

From: [Kathleen Menke](#)
To: [Alekk Fullerton](#)
Subject: For the public record/written comment regarding CUP Lutak appeal/new
Date: Friday, November 24, 2023 3:32:52 PM

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Nov. 24, 2023

Alekka:

Please include as part of the written public record under comments in this week's packet and please share with the Mayor and Assembly.

Please identify my comments not only by name, but also as being part of the Appeal and Hearing processes for the CUP appeal and subsequent rehearing.

The public often doesn't have information available to others until we receive the agenda and the packet, therefore our comments (or appeals) don't get included in the relevant portions of the packet.

I appreciate receiving the agenda's and packets in advance. And I appreciate the Mayor talking about upcoming Assembly meetings on KHNS on Friday mornings.

I hope the Assembly and Mayor realize that public comments are often submitted after the packet comes out, because that is when information becomes available to the public and therefore these comments need to receive due consideration prior to the meeting.

At the last Assembly meeting, as we discussed, I was indeed an appellant as my appeal was received within the ten days of the Planner's letter of granting the CUP.

Instead of my appeal letter appearing as part of the Appeal process in the packet, it was included in the comments section at the end of the packet.

And was apparently therefore not given full consideration. Nevertheless it was a timely submitted appeal and needs to be part of the public record considered for this hearing.

Here is the submission of those comments for the public record, for the appeal, and for the upcoming hearing on Tuesday. Note that these are updated comments from the comments I submitted to the Planning Commission and were written specifically for the Appeal Hearing at the last Assembly meeting.

Comments prepared for the last Assembly meeting (intended to be presented verbally) and sent to Alekka immediately following the last meeting after my raised hand was not recognized as I should have been at the time.

November 14th:

Alekka..

Please copy Mayor and Assembly Members..

My name was not mentioned as an appellant for CUP Permit at Lutak at the Assembly meeting last night.

(My comments posted in the meeting packet state clearly that I wished to be part of the appeal process and that I was making my written appeal within the prescribed ten day time period after the Planner's Nov. 2 letter issuing the CUP.)

Also I raised my hand on zoom to speak to this issue (as it is important to do so for the public record in a judicial proceeding).

I was not called on.

I waited until the end of the meeting to speak during public comments to address this. I raised my hand at that time. Again, I was not called on. Then the meeting was adjourned.

I understand these were likely unintentional oversights during a busy agenda, yet the implications are significant.

I am writing this to ensure that I will be allowed to testify as an appellant on this issue in the future. And that my comments become part of the legal record for this judicial proceeding.

These are the comments I had prepared to deliver personally at this judicial hearing and was denied the opportunity to do so. Since ONLY comments presented at such a hearing are to be considered, this error needs to be corrected at this time by placing these comments on the official public record and also making it clear that I will be allowed to testify as an appellant at any future hearing on this issue.

Thank you,
Kathleen Menke

My testimony I tried to deliver in person over zoom, and was denied the opportunity.

RE:

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).

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

The implications of this CUP are broad. This CUP paves the way for a major resource extraction/export hub which affects the community at large from valuable Chilkoot public resources and assets, down through the entire Chilkoot/Lutak corridor, along the highways through town, and up the Chilkat River Valley.

The Planning Commission granted this permit and extended it from two years to five years while failing to consider public comments presented at their recent meeting including my own submitted in writing, and the public testimony of others present at the meeting including Gershon Cohen, Tom Morphet, Patty Brown, and Rachel Saitzik.

This CUP needs to be considered alongside Lutak Dock refurbishment plans, landslide study safety information that is due to be completed next year, safe highway concerns, a Comprehensive Plan that is currently being updated, and general resource extraction and resource processing within the Haines Borough and export of these resources outside of the Haines Borough from this location.

My previous comments submitted include:

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 material 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. No, they have not.