

From: [Kathleen Menke](#)
To: [Alekk Fullerton](#)
Subject: CUP Appeal Lutak
Date: Friday, November 10, 2023 1:27:28 PM

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To: Alekka Fullerton

Please copy Planner, new elected Planning Chair, Patty Brown, and all Assembly members

RE: Upcoming appeal to Assembly regarding recent CUP Lutak..

Appeal of Planning Commission Decision

On 10/23/23, the planning commission approved a conditional use permit (#23-87) for Glacier Construction Inc, dba Southeast Road Builders for resource extraction in the Waterfront Industrial Zone located at C-LTR-04-0090/0700/0010 (Site A) and C-LTR-04-1000/2940/0900/0800 (Site B). A timely appeal requests were received from Ann Myren/Tim McDonogh, Gershon Cohen and Carol Tuynman. The burden of proof is on the appellant to make the case that a rehearing by the assembly is warranted.

As these comments are within the ten days of the Nov. 2 letter issued by the Planner, I would like my name added to the appeal process.

I submitted extensive written comments to the Planning Commission regarding this CUP in a timely manner prior to recent P&Z meeting at which this CUP was granted. There is no indication in the recorded minutes of the meeting that these comments were considered or discussed.

It is wrong to say this project will only impact property owners within 500 feet of the proposed activity.

This CUP, recently granted for five years by the previous Planning Commission, will impact the entire Haines community, particularly anyone who lives here, visits here, and values the Lutak Waterfront and the health of the Chilkoot/Lutak connected river and marine system. And anyone who may be affected by ongoing future truck traffic hauling fill, timber, or ore through the community, including residents along the haul route, residents who use this corridor for recreational and business activities, including walking, wildlife watching, jogging, pushing babies in strollers, bicycling, and commercial bike tours and nature tours.

In addition to my own comments that were entirely disregarded by the previous commission, planner, and manager. I fully support the appeal comments presented by Tim McDonough and Ann Myren, Gershon Cohen, and Carol Tuynman. And the verbal comments submitted to Commission by Gershon Cohen, Tom Morphet, Patty Brown, and Rachel Saltzik.

My own comments at this time.. most of which were also submitted to Planner and Planning Commission at the time their faulty decision was made are as follows:

The rezoning last winter of this property to “Waterfront Industrial Zone” was sold to the public as a bookkeeping clean-up measure to Borough Code without fully informing the public of the intent of Southeast Roadbuilders to perform resource extraction on a sensitive hillside, to export fill from the Lutak dock area, and to haul this fill through town and out Lutak with huge, fast-moving, noisy, and dangerous trucks loaded with fill.

Southeast Roadbuilders nevertheless proceeded to engage in all these activities before the local community, the public, had any idea of the actual intention behind this move.

I am among the many community residents and tourists who regularly use the Lutak corridor from town to Chilkoot and spend time nearly daily on Tanani Beach.

This entire project by Southeast Roadbuilders has implications far beyond the 500 foot zone noticed by and impacted by this project.

Last summer, I was heading to Tanani Beach to walk my dogs. Just driving there proved dangerous with the number of huge fill-laden trucks racing by on that day. The walk on the beach itself did not provide its usual pleasant peaceful outing on one of the few waterfront shorelines we, as members of the public, have access to. The huge fill-laden, heavy, noisy and dangerous trucks racing by in both directions ruined one our community’s most important recreational assets. They were noisy, dangerous, and deeply disturbing. For the short term, SE Roadbuilders say this project will reduce such truck traffic. And yet no long-term implications were addressed for once the fill is extracted and other materials.. fill, timber, ore might be hauled to the cleared site.

Tanani beach is regularly used by residents, tourists, elders, families, dog-walkers, and folks fishing, picnicking, wildlife watching, and as an opportunity to soak up some beauty and serenity.

Hopefully health and wellness will be our guiding light for the future planning of our community. And responsiveness to public input.

While this conditional use permit specifically addresses the resource extraction, which in itself has already created dangerously eroding conditions on the hillside adjacent to Lutak Road, and should be rejected outright for that reason alone, this project was begun without proper permitting which also is a reason to deny permitting going forward. This conditional use permit application IN ITS EXPRESS PURPOSE... “This area will be used to stage equipment, process, and stockpile materials...for State and Borough projects...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 materail for the Greens Creek mine and local State and Borough projects.” We are talking 27 acres of active resource extraction in the Lutak corridor which has far reaching impacts to the entire community.

Clearly the resource extraction, export of the resource from Lutak dock area, and the regular use of the fill haul trucks aspects all need to be considered as a piece of one whole operation.. and not dealt with piecemeal. More time is needed to weigh long-term safety considerations from the combined activities of resource extraction and export in this location. It would be better to defer decisions regarding such a CUP until more input from the community is gathered, more data regarding slope safety issues are addressed, and a long term plan for Lutak dock and the Lutak waterfront in general via the Haines Comprehensive Plan and upcoming Lutak dock plans.

The Manager's recommendations regarding the CUP ignored the far reaching consequences of approval of this CUP to the broader business, residential, and tourist community.

Specifically:

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

The community has already experienced nuisances and dangers with this project in the form of erosion and heavy equipment traffic.

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

All property values in the community will be significantly devalued as healthy living spaces with the continuation and expansion of this project.

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

The size and scale of the proposed use is expansive in scope and will have far ranging implications on the entire community, including but not limited to, public safety and utility services.

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

This use is absolutely incompatible with current uses of the Lutak corridor, including public safety for residents and tourists, and activities such as bike tours, nature tours, whale watching, healthy marine habitat, jogging, healthy family outings, and more.

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

The massive expansion of resource extraction and export in the Lutak dock vicinity will absolutely negatively impact public safety, health, and welfare. It already has. And granting this CUP will make it worse.

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;

Absolutely there already have been and will be impacts to erosion, ground and surface water contamination, potential ocean contamination, sedimentation, and toxification, as well as alteration to healthy fish habitat within the entire Chilkoot/Lutak corridor.

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;

The use has already violated local code by starting without proper permitting and should not be rewarded by granting of a further CUP at this time.

8. Comments received from property owners impacted by the proposed development

have been considered and given their due weight.

Public trust needs to be shored up. All residents and property owners who live here will be impacted by this project. Due weight must be given to these impacts and this CUP should be denied.

Now is not the time to rubber stamp this CUP. Note the code references to Waterfront Industrial Zone cited here. The implications are broad.

Not only was this area rezoned as Waterfront Industrial, more to the point, the boundary was moved in order to take it out of the Lutak zone and put it into the townsite zone, which resulted in different standards applying to all of Southeast Roadbuilders permit applications.

The implications are broad.

I request that this CUP be reheard in full by the Borough Assembly.

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; 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

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bulk material or machinery storage; petroleum refineries and transshipment 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.

Kathleen Menke