, 2023 3:08:36 PM

EXTERNAL EMAIL: Do not open links or attachments unless you recognize the sender and know the content is safe.

Dear Ms. Fullerton,

I support revisiting the permitting of the recent dirt removal and clearing along Lutak Road would like to see the Assembly have a hearing about the Lutak CUP.

As a homeowner for 53 years at Lutak, it is concerning for me that this project continues without further discussion.

Thank you for considering our request.

Richard Folta

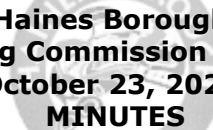
Julie Folta

Greg Folta

From: [Richard Buck](#)
To: [Alekka Fullerton](#)
Subject: Letter
Date: Monday, November 6, 2023 1:18:16 PM

EXTERNAL EMAIL: Do not open links or attachments unless you recognize the sender and know the content is safe.

Anne Myron wrote a letter concerning the planning commission granting permission for SE Roadbuilders to excavate an area close to the ferry terminal on Lutak Road. I agree with her concerns and wish that the commission would agree to revisit the decision. Richard Buck


Haines Borough
Planning Commission Meeting
October 23, 2023
MINUTES

Draft

- 1. CALL TO ORDER/PLEDGE TO THE FLAG/ROLL CALL:** Chair **Ferrin** called the meeting to order at 6:30 pm in the assembly chambers and on zoom, and led the pledge to the flag.

Present: Zack **Ferrin**/Chair, Diana **Lapham**/Vice Chair, Don **Turner Jr.**, Justin **Mitman**, Richard **Clement**, Travis **Eckhoff**, and Scott **Hansen**.

Staff Present: Annette **Kreitzer**/Borough Manager, Kiersten **Long**/Deputy Clerk, Alekka **Fullerton**/Clerk, Douglas **Olerud**/Mayor, and Andrew **Conrad**/Planner.

Visitors Present: TJ **Mason** with Southeast Road Builders, Gerson **Cohen**, Riley **Hall**, Patty **Brown**, Andy **Hedden**, Rachel **Saitzyk**, Derek **Poinsette**, Tom **Morphet**, and others.

- 2. APPROVAL OF AGENDA & CONSENT AGENDA:** The following Items were on the published consent agenda indicated by an asterisk (*)
3 – Approve Minutes from 8-10-23 Regular Planning Commission Meeting

Motion: LAPHAM moved to “approve the agenda and the consent agenda” and the motion carried unanimously.

***3. APPROVAL OF MINUTES:**

Note: The Minutes were approved by approval of the consent agenda: “Approve minutes from 8-10-23 Regular Planning Commission Meeting.”

4. PUBLIC COMMENTS:

Brown – Thank you to the outgoing commissioners

5. CHAIRMAN'S REPORT: None

6. ASSEMBLY LIAISON REPORT: None

7. SUBCOMMITTEE REPORTS: None

8. COMMISSION COMMENTS:

Turner – Response to a written public comment received

9. STAFF REPORT: Conrad

10. PUBLIC HEARINGS:

- A. Conditional Use Permit 23-88 Medium Commercial in a Heavy Industrial Zone – Andy Hedden – C-WES-0A-0200 – Heavy Industrial Zone.**

Ferrin and Mitman disclosed they were members of the Ugly’s but have no financial interest.

Commissioners discussed HBC 18.50.040(A) 1-8 Conditional Use Criteria for CUP 23-59

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

After discussion, the commission unanimously adopted the Manager’s recommendation for criteria #1 since the proposed use is consistent with the zoning and the adjoining property uses.

2) The development of the use is such that the value of the adjoining property will not be significantly impaired;

After discussion, the commission unanimously adopted the Manager’s recommendation for criteria #2 since there is no change in use of the area since it is zoned heavy industrial.

**10A Conditional Use Permit 23-88 Medium Commercial in a Heavy Industrial Zone –
Andy Hedden – C-WES-0A-0200 – Heavy Industrial Zone (continued)**

Discussion of HBC 18.50.040(A) 1-8 Conditional Use Criteria for CUP 23-88- *Continued*

3) The size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use;

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #3 since the proposed use will not significantly increase public services.

4) The specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses;

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #4 since the use is consistent with the zoning and the applicant is a tour operator which is consistent with comp plan section 5.8.5 Tourism.

5) The granting of the conditional use will not be harmful to the public safety, health or welfare;

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #5 since the use will not harm public safety, health or welfare.

6) The use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state – identified anadromous streams;

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #6 since there will be no additional erosion, applicant stated they are not using chemicals.

7) The use will comply with all required condition and specifications if located where proposed and developed, and operated according to the plan as submitted and approved.

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #7.

8) Comments received from property owners impacted by the proposed development have been considered and given their due weight;

After discussion, the commission unanimously adopted the Manager's recommendation for criteria #8 since there were no comments received from the public.

Motion: LAPHAM moved to "approve conditional use permit 23-88 Medium Commercial activity in a Heavy Industrial Zone with the borough's recommendations attached" and the motion carried unanimously.

**B. Conditional Use Permit 23-87 Resource Extraction – Glacier Construction Inc.
dba Southeast Road Builders –**

Site A: C-LTR-04-00900, C-LTR-04-0700, C-LTR-04-0010

Site B: C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, C-LTR-04-0800

Presentation by TJ Mason from Southeast Road Builders.

Public Comments:

Cohen – believes that the permit must be denied since there are several sites that have different functions; could have significant impact on public safety and welfare.

**B. Conditional Use Permit 23-87 Resource Extraction – Glacier Construction Inc.
dba Southeast Road Builders –**

Site A: C-LTR-04-00900, C-LTR-04-0700, C-LTR-04-0010

Site B: C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, C-LTR-04-0800 – Continued

Public Comments- *Continued*

Saitzyk – Concerned about failed area from 2020 storm event – we need more data about the area; wondering about mitigation regarding reclamation. Manager’s report was thoughtful and thorough.

Brown – Industrial use in an industrial zone. Concerned about stability of slope, local need for rock, restrictions on public use during blasting- two sites so should be two permits.

Morphet – giant boulder came off that slope about 7 years ago.

Planner – no restriction on permits being limited to one parcel.

Commissioner discussed HBC 18.50.040(A) 1-8 Conditional Use Criteria for CUP 23-87

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

After discussion, the commission adopted the Manager’s recommendation for criteria #1 since this is a heavy industrial area so the use is consistent, development of the site may improve the rock fall hazards that occur right now. By blasting down to bed rock and the cuts move back away from the road the safer it will be. Truck traffic from 4.5 mile to the site is a use by right.

2) The development of the use is such that the value of the adjoining property will not be significantly impaired;

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #2 since the adjoining properties have similar uses it will not impair the value.

3) The size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use;

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #3 since there are no borough utilities.

4) The specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses;

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #4 since the use is harmonious with the surrounding land uses and is consistent with the comprehensive plan section 7.2.1 and 7.3.5.

5) The granting of the conditional use will not be harmful to the public safety, health or welfare;

After discussion, the commission agreed with the Manager’s recommendation for criteria #5 since the blasting concerns are covered by OCHS and ATF. Traffic will be about the same since the source is so close to the shipping area, and blasting the mountain should improve public safety and welfare.

**B. Conditional Use Permit 23-87 Resource Extraction – Glacier Construction Inc.
dba Southeast Road Builders –**

Site A: C-LTR-04-00900, C-LTR-04-0700, C-LTR-04-0010

Site B: C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, C-LTR-04-0800 – Continued

Discussion of HBC 18.50.040(A) 1-8 Conditional Use Criteria for CUP 23-59- Continued

6) The use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state – identified anadromous streams;

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #6 since the applicant provides erosion protection with the state and federal permits. Site A has no problem with runoff, and the more site B gets pushed back the safer it will be.

7) The use will comply with all required condition and specifications if located where proposed and developed, and operated according to the plan as submitted and approved.

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #7 since the development is achievable with the existing plan.

8) Comments received from property owners impacted by the proposed development have been considered and given their due weight;

After discussion, the commission unanimously agreed with the Manager’s recommendation for criteria #8 all public comments have been considered and answers have been provided by the

Planner corrected a clerical error in the manager’s recommendation re general approval criteria D paragraph 3 in the recommendation should indicate site A not site B.

Motion: LAPHAM moved to “approve conditional use permit #23-87 Resource Extraction with the following conditions:

- a) The applicant needs to coordinate (align) with the Alaska Marine Highway System for blasting within 2 hours of ferry arrival/departure;
- b) The applicant shall provide a copy of all plans and SWPPP (Storm Water Pollution Prevention Plan) to the Borough before implementation of the project;
- c) Adopt Borough recommendations 1-7

Primary Amendment: Turner moved to “amend the permit time to 5 years” and the motion carried unanimously.

Primary Amendment: Eckhoff moved to “Amend recommendation #2 – to submit a reclamation plan developed and sealed by a professional engineer,” and the motion carried 6-1 with **Mitman** opposed.

and the motion, as amended, carried 6-1 with **Mitman** opposed.

10C. Resolution 23-09-1064

A Resolution of the Haines Borough Assembly placing a Moratorium on New Heliports Located within 10 miles of an Existing Heliport in the Haines Borough.

Public Comment: **Hall** spoke regarding this agenda item. Maybe criteria should not be distance from each other but distance from homes.

Motion: **Lapham** moved to "Support Resolution 23-09-1064 and the conversation which followed" and the motion carried 6-1 with **Clement** opposed

11. UNFINISHED BUSINESS: None

12. NEW BUSINESS: None

13. PUBLIC COMMENTS:

Poinsette, Saitzyk, Olerud all thanked the planning commission for their service.

14. ANNOUNCEMENTS / COMMISSION COMMENTS:

Goodbye comments: **Mitman, Lapham, Turner, Clement, Hansen, Eckhoff, Ferrin**

15. CORRESPONDENCE: None

16. SET MEETING DATE: 11/9/23 at 6:30 in the Assembly Chambers and on Zoom

17. ADJOURNMENT: 8:43 p.m.

ATTEST:

Alekka Fullerton, MMC, Borough Clerk



Haines Borough

10B

Planning and Zoning

103 Third Ave. S., Haines, Alaska, 99827. Box 1209

(907) 766-6401 * Fax: (907) 766-2716

APPLICATION FOR CONDITIONAL USE PERMIT

Permit#: 23-87

Date: _____

Use this form for approval by the Planning Commission. **\$150 non-refundable application fee**

I. Property Owner/Agent		Owner's Contractor(If Any)	
Name: Glacier Construction Inc. dba Southeast Road Builders		Name:	
Mailing Address: HC 60 Box 4800, Haines Hwy Haines, AK 99827		Haines Borough Business License #:	
Contact Phone: (907) 766-2833		Alaska Business License #:	
Fax: (907) 766-2832 rschnabel@colaska.com		Contractor's License #:	
E-mail: dlaframboise@colaska.com		Mailing Address:	
		Contact Phone:	
		Fax:	
		E-mail:	
II. Property Information			
Size of Property: Approx. 27 Acres total; Site A = 5.2 Acres, Site B = 21 Acres			
Property Tax #: SITE A: C-LTR-04-0090, C-LTR-04-0700, and C-LTR-04-0010 SITE B: C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, and C-LTR-04-0800			
Street Address: See attached Site Maps; Approx. MP 4 Lutak Road			
Legal Description: Lot (s) _____ Block _____ Subdivision _____			
OR			
Parcel/Tract _____ Section _____ Township _____ Range _____			
[Attach additional page if necessary.] See attached Site Maps			
Zoning: <input type="checkbox"/> Waterfront <input type="checkbox"/> Single Residential <input type="checkbox"/> Rural Residential <input type="checkbox"/> Significant Structures Area <input type="checkbox"/> Rural Mixed Use <input type="checkbox"/> Multiple Residential <input type="checkbox"/> Heavy Industrial <input checked="" type="checkbox"/> Waterfront Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial Light Commercial <input type="checkbox"/> Recreational <input type="checkbox"/> Mud Bay Zoning District <input type="checkbox"/> Lutak Zoning District <input type="checkbox"/> General Use			
III. Description of Work			
Type of Application (Check all that apply) <input type="checkbox"/> Residential <input type="checkbox"/> Commercial _____ sq. ft. _____ seating capacity if eating/drinking establishment <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Church <input type="checkbox"/> Other _____	Project Description (Check all that apply) <input type="checkbox"/> Single Family Dwelling <input type="checkbox"/> Change of Use <input type="checkbox"/> Multi-Family Dwelling Total # of Units _____ <input type="checkbox"/> Cabin <input type="checkbox"/> Addition <input type="checkbox"/> Accessory Structure <input checked="" type="checkbox"/> Other <u>Resource Extraction</u> _____	Water Supply Existing or Proposed <input checked="" type="checkbox"/> None <input type="checkbox"/> Community well <input type="checkbox"/> Private well <input type="checkbox"/> Borough Water System <input type="checkbox"/> Other _____	Sewage Disposal Existing or Proposed <input checked="" type="checkbox"/> None <input type="checkbox"/> Septic Tank <input type="checkbox"/> Holding Tank <input type="checkbox"/> Borough Sewer System <input type="checkbox"/> Pit Privy <input type="checkbox"/> Other _____

Per HBC 13.08.100 and 18.60.010, If a property on which a use is proposed is within 200 feet of an existing, adequate public water and/or sewer system, the developer shall be required to connect to the public systems. Failure to connect will result in a minor offense subject to penalties.

Valuation of Work: \$100,000

Current use of adjacent properties: See attached for more information; Zoned Waterfront Industrial Use, Vacant State Land, Inactive Timber Mill Site, Ferry Terminal, AML Dock, Fuel Terminal

Attach the following documents to the permit application:

Site plan (see Attachment A) showing lot lines, bearings and distances, buildings, setbacks, streets, etc.

PREAPPLICATION (Required)

Pre-application Conference Date: 8/10/2023

Prior to submission of an application, the developer shall meet with the manager for the purpose of discussing the site, the proposed development and the conditional use permit procedure. The manager shall discuss these matters with the developer with special attention to policies and approval criteria that may pose problems or constraints on the site or the proposed development activity and policies or approval criteria that may create opportunities for the developer.

APPLICATION

Please provide a written narrative explaining how your project will meet the following requirements. You may use the space provided on this form or attach your answers. A variance may only be granted if the Planning Commission finds that these six standards are met.

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

Describe what safeguards are being provided (i.e. setbacks or buffers) to meet the condition.

Referenced Sections:

Section V. Site Conditions, Paragraph D, G
Section VI. Methods

2. Explain how the development of the use is such that the value of the adjoining property will not be significantly impaired.

Referenced Sections:

Section II. Site Features & Zoning
Section V. Site Conditions, Paragraphs G

3. Explain how the size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use.

Referenced Sections:

Section V. Site Conditions, Paragraph B, C

4. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

Referenced Sections:

Section II. Site Features & Zoning
Section VIII. Comprehensive Plan

5. Explain how the granting of the conditional use will not be harmful to the public safety, health or welfare.

Referenced Sections:

Section V. Site Conditions, Paragraph A, B, F

6. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

Referenced Sections:

Section V. Site Conditions, Paragraph E, F
Section VII. Reclamation Plan

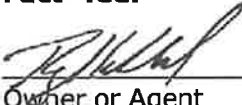
NOTICE

Per HBC 18.50.040, Comments received from property owners impacted by the proposed development will be considered and given their due weight. Additionally, the Planning Commission may impose one or more of the following conditions:

1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.
4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.
5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.
6. Commitment Letter. The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.
7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.
8. Design. The conditions may require the adoption of design standards specific to the use and site.

IV. CERTIFICATION

I hereby certify that I am the owner or duly authorized owner's agent, that I have read this application and that all information is correct. I further certify that I have read, understand and will comply with all of the provisions and permit requirements outlined hereon. I also certify that the site plan submitted is a complete and accurate plan showing any and all existing and proposed structures on the subject property and that the use will comply with all required conditions and specifications, will be located where proposed and when developed, will be operated according to the plan as submitted. All contract work on this project will be done by a contractor holding valid licenses issued by the State of Alaska and the Haines Borough. **I am aware that if I begin construction prior to receiving permit approval, I will be assessed a \$250.00 "After-the-Fact" fee.**

 Roger Schnabel, Area Manager
Owner or Agent

8/24/2023
Date

PROVISIONS: The applicant is advised that issuance of this permit will not relieve responsibility of the owner or owner's agents to comply with the provisions of all laws and ordinances, including federal, state and local jurisdictions, which regulate construction and performance of construction, or with any private deed restrictions.

Office Use Only Below This Line

Non-Refundable Application Fee \$ <u>150.00</u>		Information/Documentation			
Payment Method: <u>Credit Card</u>		Req'd	Rec'd		
Receipt #: <u>053247</u>		<input type="checkbox"/>	<input type="checkbox"/> State Fire Marshal		
Received By: <u>Tolson</u>		<input type="checkbox"/>	<input type="checkbox"/> State DEC		
Date: <u>8.23.2023</u>		<input type="checkbox"/>	<input type="checkbox"/> Variance/Conditional Use Permit		
		<input type="checkbox"/>	<input type="checkbox"/> Sign Permit		
Zoning	Bldg. Height	Lot Coverage %	Const. Type	Occupancy	# Stories
If Application is Complete: <input type="checkbox"/> Yes <input type="checkbox"/> No					
Notified Via: _____			Notified By: _____		
Date: _____					
If yes, Approved By: _____ Planning Commission Chairman			If no, Denied By: _____ Planning Commission Chairman		
Permit ID #: _____			Date: _____		
Permit Effective Date: _____			Reason: _____		
Approval Special Requirements: This application meets all applicable Borough policies and a permit is issued, conditional on the substantial completion of construction within two years and the following special requirements:					

Notice of Right to Appeal: All decisions of the Borough Officials are appealable per HBC 18.30.050

ATTACHMENT A

SITE PLAN REQUIREMENTS

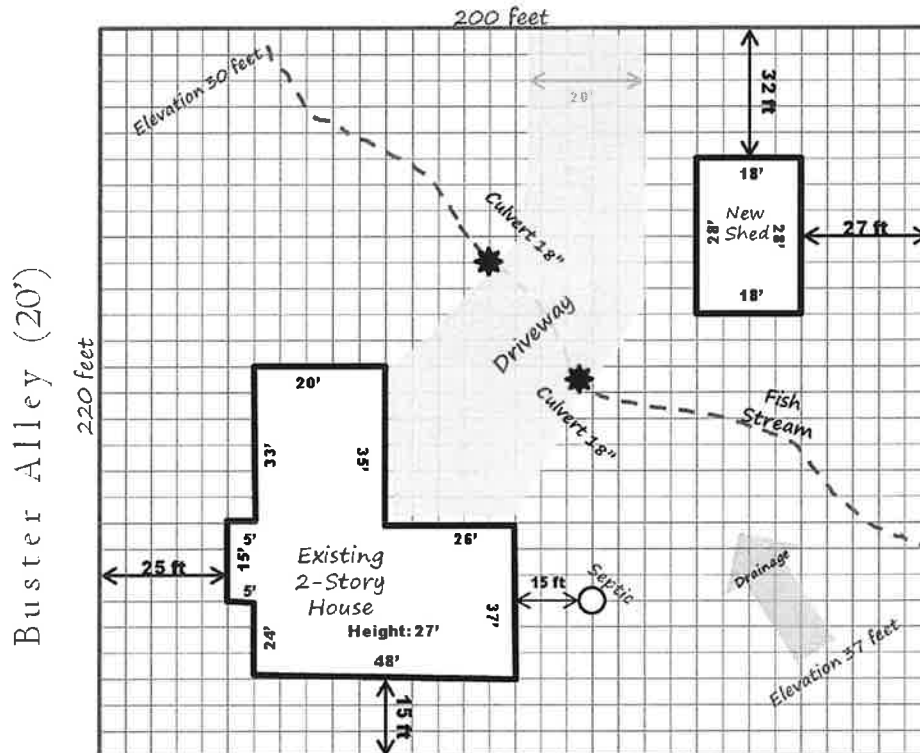
1. Drawing showing dimensions of all buildings, including elevations, of lot on which activity/use/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction—including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that an as-built survey be performed prior to submittal of the application.

EXAMPLE SITE PLAN

John Doe Property Tax ID X-XXX-XX-XXXX

Ripinsky Street (60')



APPROVAL CRITERIA

See HBC 18.60.010 for more information.

- A. **Plans.** The proposal is substantially consistent with the borough comprehensive plan and other applicable borough-adopted plans.
- B. **Reviewing Parties.** Due deference has been given to the comments and recommendations of reviewing parties.
- C. **Fire Safety and Emergency Access.** As determined by the State Fire Marshal or the borough fire chief.
- D. **Access.** All lots on which development is planned are required to have legal road access completed to borough standards.
- E. **Traffic.** The proposed use shall not overload the existing street system with traffic or result in unsafe streets or dangers to pedestrians.
- F. **Public Maintenance.** The proposed use shall not significantly increase the impact on the surrounding area from glaciation or drifting snow and shall not create significantly increased difficulty for snow removal or street maintenance.
- G. **Foundation.** All buildings intended for residential or commercial use shall be placed on a permanent foundation.
- H. **Parking.** See parking requirements in HBC 18.80.040.
- I. **Utilities.** If property on which a use is proposed is within 200 feet of an existing, adequate public water and/or sewer system, the developer shall be required to connect to the public systems. All regulations of the State Department of Environmental Conservation pertaining to water extraction and wastewater disposal, as well as the requirements of HBC 13.04.080(G) pertaining to on-site wastewater disposal, shall apply.
- J. **Drainage.** The applicant for a proposed use shall provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.
- K. **Walkways, Sidewalks and Bike Paths.** Easements for pedestrian access or bicycle paths may be required where shown by the borough to be necessary to provide reasonable circulation or access to streams, lakes, tidewater, schools, playgrounds, transportation facilities or other public facilities.
- L. **Construction Guarantees.** The borough may require the posting of a bond or other surety approved by the assembly to ensure that all required and necessary improvements are constructed as approved. The surety may provide for partial releases upon acceptance of the improvement by the borough.
- M. **Peak Use.** The peak use characteristics are the same as surrounding uses or other uses allowed in the zone.
- N. **Off-Site Impacts.** The proposed use shall not have significant negative impacts on the surrounding properties, including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises or be unsightly or become a nuisance as defined in HBC 8.12.020(I). Buffering may be required to alleviate impacts between residential and nonresidential uses. The owner of the property upon which the buffering is constructed is responsible for the maintenance of the buffering in a condition that will meet the intent of this criteria.
- O. **Habitat.** A reclamation or landscaping plan may be required as a condition of approval of any use within 100 feet of a state-identified anadromous stream. The purpose of the reclamation or landscaping plan includes the control of dust, soil erosion, water runoff and siltation which otherwise would be generated on the lot and affect the surrounding area.
- P. **Anadromous Fish Stream Setbacks.** All development along state-identified anadromous fish streams will be consistent with the Haines coastal zone management program. Unless approved by variance, no development shall occur within 25 feet of the banks of anadromous fish streams, designated as such by the Alaska Department of Fish and Game. Variances from this requirement may be granted by the commission based upon the unique conditions of individual properties, the proposed development, and the recommendations of a qualified fisheries biologist.
- Q. **Open Space and Facilities.** The developer may be required to dedicate land for open space, drainage, utilities, access, parks or playgrounds. Any dedication required by the commission must be based on a written finding that the area is necessary for public use or safety and the dedication is in compliance with adopted municipal plans and policies.
- R. **Historic Resources.** The proposed use shall not adversely impact identified historic resources prior to the assessment of that resource by the borough or state. Uses located within the significant structures area must comply with the specific approval standards of this chapter. See also HBC 18.60.020 (G) and HBC 18.70.050, Historic Building Districts.
- S. **National Flood Plain Regulations.** All permits shall be reviewed for compliance with HBC 18.120, Flood Plain Regulations.
- T. **Hazard Areas.** Development which is not designed and engineered to mitigate the risk of loss of life or property is prohibited in the following hazard areas: (1) The one percent floodway of all rivers and streams; (2) Avalanche outfall areas; (3) Within 500 feet of a major fault; (4) Slopes greater than 30 percent; (5) Within 300 feet of a wildfire chute; (6) Rock and mudslide areas.
- U. **Waterfront.** The following requirements apply in all waterfront zones:
 - (1) For residential use, setbacks shall be the same as those required in the residential zone. All other uses shall be required to set back 10 feet from lot lines adjacent to every street and alley and five feet from all other lot lines; (2) Public access to the waters of Portage Cove is required to be included in all permits for development on land adjacent to Portage Cove.

SPECIAL APPROVAL CRITERIA MAY APPLY

See HBC 18.60.020 for more information.



OPERATIONS PLAN

Lutak Road Property

Conditional Use Permit Application

Prepared for:

Haines Borough
103 Third Ave. S
PO Box 1209
Haines, AK

August 2023

I. SITE DESCRIPTION

The proposed project consists of a total of approximately 27 acres of land located 4 miles North of downtown Haines along Lutak Road. Site Maps can be found in Appendix A.

Site A, totaling 5.2 acres, is entirely located on the uplands side of Lutak road and consists of parcels C-LTR-04-0090, C-LTR-04-0700, and C-LTR-04-0010. Site B, totaling 21 acres, is located on the uplands and lowlands side, divided by Lutak Road and consists of parcels C-LTR-04-1000, C-LTR-04-2940, C-LTR-04-0900, and C-LTR-04-0800. The proposed parcels are in ownership of Glacier Construction dba. Southeast Road Builders.

II. SITE FEATURES & ZONING

The proposed parcels are zoned Waterfront Industrial Use. Site A is comprised of undeveloped parcels made up of dense Spruce Forest. Adjacent parcels are vacant lots owned by the State of Alaska, zoned Waterfront Industrial, and Heavy Industrial Use. Site B is comprised of a developed pit site and provides existing access to the Lutak Inlet via boat ramp. Adjacent parcels consist of a timber mill site owned by Chilkoot Lumber Company to the West and vacant State of Alaska land, all zoned Waterfront Industrial Use.

The proposed development is in alignment with the use of adjoining properties. The site is located near the Alaska Marine Lines dock, timber mill site, and ferry terminal which is a heavy industrial use area. There is existing truck traffic to and from the AML yard and to the stockpile site located on Site B.

III. EXISTING PERMITTING & USE

The existing sites are currently being developed under Site Development Permits #23-33 and #23-42, issued on May 23rd, 2023, and Land Use Permit #23-71, issued on August 14, 2023. Existing permitted development consists of clearing, grubbing, and grading of the sites. Permitted activity on Site B also consists of bulk material storage and aggregate transloading.

The existing sites are permitted with a ADEC MSGP SWPPP Permit # AKR06AB42.

Initial site development, including clearing, grubbing, and grading of the site began on Site B in June 2023 and is nearly complete. Clearing, grubbing, and grading of Site A is anticipated to begin in Fall 2023. Southeast Roadbuilders began using Site B for bulk material storage and aggregate transloading in August 2023. The proposed resource extraction is anticipated to begin in Fall 2023, or as soon as all applicable permits are approved. These sites are potential future sources of materials for local improvement projects beginning in Spring of 2024, therefore timing of development is critical.

IV. PROPOSED USE

Southeast Road Builders is proposing to use the referenced parcels as a material source and is pursuing a conditional use permit with the Haines Borough to perform resource extraction.

Initial exploration of Site B reveals that the soil primarily consists of course grained gravel and sand. Proposed use includes mobilization of a wash plant and crusher unit to process material onsite, reducing truck traffic from the site to the existing processing facilities at 4.5 Mile Haines Highway. A staging area on the North side of Lutak Road has been developed to stockpile and process materials. This area will be used to stage equipment, process, and stockpile materials. The area to the South of Lutak Road has been cleared, grubbed, and scaled to provide access. Southeast Road Builders is proposing to extract material from this site for use on local State and Borough projects.

Initial site investigation of Site A reveals bedrock to be present below the surface proposing a potential source for rock excavation. Southeast Road Builders is proposing to use this site as a rock source for local improvement projects to provide fill and riprap materials. Rock excavation activities may include drilling, blasting, and crushing operations onsite.

V. SITE CONDITIONS

A. ACCESS. The parcels that make up Site B are currently accessible via existing access points from previous landowners. Site A has no current access from Lutak Road. Legal access to these parcels is being development in coordination with the Alaska Department of Transportation (AKDOT&PF). Coordination with the AKDOT&PF will be ongoing throughout the duration of development to ensure compliance with all permits and guidelines. The number of access points will be limited to ensure safety of the travelling public and ensure adequate sight distance for trucks to navigate the roadway. Access will be limited to the public to ensure public safety. Adequate access for fire and emergency vehicles will be maintained at all times.

B. TRAFFIC. Use of these sites will limit truck traffic from Southeast Road Builders current material source at 4.5-mile Haines Highway to the proposed site. This will significantly limit truck traffic through the Haines townsite. The safety of the public and impact on the existing two-lane paved roadway has not been significant effected by the truck traffic from adjacent operations or material stockpiling operations that have previously taken place. Trucking operations are not anticipated to significantly differ from existing use.

C. MAINTENANCE. Southeast Road Builders proposes to use street sweepers and water trucks to control and limit dust or debris that may impact public health and safety. The site will have seasonal use limiting any impact for snow removal or winter conditions.

D. LIGHTING & UTILITIES. No permanent lighting is proposed for this development. There are no existing public sanitary sewer or water services onsite. Water will be provided by water truck from a source approved by the ADEC.

E. DRAINAGE. Stormwater control is in compliance with the current ADEC MSGP Permit. The site will be graded to control runoff and prevent sediment from leaving the site. The proposed use includes the installation of culverts to provide adequate drainage through the site and maintain existing drainage ditches. A SWPPP will be maintained throughout the duration of the project. There are no state-identified anadromous streams located on the site.

F. HAZARD AREAS. Proposed work within the one percent floodway includes the installation of culvert pipes to improve the drainage onsite and mitigate the risk of impact on streams and drainage facilities. This will allow for the control of runoff and prevent washouts from any severe weather. Southeast Road Builders is working in cooperation with the

Department of Fish and Game to ensure the protection of fish habitat throughout the duration of development. The DF&G has surveyed the existing streams onsite and has identified them as non-anadromous streams.

The proposed development is within areas that contain steep slopes greater than 30 percent. Once the site development is complete, the area will be stabilized in accordance with the ADEC SWPPP. To mitigate the risk of slope failures, rock benches will be created, and overburden will be sloped back at a 2:1 slope and stabilized with vegetation or rock.

G. NOISE. A natural buffer of 25' will be maintained between the proposed development and the adjacent roadway and properties. The proposed development is in alignment with adjacent property use. The nearest residential dwelling is approximately a mile from the site. Any blasting operations will be completed during the regular hours of operation. Adequate notice of drilling and blasting operations will be given to the public, FAA, and nearby landowners.

VI. METHODS

The proposed hours of operation for the site will be from 6:00 AM to 6:00 PM. Materials transloading activities may differ outside of normal hours of operation but will not impact residents as all work will be done onsite.

No hazardous material or fuel will be stored onsite. Southeast Road Builders has a service oiler that will mobilize to the site to fuel and grease equipment as needed.

No explosives will be stored onsite, except when they are immediately necessary for blasting operations.

VII. RECLAMATION PLAN

Throughout the duration of construction, the site will be reclaimed as necessary. Exposed rock faces will be benched with standard 30'-40' lifts. Floors will be graded to promote adequate drainage. Final slopes will be seeded, or rock lined for final stabilization as needed.

A final reclamation plan will be developed as the project progresses.

VIII. COMPREHENSIVE PLAN

The proposed development is in alignment with the following goals that the Borough has outlined in the current Comprehensive Plan:

A. Goal 3. Achieve a strong, diversified local economy that provides employment and income for all citizens that desire to work while protecting the health of the environment and quality of life. Build on local assets and competitive advantages to create economic opportunity.

There is currently no active rock source to provide riprap material for local improvement projects. Development of this site would provide the opportunity to build on local resources and reduce the need to depend on outside sources for material. The site is currently being used to stockpile material for use at the Greens Creek mine and future use could allow for the extraction and use of this material for the Greens Creek mine and local State and Borough projects. The proposed development would also provide additional employment opportunities for local residents and workers.

B. Goal 4. Provide a safe, convenient, reliable, and connected transportation network to move goods and people to, from, and within Haines Borough. Aggressively maintain road, port, and harbor facilities to maximize public investment, enhance public safety and access, and provide economic opportunity.

The proposed use would allow for increased transfer of goods and resources in and out of Haines. The location of the site is optimal for stockpiling of material for transshipment and is located in the vicinity of future proposed local development projects that would benefit from its use by reducing costs and limiting truck traffic through the townsite.

C. Goal 5. Guide infrastructure and land development to provide an adequate supply of land for commercial and industrial development, varies residential living, and diverse recreational opportunities.

The development of this site could facilitate future use for transportation of goods and resources in and out of Haines as well as provide a resource for material for improvement to local projects such as the Lutak Dock Replacement project and roadway improvements along Lutak Road. There are no nearby sources of material adequate to provide for the resources that these projects require.

D. Goal 10. Support responsible development of renewable and non-renewable resources within Haines Borough.

The proposed development is in compliance with environmental regulations and contains no anadromous streams onsite, mitigating the impact to fishery habitat. Development of this non-renewable resource would create economic opportunity to extract resources in an area that would otherwise rely on outside sources.

SITE A - PARCELS
C-LTR-04-0090
C-LTR-04-0700
C-LTR-04-0010

SITE PLAN

Haines Ferry Terminal



C-LTR-04-0090
Lot 9, Section 10
T30S, R59E, CRM

Lutak Rd.

C-LTR-04-0700
SW1/4, SE1/4, SE1/4, SW1/4
T30S, R59E, CRM

C-LTR-04-0010
Lot 10, Section 10
T30S, R59E, CRM

100 ft

ArcGIS Web Map



SITE A - PARCELS
C-LTR-04-0090
C-LTR-04-0700
C-LTR-04-0010

PROPOSED ACCESS ROAD

MIN. 25' BUFFER

AREA TO BE
CLEARED/GRUBBED THIS FALL
PROPOSED FOR RESOURCE
EXTRACTION

500 ft

Haines Ferry Terminal

Lutak Rd Lutak Rd

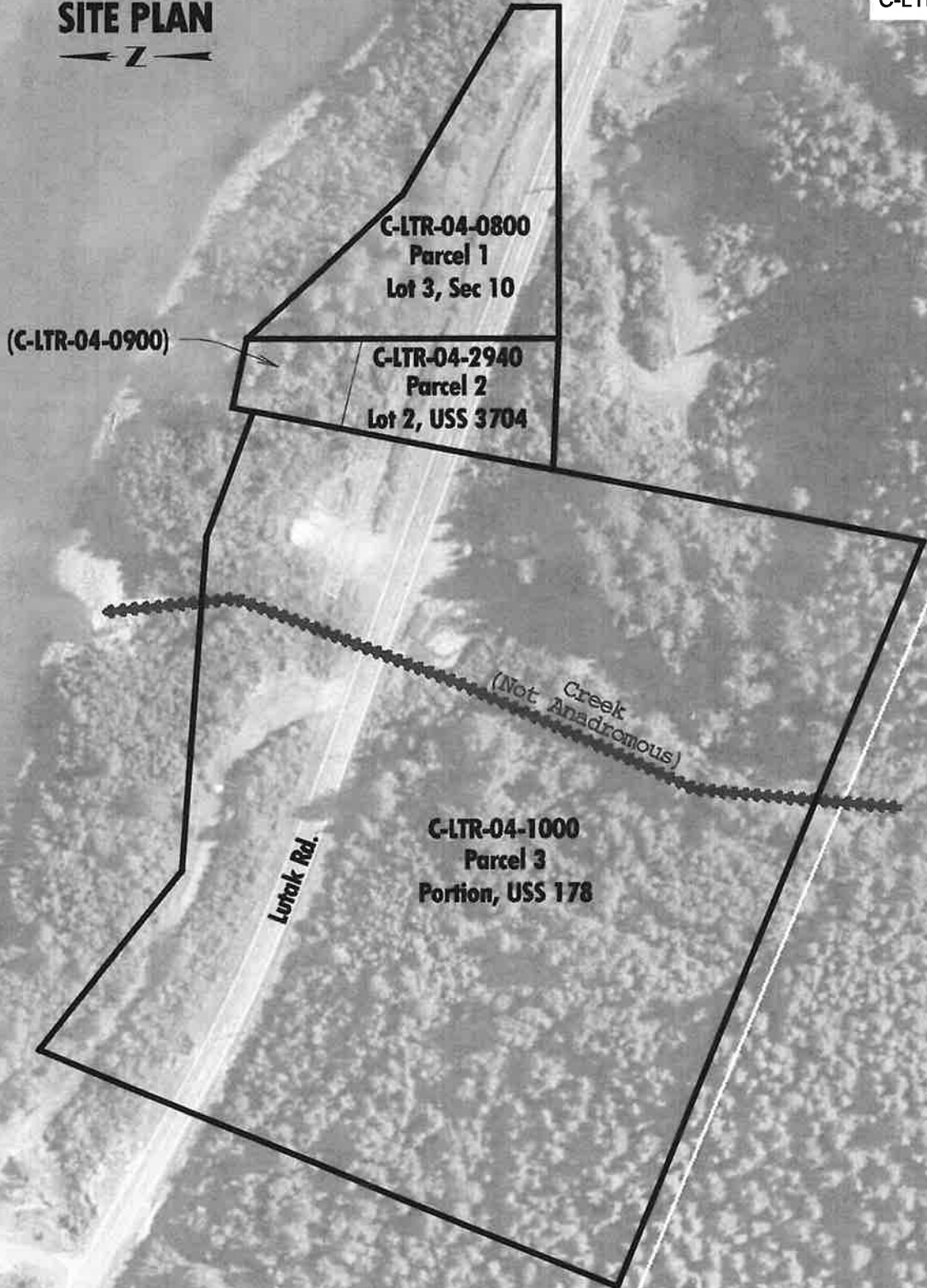
Lutak Rd

Lutak Rd

Lutak Rd

SITE B - PARCELS
C-LTR-04-0010
C-LTR-04-2940
C-LTR-04-0900
C-LTR-04-0800

SITE PLAN



C-LTR-04-0800
Parcel 1
Lot 3, Sec 10

(C-LTR-04-0900)

C-LTR-04-2940
Parcel 2
Lot 2, USS 3704

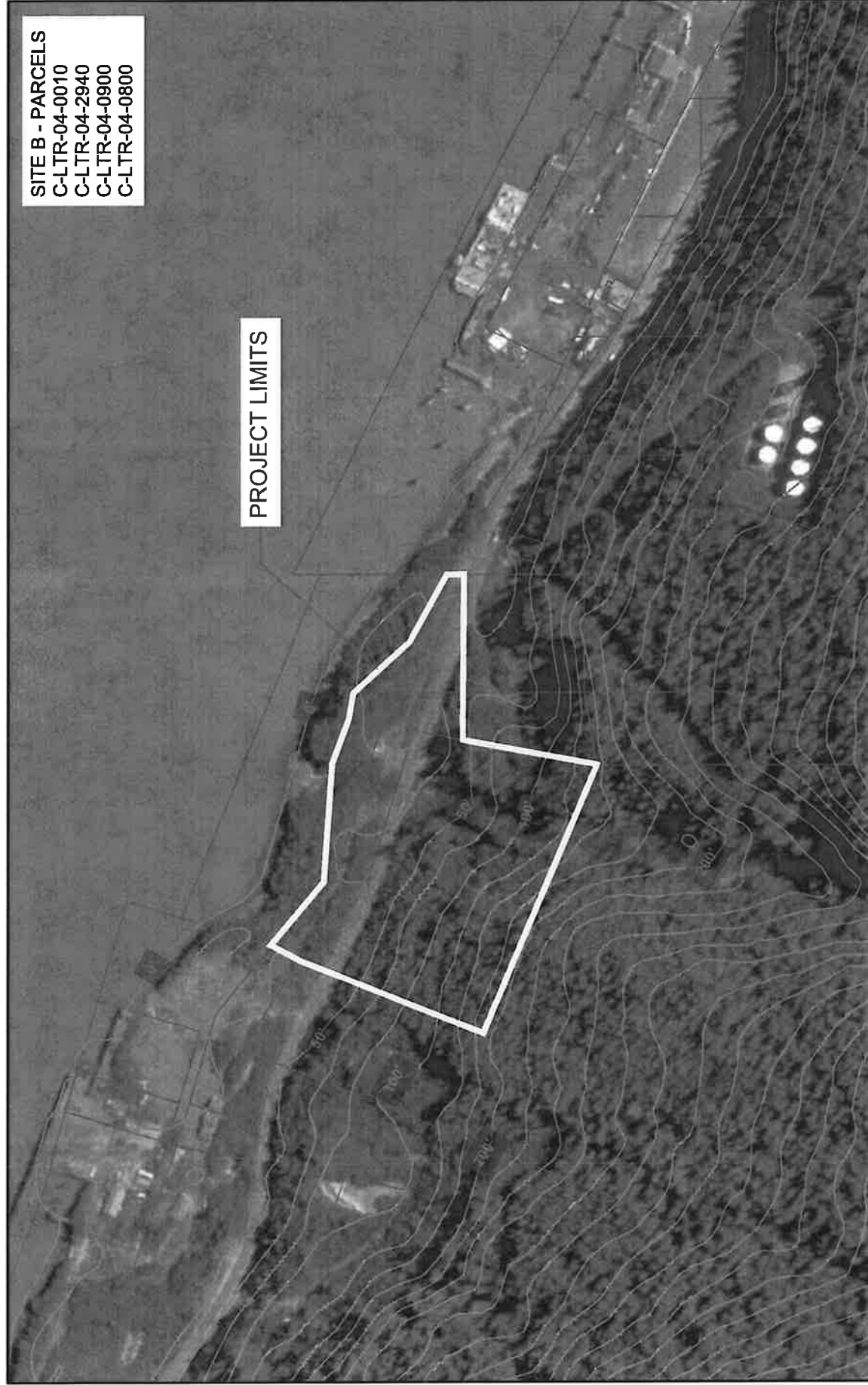
C-LTR-04-1000
Parcel 3
Portion, USS 178

Creek
(Not Anadromous)

Lutvik Rd.

100 ft

ArcGIS Web Map



SITE B - PARCELS
C-LTR-04-0010
C-LTR-04-2940
C-LTR-04-0900
C-LTR-04-0800

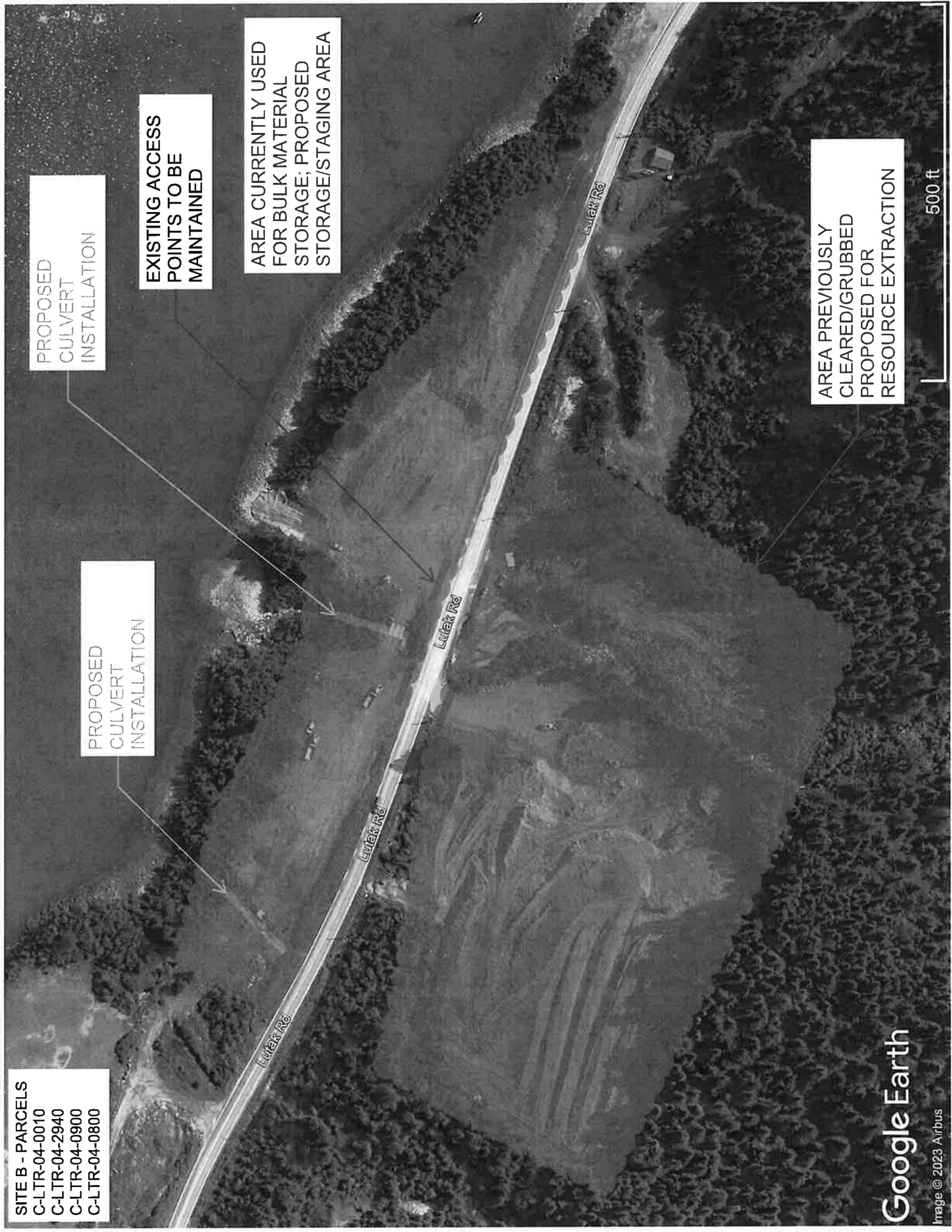
PROPOSED
CULVERT
INSTALLATION

PROPOSED
CULVERT
INSTALLATION

EXISTING ACCESS
POINTS TO BE
MAINTAINED

AREA CURRENTLY USED
FOR BULK MATERIAL
STORAGE; PROPOSED
STORAGE/STAGING AREA

AREA PREVIOUSLY
CLEARED/GRUBBED
PROPOSED FOR
RESOURCE EXTRACTION





HAINES BOROUGH, ALASKA
P.O. BOX 1209, HAINES, ALASKA 99827
Annette Kreitzer, Borough Manager
907.766.6404 akreitzer@haines.ak.us

MEMO

TO: Haines Borough Planning Commission

DATE: October 06, 2023

RE: Conditional Use Permit – Resource Extraction | Waterfront Industrial Zone | CUP 23-87 | Site A: C-LTR-04-0090/0700/0010, Site B: C-LTR-04-1000/2940/0900/0800 | Glacier Construction Inc. dba Southeast Road Builders

This memo serves as my recommendation per HBC 18.50.030 (D)3 for approval of this CUP to the Commission with the conditions listed below. A pre-application meeting was held on 8/10/2023.

This conditional use permit application is for resource extraction in the Waterfront Industrial Zone.

The intent of this zone is:

Provide for and protect productive, marine-related heavy industries, including wharfage, natural resource export, milling and major seafood processing. Areas zoned as waterfront industrial should be located so that adjacent nonindustrial areas are buffered from the external effects common to heavy industry including noise, dust, vibration, glare, pollution, heavy traffic and unsightly uses or activities. The area is served by, or intended to have, the necessary level of public utilities and an adequate transportation system as deemed appropriate for the planned use.

Resource Extraction is defined as a:

Heavy industrial use involving the removal of rock, gravel, sand, clay, topsoil, peat, timber, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics.

BOROUGH RECCOMENDATION:

Approve Conditional Use Permit 23-87, with the following conditions:

- 1) Provide design and engineering for resource extraction in Hazard Areas. Provide a copy of plans to the Borough prior to working:
 - a. Within the stream's one percent floodway,
 - b. On slopes greater than 30 percent.
- 2) Submit a reclamation plan for Planning Commission review that addresses the final conditions of site, including:
 - a. Relation to adjoining land forms and drainage features,
 - b. Relation of reclaimed site to planned or established uses of the surrounding area,
 - c. Demonstration that the final land form will have a viable land use compatible with land use trends in the surrounding area,
 - d. Relation of reclaimed site to initial site conditions including land use, vegetation, soils, geology and hydrology;
 - e. Work to maintain the existing waterfront view shed.
- 3) Contact the United States Fish & Wildlife Service approval for all work within 660-feet of an eagles nest; or to perform blasting operations within ½ mile of an eagles nest. Email: ak_fisheries@fws.gov
- 4) Provide a copy of State approval for legal access to Site A before beginning any work at this location. Coordinate access, traffic plans, and roadway maintenance during resource extraction with the State of Alaska's Department of Transportation & Public Facilities Southcoast Region Right-of-Way office. Contact Michael Schuler, email: michael.schuler@alaska.gov.
- 5) Provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.

- 6) No significant negative impacts on the surrounding properties are allowed. Including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises or be unsightly or become a nuisance as defined in HBC 8.12.020(I).
- 7) This permit does not relieve the owner or authorized representative to comply with the provisions of federal, state or local regulations applicable to the activity.

BOROUGH REVIEW, per HBC 18.50.040(A)

The following code sections must be met in order for a Conditional Use Permit to be approved by the Planning Commission:

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

BOROUGH RESPONSE:

3,500 Feet from nearest documented Eagle Nest. Applicant to notify USFWS if eagle nest is located as required

(<https://www.fws.gov/story/do-i-need-eagle-take-permit>)

Applicant has proposed a natural buffer of 25-feet between the roadway and adjacent parcels.

Site A is buffered from the Waterfront Zone by approximately 54 acres of industrial parcels.

Site B is buffered from the Lutak Planning District by approximately 41 acres of industrial parcels.

Proposed schedule of 6am-6pm is appropriate and consistent with industrial use of this area. Existing land uses by Alaska Marine Lines and the Alaska Marine Highway System regularly have traffic operating outside these hours.

2. The development of the use is such that the value of the adjoining property will not be significantly impaired;

BOROUGH RESPONSE:

No comments from property owners within 500-ft were received.

This permit is consistent with local zoning and adjoining properties are not expected to be significantly impaired.

3. The size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use;

BOROUGH RESPONSE:

Existing utilities are sufficient for proposed activities.

4. The specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses;

BOROUGH RESPONSE:

In addition to supporting the comprehensive plan's economic development goals listed by the applicant, this permit is consistent with the future growth and development plans referenced below.

Section 7.2.1 Haines Borough's Ten Future Growth Land Designations:

#4 – Industrial

#5 - Waterfront Development

#10 Resource Development

Proposed use is consistent with land use activities prioritized in this section, including rock quarries, and the processing, shipping, and storing of goods.

Section 7.3.5 Resource-Based Development Opportunity:

This section includes an objective to comply with environmental regulations, ensuring fisheries resource and riparian zone protection, providing protection of salmon habitat and Bald Eagle Preserve resources, maintaining scenic view sheds, and buffering operations from adjacent land uses and activities.

- **This land use provides buffers from adjacent zones.**

-continued-

- **The applicant is actively working with Alaska Department of Environmental Conservation and Alaska Department of Fish & Game for compliance with water quality and fish habitat regulations.**
- **Design Conditions, HBC 18.50.040(B): The borough recommends prioritizing maintenance of the scenic view shed of Haines waterfront in the reclamation plan.**

5. The granting of the conditional use will not be harmful to the public safety, health or welfare;

BOROUGH RESPONSE:

Land use activities are consistent with this zone and provide adequate buffers for proposed industrial activities.

The State Department of Transportation & Public Facilities has reviewed truck traffic related to aggregate transloading at this site. If needed, the State will require additional permitting if truck traffic exceeds 100 loads per hour.

Hazard Areas, defined as steep slopes greater than 30 percent (HBC 18.60.10(T)), are present on-site. Design and engineering to mitigate the risk of loss of life or property is required.

6. The use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams;

BOROUGH RESPONSE:

The steam on-site in non-anadromous. The applicant is actively working with Alaska Department of Environmental Conservation and Alaska Department of Fish & Game for compliance with water quality and fish habitat regulations.

State permitting and design and engineering requirements for steep slopes will provide safeguards against erosion related issues.

7. The use will comply with all required conditions and specifications if located where proposed and developed, and operated according to the plan as submitted and approved;

BOROUGH RESPONSE:

Submitted site plans and operations plan, together with applicable codes and relevant permit conditions are sufficient to ensure compliance with all local, state, and federal regulations, and the comprehensive plan.

8. Comments received from property owners impacted by the proposed development have been considered and given their due weight.

BOROUGH RESPONSE:

No public comment received to-date.

Conditional Use Permits may be granted if all the following general approval criteria and applicable specific approval criteria of HBC 18.60.020 are complied with.

GENERAL APPROVAL CRITERIA REVIEW, per HBC 18.60.010

A. Plans. The proposal is substantially consistent with the borough comprehensive plan and other applicable borough-adopted plans.

BOROUGH RESPONSE:

See #4 above.

B. Reviewing Parties. Due deference has been given to the comments and recommendations of reviewing parties.

BOROUGH RESPONSE:

Notifications were sent to all residents within 500' of the parcel. No comments have been received.

This application was provided to the State's Department of Transportation & Public Facilities Right of Way office to ensure legal access from Lutak Road is acquired.

The closest documented eagle nest is 3,500ft from this site.

USFWS contact has been provided if an eagle nest is encountered during clearing or blasting work.

C. Fire Safety and Emergency Access. The proposal shall not pose a fire danger as determined by the State Fire Marshal or the borough fire chief. Adequate access for emergency and police vehicles must be provided.

BOROUGH RESPONSE:

Site plan indicates conformance with density and dimensional requirements for emergency access. No industrial or commercial buildings are proposed.

D. Access. All lots on which development is planned are required to have legal road access before an application for a development may be considered and physical road access must be completed to borough standards before any work on the development is started.

BOROUGH RESPONSE:

This application was provided to the State’s Department of Transportation & Public Facilities Right of Way office to ensure legal access from Lutak Road.

ROW permitting with the State was initiated for Site B under Permit 23-71.

Due to roadway characteristics and proximity to the ferry terminal, access to Site B will not be permitted until State approval is provided to the Borough.

E. Traffic. The proposed use shall not overload the existing street system with traffic or result in unsafe streets or dangers to pedestrians.

BOROUGH RESPONSE:

The majority of proposed work will occur on-site. Proposed activities are not expected to overload Borough streets or result in unsafe situations. The applicant has proposed the use of a street sweeper and water truck to limit affects.

This application was provided to the State’s Department of Transportation & Public Facilities Right of Way office to address traffic on Lutak Road.

F. Public Maintenance. The proposed use shall not significantly increase the impact on the surrounding area from glaciation or drifting snow and shall not create significantly increased difficulty for snow removal or street maintenance.

BOROUGH RESPONSE:

This application was provided to the State’s Department of Transportation & Public Facilities Right of Way office to address public maintenance on Lutak Road. Winter work is not proposed.

G. Foundation. All buildings intended for residential or commercial use shall be placed on a permanent foundation. This section does not apply to accessory buildings such as tool sheds, wood sheds, etc., of 120 square feet or less in area, or temporary uses.

BOROUGH RESPONSE:

Does not apply.

H. Parking. Parking, loading areas and snow storage sites for the proposed development shall be adequate, safe and properly designed. The developer may be required to install acceptable lighting at pedestrian or vehicular access points.

BOROUGH RESPONSE:

No parking, loading, or snow storage issues are expected.

I. Utilities. The proposed use shall be adequately served by public water, sewer, on-site water or sewer systems, electricity, and other utilities prior to being occupied.

All regulations of the State Department of Environmental Conservation pertaining to water extraction and wastewater disposal, as well as the requirements of HBC 13.04.080(G) pertaining to on-site wastewater disposal, shall apply. If exempted from the requirement to connect to public utilities, a developer must provide plans drawn by an engineer licensed in the state of Alaska or a state certified septic system installer prior to permit approval. Upon installation and before closure, the wastewater disposal system must be inspected and approved by an engineer licensed in the state of Alaska or a state certified septic system installer.

When public sanitary sewer and/or water service becomes available, the developer will be required to connect to the public utility within six months.

BOROUGH RESPONSE: The site is adequately served by public utilities for proposed land use activities.

J. Drainage. The applicant for a proposed use shall provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.

BOROUGH RESPONSE:

Include as permit condition. There are no anticipated drainage issues.

K. Walkways, Sidewalks and Bike Paths. Easements for pedestrian access or bicycle paths may be required where shown by the borough to be necessary to provide reasonable circulation or access to streams, lakes, tidewater, schools, playgrounds, transportation facilities or other public facilities.

BOROUGH RESPONSE:

Does not apply.

L. Construction Guarantees. The borough may require the posting of a bond or other surety approved by the assembly to ensure that all required and necessary improvements are constructed as approved. The surety may provide for partial releases upon acceptance of the improvement by the borough.

BOROUGH RESPONSE:

Does not apply.

M. Peak Use. The proposed use shall not result in significantly different peak use characteristics than surrounding uses or other uses allowed in the zone.

BOROUGH RESPONSE:

This permit is consistent with local zoning and adjacent land use activities. No impacts to peak use characteristics are expected.

N. Off-Site Impacts. The proposed use shall not have significant negative impacts on the surrounding properties, including excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises or be unsightly or become a nuisance as defined in HBC 8.12.020(I).

BOROUGH RESPONSE:

Include as permit condition. Resource extraction is consistent with local zoning, and no comments have been received from neighboring parcels. There are no anticipated off-site impacts with this use.

SPECIFIC APPROVAL CRITERIA REVIEW, per HBC 18.60.020

The **BOLD** specific approval criteria apply to this permit and are addressed below:

A. Resource Extraction.

- B. Junkyard.
- C. Animal Husbandry.
- D. Home Occupation.
- E. Bed and Breakfast (B&B).
- F. Kennel.
- G. Historic Buildings.
- H. Temporary Residence.
- I. Mobile Home Parks/Recreational Vehicle (RV) Parks.
- J. Planned Unit Development.
- K. Large Developments.
- L. Underground Utilities.
- M. Nonconforming Uses, Buildings, Lots.
- N. Cemetery.
- O. Commercial Marijuana Facilities.
- P. Communications Equipment.

A. Resource Extraction

1. Permitting. A permit for natural resource extraction may be issued with such reasonable conditions as necessary to limit or minimize the adverse impact of the permitted extraction. The permitted use must meet all other pertinent requirements of this title and address the following concerns:

- a. Limits of operational areas;
BOROUGH RESPONSE:
 - **25-foot buffers against property lines,**
 - **Site is buffered from adjacent zones by other industrial parcels,**
 - **Design and engineering required for Hazard Areas.**
- b. Days and hours of operation;
BOROUGH RESPONSE:
Seasonally, 6am – 6pm
- c. Traffic patterns;
BOROUGH RESPONSE:
Access, traffic, and public maintenance along Lutak Road will be coordinated with the State.
- d. Fencing and screening;
BOROUGH RESPONSE:
No fencing proposed.
- e. Control of dust and noise;
BOROUGH RESPONSE:
Proposed activities are consistent with the noise and dust expected during industrial activities. The applicant has proposed the use of a street sweeper and water truck to limit impacts.
- f. Phasing of operations and reclamation steps;
BOROUGH RESPONSE:
Reclamation is phased throughout construction and will be engineered in Hazard Area.

g. Final condition of site including:

- (1) Relation to adjoining land forms and drainage features,
- (2) Relation of reclaimed site to planned or established uses of the surrounding area,
- (3) Demonstration that the final land form will have a viable land use compatible with land use trends in the surrounding area,
- (4) Relation of reclaimed site to initial site conditions including land use, vegetation, soils, geology and hydrology;

BOROUGH RESPONSE:

Reclaimed land is likely to have future industrial use consistent with local zoning.

To ensure compliance with these specific approval criteria, and in an effort to meet goals of the Comprehensive Plan regarding maintenance of existing view sheds, a detailed reclamation plan will be submitted and reviewed by the Planning Commission.

h. Methods to minimize potential conflict with other existing uses within the neighborhoods adjacent to the development and traffic corridors used by the development.

BOROUGH RESPONSE:

Applicant is required to coordinate access and traffic safety plans along Lutak Road with the State.

Proposed use is consistent with existing trucking along this corridor.

COMMISSIONER RESPONSE FORMS

Per HBC 18.50.040, the Commission may adopt the Manager’s recommendation on each requirement unless it finds, by a preponderance of the evidence, that the Manager’s recommendation was in error and states its reasoning for such finding with particularity. In addition, for good cause, the Commission may alter the conditions on approval or requirements for guarantees recommended by the Manager. If the Commission wishes to propose other conditions, examples can be found in HBC 18.50.040(B).

The Commission is encouraged to reconsider conditions after the public hearing once all public comments have been received.

If the commission finds that the development implements all relevant requirements of this title, it shall issue a conditional use permit and the conditions and requirements shall be part of the approved permit. If the development does not implement all relevant requirements, or the commission otherwise determines the development is not in compliance with this title, the commission shall deny the permit and note with particularity its reasons for the decision.

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

COMMISSIONER RESPONSE:

- 2. The development of the use is such that the value of the adjoining property will not be significantly impaired.

COMMISSIONER RESPONSE:

3. The size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use;

COMMISSIONER RESPONSE:

4. The specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses;

COMMISSIONER RESPONSE:

5. The granting of the conditional use will not be harmful to the public safety, health or welfare;

COMMISSIONER RESPONSE:

6. The use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams;

COMMISSIONER RESPONSE:

7. The use will comply with all required conditions and specifications if located where proposed and developed, and operated according to the plan as submitted and approved;

COMMISSIONER RESPONSE:

8. Comments received from property owners impacted by the proposed development have been considered and given their due weight.

COMMISSIONER RESPONSE:

In accordance with HBC 18.30.010(F) The commission may place conditions upon issuance of any approval which are necessary or desirable to ensure that a rule, policy, standard or intent will be implemented in a manner consistent with Title 18, the comprehensive plan and any rule, policy or standard implementing them.

Altered or additional Conditions, see HBC 18.50.040(B) below for definitions:

DEVELOPMENT SCHEDULE:

USE:

OWNER’S ASSOCIATION:

DEDICATIONS:

CONSTRUCTION GUARANTEES:

COMMITMENT LETTER:

COVENANTS:

DESIGN:

CODE REFERENCES

HBC 18.70.030(A)(3)

I/W – Waterfront Industrial Zone. The intent of the waterfront industrial zone is to provide for and protect productive, marine-related heavy industries, including wharfage, natural resource export, milling and major seafood processing. Areas zoned as waterfront industrial should be located so that adjacent nonindustrial areas are buffered from the external effects common to heavy industry including noise, dust, vibration, glare, pollution, heavy traffic and unsightly uses or activities. The area is served by, or intended to have, the necessary level of public utilities and an adequate transportation system as deemed appropriate for the planned use.

18.20.020 Definitions – Regulatory.

“Resource extraction” means a heavy industrial use involving the removal of rock, gravel, sand, clay, topsoil, peat, timber, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics. Resource extraction does not include: (1) the removal of material from within the legal boundaries of the property of origin which are incidental to the construction, alteration or repair of a building (or the grading and landscaping incidental thereto); or (2) within the subdivision of origin of a platted public or private access road and utilities or public facility providing essential services.

“Industrial, heavy” means a use that has potential for significant negative impact on adjoining uses. This category includes uses that incorporate buildings that are large, tall, or unsightly; uses that generate offensive odors, noise, dust, smoke, fumes, vibration or glare; uses that involve large amounts of exterior storage; and uses that, because of their scale or characteristics, create nuisances or hazards such as heavy truck or other vehicle traffic, or other intense activity. These uses include airports, landing strips, and heliports; truck or ship terminals and docks; concrete batching plants; asphalt or concrete mixing plants; resource extraction;

bulk material or machinery storage; petroleum refineries and trans-shipment facilities; grain elevators; meat packing plants or fish processing facilities; mills; resource recycling facilities; commercial flammable or hazardous material storage; sanitary landfills and solid waste storage/transshipment facilities; large scale sewage treatment facilities and manufacturing plants.

HBC 18.30.010(F) Conditions.

The assembly, commission, or manager may place conditions upon issuance of any approval which are necessary or desirable to ensure that a rule, policy, standard or intent will be implemented in a manner consistent with this title, the comprehensive plan and any rule, policy or standard implementing them.

HBC 18.50.040 Decision.

B. The commission may alter the manager's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.

4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.

5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.

6. Commitment Letter. The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.

7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.

8. Design. The conditions may require the adoption of design standards specific to the use and site.