



# Memo from the Borough Clerk

# 11C3

Date: April 4, 2024  
To: Haines Borough Assembly and Mayor  
From: Alekka Fullerton  
Re: Procedure regarding Quasi-Judicial Appeals

Reminders and procedural information in preparation for the appeal requests you will hear on April 9, 2024.

1. QUASI-JUDICIAL: The borough assembly wears two hats. For the vast majority of your actions, you make legislative decisions wearing your “legislative hat”. 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 quasi-judicial board, **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 decisions to be made at the 4/9/2024 meeting will be the consideration of the appeal requests. There are two distinct SERB appeals. They will be taken one at a time. Per HBC 18.30.060, following SERB’s presentation, 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 only a portion of it. Any rehearings will take place at the next meeting (4/23/24) and include duly-noticed public hearings.
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 is not a “judgment” on the merits of the matter, Charter Section 5.06(D) does not apply so a supermajority is not necessary.

5. MOTIONS: A possible motion might be to “rehear the Planning Commission’s vacation (or denial) of Conditional Use permit #23-87(B),” or a possible motion might be to “rehear the Planning Commission’s finding that criteria #x per HBC 18.50.040 has not been met”, or a possible motion might be to deny the rehearing of the Planning Commission’s denial (or vacation) of Conditional Use Permit #23-87”.

Please feel free to contact me with questions.

Alekka Fullerton  
Haines Borough Clerk  
P.O. Box 1209  
Haines, AK 99827  
afullerton@haines.ak.us

March 22, 2024

**Re: Notice of Appeal of Haines Planning Commission decision vacating Conditional Use Permit #23-87**

Dear Ms. Fullerton,


Through this letter, permittee Glacier Construction Inc., d/b/a Southeast Road Builders (“SERB”) provides its Notice of Appeal under HBC 18.30.060, of the Haines Borough Planning Commission’s (“Commission”) action on March 15, 2024, to vacate Conditional Use Permit #23-87 (“Permit”). The Commission’s action to vacate the permit was made without substantive deliberation, or any finding of error in its original decision to issue the Permit.

As you are aware, the Permit was approved by the Haines Borough Planning Commission on October 23, 2023, and issued by the Haines Borough on November 2, 2023. Following issuance, the Permit was appealed to the Borough Assembly, where it was nominally “remanded” (and effectively revoked) without meaningful deliberation as to the Planning Commission’s findings, and without written findings by the Assembly as required by HBC 18.30.060.

As a result, and by virtue of the Assembly’s remand/revocation, the five-year Permit has been cancelled after several months – without due process of law, and without any error being identified in the Commission’s well-reasoned decision to adopt the Planner’s recommendation and issue the Permit.

Following the Assembly’s initial remand/revocation (the effect of which was confirmed by the Commission’s March 15th decision), SERB filed a timely notice of appeal to the Superior Court. SERB files this Notice of Appeal with the Assembly to preserve its rights, and to provide the Assembly an opportunity to moot that litigation by reversing the Commission’s March 15th decision and reinstating the Permit.

Sincerely,

 Digitally signed  
by TJ Mason  
Date:  
2024.03.22  
19:52:22-08'00'

TJ Mason  
Southeast Road Builders



**Haines Borough Planning Commission**  
**March 14, 2024 Regular Meeting 6:30 pm**  
**AGENDA**  
**Location: Assembly Chambers and on ZOOM**

**Zoom Meeting Information**

Webinar ID: 863 1255 4356

Passcode: 067927

**Brian O'Riley**  
Planning Commissioner

**Dan Schultz**  
Planning Commissioner

**Derek Poinsette**  
Planning Commissioner

**Eben Sargent**  
Planning Commissioner

**Erika Merklin**  
Planning Commissioner

**Rachel Saitzyk**  
Planning Commissioner

**Patty Brown**  
Planning Commissioner

**Craig Loomis**  
Assembly Liaison

**Annette Kreitzer**  
Borough Manager

**Alekka Fullerton**  
Borough Clerk

**Kiersten Long**  
Deputy Clerk

**Andrew Conrad**  
Borough Planner

- 1. CALL TO ORDER/ PLEDGE TO THE FLAG/ LAND ACKNOWLEDGEMENT/ROLL CALL**
- 2. APPROVAL OF AGENDA & CONSENT AGENDA**  
*[The following Consent Agenda items are indicated by an asterisk (\*) and will be enacted by the motion to approve the agenda. There will be no separate discussion of these items unless a planning commission member or other person so requests, in which event the asterisk will be removed and that item will be considered by the planning commission on the regular agenda.]*  
Consent Agenda:  
3 – Approve Minutes from 2-8-24 Regular Planning Commission
- \*3. APPROVAL OF MINUTES – 2-8-24 Regular Planning Commission Meeting**
- 4. PUBLIC COMMENTS** – [For any topics not scheduled for public hearing. Individual comments are limited to 3 minutes unless another yields 3 minutes to the speaker in advance] *Note: during this section of the agenda, the commission will listen and take notes. No official action will be taken at this time. Please address the planning commission at the podium provided, use the microphone, and state your full name for the record and the topic of your comment.*
- 5. COMMISSIONER COMMENTS –**  
**A POINSETTE – Regional Landslide Working Group Report**
- 6. CHAIR REPORT –**  
**A. Bear/Human Conflict Mitigation Committee Status**  
**B. Scheduling a Community Meeting on Developing an Advisory Group for Support to the Planning Commission around Developments in Landslide Susceptible Zones.**
- 7. SUBCOMMITTEE REPORTS – None**
- 8. ASSEMBLY LIAISON REPORT – Assembly member Loomis**
- 9. STAFF REPORT**  
**A. Planner Report – Supplemental Document**  
**B. Prospects for Continuation of the Small Boat Harbor Expansion Project**  
**C. Process for Reporting Right-of-Way Concerns**  
**D. Comprehensive Plan Update**
- 10. PUBLIC HEARINGS –**  
**A. Conditional Use Permit #24-001 Extension of permit #19-03 Resource Extraction – Highland's Estates Inc. & St. James Place C-208-TL-0400 & C-208-TL-03A0 – Rural Mixed Use Zone.**  
*On 3-14-19 conditional use permit #19-03 was approved by a previous planning commission. The permit was valid for five (5) years. After expiration of a permit, the applicant must reapply. Public comments shall be taken prior to the applicant's presentation.*

**10. PUBLIC HEARINGS – Continued**

**B. Land Use Permit #23-101 Change of use – Port Chilkoot Rentals - C-PTC-0C-0600 – Significant Structures Zone.**

*The Planning Commission is acting as the Historic District Committee per HBC 18.70.050(C) and must apply the specific approval criteria contained in 18.60.020(G). The commission must determine if the development is: a) one of the surveyed historic structures, or b) the development has a material effect upon the general character of the district and any of the individual structures. If either of these conditions are met, the commission will apply the 9 specific approval criteria in 18.60.020(G) Public comments shall be taken prior to the applicant's presentation.*

**11. UNFINISHED BUSINESS - None**

**12. NEW BUSINESS**

**A. Rehearing on appeal of Planning Commission Decision – Conditional Use Permit #23-87 Resource Extraction - Glacier Construction Inc., dba. Southeast Road Builders.**

*On 12/12/23, the Assembly remanded CUP #23-87 to the Planning Commission with the requirement that Southeast Road Builders resubmit conditional use permit 23-87 as two applications.*

**Direction to the Planning Commission from the Assembly:** *With the remand to the Planning Commission, as the subject matter experts with respect to approval criteria for conditional use permits, the Planning Commission is empowered to resolve the matter in any way it could resolve the original permit applications. Both the appellants and the permittee may provide additional information and need not be limited by the existing information. The Planning Commission may approve the permit, deny the permit, or grant the permit with modifications, including granting the permit for one site and denying it as to the other. If the Planning Commission's decision is an outright denial of all permit rights, it constitutes vacation of the existing permit. If the commission grants any permit rights, that is best accomplished as a modification of the existing permit. Site A should be referred to as Conditional Use Permit 23-87A and Site B should be referred to as Conditional Use Permit 23-87B.*

**Site A (#23-87A): Statement from Southeast Road Builders:**

*Southeast Road Builders (SERB) still intends to submit a separate application for CUP #23-87A they have a geotechnical engineer scheduled to visit the site mid-March. In addition to the consultation with a geotechnical engineer they have been in discussions with AMHS to coordinate with their concerns as it relates to the project. They are requesting to delay their rehearing with the Planning Commission.*

**Site B (#23-87B):** *SERB has resubmitted their application for site B, which is in front of the planning commission. As discussed above, the Planning Commission must evaluate the Conditional Use Permit using the General and Specific approval criteria.*

- *HBC 18.60.010 General Approval criteria.*
- *HBC 18.60.020(A) Resource Extraction.*
- *HBC 18.50.040(A) Requirements to be met*

*If the commission finds that the development implements all the relevant requirements of this section, it shall issue a conditional use permit and the conditions and 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 this decision. HBC 18.50.040(B) The commission may alter the manager's proposed permit conditions, impose its own, or both. Public comments shall be taken prior to the applicant's presentation.*

- 13. PUBLIC COMMENTS**
- 14. COMMISSION COMMENTS**
- 15. CORRESPONDENCE**
- 16. SCHEDULE MEETING DATE**
- 17. ADJOURNMENT**

**From:** [Alekk Fullerton](#)  
**To:** [Alekk Fullerton](#)  
**Subject:** FW: Remand on Appeal  
**Date:** Wednesday, March 13, 2024 2:18:57 PM

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**Sent:** Wednesday, November 15, 2023 3:56 PM  
**To:** Alekk Fullerton <[afullerton@haines.ak.us](mailto:afullerton@haines.ak.us)>  
**Cc:** Annette Kreitzer <[akreitzer@haines.ak.us](mailto:akreitzer@haines.ak.us)>; Tom Morphet <[tmorphet@haines.ak.us](mailto:tmorphet@haines.ak.us)>  
**Subject:** RE: Remand on Appeal

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

Good afternoon,

I concur that the assembly can remand to the planning commission with direction for the commission to consider facts or criteria that the assembly concludes the commission did not sufficiently consider.

The basis for the assembly to remand is not so easily stated and is not based on a particular provision of the code or charter. Remand is a basic principle of administrative law. The concept is that agency or body (here, the planning commission) that makes the initial decision is best situated to correct any shortcomings in the decision. It is more familiar with the record and generally has subject matter expertise that the reviewing authority (often a court but includes an intermediary body that hears appeals such as the assembly) lacks. Another way of looking at the question is that jurisdiction over the initial decision maker is a component of the reviewing authority's jurisdiction to hear the appeal.

Charles

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**From:** Alekk Fullerton  
**Sent:** Wednesday, November 15, 2023 2:56 PM  
**To:** Charles Cacciola  
**Cc:** Annette Kreitzer; Tom Morphet  
**Subject:** Remand on Appeal

Hi Charles-

I have permission from the Manger to send this email.

In the past, Brooks has advised that the assembly may **remand** a CUP to the Planning Commission to re-evaluate the CUP based on a particular criteria. Our code, however, has the following language:

18.30.060 Appeals to the borough assembly.

...

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.

What is the basis for a remand? The assembly voted to rehear a CUP for resource extraction last night.

Thank you!

**Alekka Fullerton**

Borough Clerk  
Haines Borough  
P.O. Box 1209  
Haines, AK 99827  
(907)766-6402  
fax (907)766-2716

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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](mailto:rschnabel@colaska.com)

November 2<sup>nd</sup>, 2023

Re: Conditional Use Permit #23-87, Resource Extraction | October 23<sup>rd</sup>, 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 2<sup>nd</sup>, 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](mailto: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](mailto: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](mailto:planner@haines.ak.us)

Ec: [dlaframboise@colaska.com](mailto:dlaframboise@colaska.com)  
[TJMASON@COLASKA.COM](mailto: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**

<b>I. Property Owner/Agent</b>		<b>Owner's Contractor(If Any)</b>	
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:	
<b>II. Property Information</b>			
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 _____			
<b>OR</b> 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			
<b>III. Description of Work</b>			
<b>Type of Application</b> (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 _____	<b>Project Description</b> (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> _____	<b>Water Supply</b> 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 _____	<b>Sewage Disposal</b> 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> Payment Method: <u>Credit Card</u> Receipt #: <u>053247</u> Received By: <u>TOLSON</u> Date: <u>8.23.2023</u>	Information/Documentation Req'd    Rec'd <input type="checkbox"/> <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> <input type="checkbox"/> State DEC <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: _____ <span style="display: block; text-align: center;">Planning Commission Chairman</span>			If no,  Denied By: _____ <span style="display: block; text-align: center;">Planning Commission Chairman</span>		
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 <b>substantial completion of construction within two</b> years and the following special requirements:					

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

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 23<sup>rd</sup> 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:** [Kathleen Menke](#)  
**To:** [Alekk Fullerton](#)  
**Subject:** CUP Appeal Lutak  
**Date:** Friday, November 10, 2023 1:27:28 PM

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

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

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



27<sup>th</sup> and October 29<sup>th</sup> 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...*

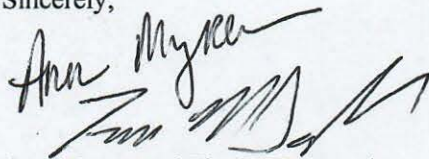
See response under General Use *Criteria B* above.

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

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

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**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

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**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

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**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

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**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

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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



| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |

November 20, 2023

Alekka Fullerton  
Haines Borough Clerk  
PO Box 1209  
Haines, AK 99827

Re: Haines Borough Conditional Use Permit #23-87 for Resource Extraction Appeal Hearing

Ms. Fullerton,

We are writing to provide the Assembly with information for the upcoming hearing on Conditional Use Permit #23-87 ("Permit"). Since the Permit was issued by the Planning Commission we have spoken with several residents, read letters of concern, and listened to public comments during both the Planning Commission and Assembly hearings. While we appreciate stakeholder involvement, none of the appellants have presented facts or evidence that warrants rescission of the Permit. *See* HBC 18.30.050(B)(1) ("The burden of proof shall be on the appellant to demonstrate the facts and resolution of the issues on appeal by substantial evidence.")

The Planning Commission made detailed findings addressing the concerns raised by appellants, including that:

- The use is located on the site so as to avoid noise and other nuisances or dangers;
- Southeast Roadbuilders' development scheme is consistent and in harmony with both the Comprehensive Plan and surrounding land uses;
- The permitted use will not be harmful to public safety, health, or welfare;
- Southeast Roadbuilders' use will not cause significant erosion, ground or surface water contamination, or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

Based on these findings, and the appropriate conditions already placed on the Permit, the Commission's decision – which included the input of Commissioners with extensive planning and engineering experience – should be affirmed.<sup>1</sup> Notwithstanding, Southeast Roadbuilders offers the following letter to address the major topics brought up by appellants.

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<sup>1</sup> Per HBC 18.30.060(B)(2)-(3), the "burden of proof shall be on the party challenging the decision of the planning commission" and the Assembly "may confirm the commission's decision, reverse the commission's decision, or change the conditions which the commission placed on appeal." This code provision does not provide for remanding the Permit back to the Planning Commission.



| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |

### **Slopes and Hazard Areas**

Safety is a paramount concern for Southeast Roadbuilders, and our company has a long record of safe and professional operation in performing this type of work. In fact, Southeast Roadbuilders expects that, upon completion of its operations, the slopes on which it has performed work will be safer and *more* stable than they are currently.

Specifically, at the recommendation of Commissioner Eckhoff, the Permit requires that a site reclamation plan, developed and stamped by a professional engineer, be submitted for Planning Commission review by Southeast Roadbuilders. This plan will address final conditions of the site, including final backwall conditions and slope stabilization. The Permit also requires that design and engineering for resource extraction in hazard areas be provided to the Borough.

To comply with the Permit, Southeast Roadbuilders has engaged a licensed engineer with experience in reclamation plans to perform work satisfying both requirements. We have also sent out samples to a qualified laboratory to determine the appropriate finish backwall slopes. We recognize stability of the slopes during excavation in hazard areas and final backwalls must be evaluated by individuals qualified within the State of Alaska to do so by experience and licensing.

Attached to this letter are several examples of projects where engineered excavation was used to provide slope stabilization, which is a common practice for stabilized slopes, not only in Haines but throughout the state.

An additional point of concern for certain residents appears to be the overall stability of the area outside of Southeast Roadbuilder's property limits. While we are sensitive to the concern and understand why the community is, it is outside of the permitting scope and the borough code section 18.60.010(T) for us, as an individual entity, to provide an evaluation or correction of those conditions. We are complying with this section of code by designing and engineering our development on our site to mitigate the risk of loss of life or property. Pre-existing conditions on state property are beyond our control. We have researched available hazard maps as part of the permitting process; in the Haines Coastal Management Plan referenced in the Haines Borough Multi-Hazard Mitigation Plan there is a Haines Coastal Management Plan Natural Hazards map that our proposed developments approximately circled in red appear to be outside of.



| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |



### Traffic and Access

The Permit requires Southeast Roadbuilders to “coordinate access, traffic plans, and roadway maintenance during resource extraction” with DOT&PF’s Southcoast Region Right-of-Way office. This is an appropriate requirement as Southeast Roadbuilder’s operation will be using a state-owned road; operated and maintained by DOT&PF.

Pursuant to the Permit conditions, Southeast Roadbuilders has already been in contact with DOT&PF’s right of way division, and it has submitted applications for the northern driveway access. We have likewise been in discussions with the Department about access to the southern driveway, which will take additional coordination and design with Department representatives.

Again, Southeast Roadbuilders expects that the net impact of this project will be to improve road safety and *reduce* industrial traffic through the Haines townsite because use of these sites will significantly reduce truck traffic from our current material source at mile 4.5 on the Haines Highway when exporting material.

Other regulatory requirements are already in place for vehicle speed, vehicle weights, and frequency of access through AKDOT&PF, which Southeast Roadbuilders will abide by.

The Planning Commission considered traffic issues in detail when it granted the permit, adding a condition to the Permit that Southeast Roadbuilders coordinate with the Alaska Marine Highway System to ensure that no blasting occurred within a two-hour window before ferry arrivals and after ferry departures to avoid conflicts with ferry traffic.

We also recognize that there are other users of this State-owned corridor that have access rights to the road, such as cyclists and pedestrians. However, as a waterfront industrial zone, our truck traffic is consistent with expected use in this zone, and we would hope other users would recognize our rights to use the area as well.

### Hindrance to Waterfront Industrial Uses in the Zone

All Commissioners on the Planning Committee found resource extraction to be consistent with surrounding land uses, and that the development would not impair the value of adjoining property.





| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |

As a waterfront industrial landholder and one of the few private industrial land users in this specific area we see resource extraction as a beneficial use to our waterfront industrial property. We also have provided a letter from Alaska Marine Lines, another private industrial land user in this zone stating that our operation will not be a hinderance to their operations.

This development would be necessary to enhance the property for many potential waterfront industrial uses that require low angle, highway elevation access, such as marine industrial facilities, marine commercial facilities, heavy equipment storage, major and commercial uses. As such we see resource extraction necessary for any potential future developments that may take place on the site. Under the definition of resource extraction, we would already be able to remove material from within the legal boundaries of the property that was incidental to construction for any of those use by right activities that could be permitted on these parcels.

#### Nuisance Conditions

The Permit prohibits “excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter . . . or [any activities which] become a nuisance as defined in HBC 8.12.020(l).” Accordingly, no modification is needed to the Permit to protect against nuisance conditions.

Additionally, Southeast Roadbuilders would ask the Assembly to recognize that the current zoning of these parcels is waterfront industrial. While waterfront industrial is not defined in Borough code 18.20.020; heavy industrial means a use that has potential for significant negative impact on adjoining uses including offensive noise, dust, vibration; activities that involve large amounts of exterior storage; and uses that create hazards such as heavy truck traffic.

These uses specifically include truck or ship terminals and docks, and bulk material or machinery storage. Resource extraction is further defined as a heavy industrial use in 18.20.020. As a result, Southeast Roadbuilder’s expected use is entirely consistent with the expected activities for the zone. With the definition of waterfront industrial we do not expect to create nuisance conditions beyond those which should already be expected in the zone, and there are large buffers between our operations and any other non-industrial uses.



| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |

GENERAL CLASSIFICATION →	INDUSTRIAL USES			COMMERCIAL/ Residential Uses			RESIDENTIAL USES ONLY	RESIDENTIAL/ Commercial Uses			RECREATIONAL USE
	Heavy Industrial	Light Industrial/ Commercial	Waterfront Industrial	Commercial	Waterfront	Significant Structures Area	Single Residential	Multiple Residential	Rural Residential	Rural Mixed Use	Recreational
Specific Zoning Districts → USES ↓	I/H	I/L/C	I/W	C	W	SSA	SR	MR	RR	RMU	REC
Hotel/Motel	NA	CU	NA	UBR	CU	UBR	NA	NA	NA	CU	NA
Industrial, Heavy	UBR	CU	UBR	CU	NA	NA	NA	NA	NA	CU	NA
Industrial, Light	CU	UBR	CU	CU	CU	NA	NA	NA	NA	CU	NA
Institutional Home	NA	NA	NA	UBR	NA	NA	NA	CU	NA	CU	NA
Junkyard	UBR	UBR	CU	CU	NA	NA	NA	NA	NA	CU	NA
Kennel	UBR	CU	NA	CU	NA	NA	NA	NA	CU	CU	NA
Landfill	UBR	UBR	NA	CU	NA	NA	NA	NA	NA	CU	NA

### Environmental Regulatory Compliance

Jurisdiction for environmental regulatory compliance for this type of operation and the concerns brought up at the previous Assembly meeting would fall under the Alaska Department of Environmental Conservation’s (ADEC) purview. The Permit currently requires Southeast Roadbuilders to provide a copy of all plans and Storm Water Pollution Prevention Plans (SWPPP) to the Borough before implementation of the project, and we believe SWPPP concerns are therefore adequately addressed between this requirement and other ADEC requirements in place. ADEC has the expertise authority for multi-sector permit review, approval, and inspection and we intend to abide by their requirements.

We currently have a professional SWPPP writer preparing documents for future use on the site that will be provided to both ADEC and the Borough. Southeast Roadbuilders has experience managing material extraction sites throughout Southeast Alaska, in fact some images of best practices in DEC’s User Manual of BMPs for Gravel/Rock Extraction & Water Quality PDF are from sites that our sister company SECON manages. Other environmental regulatory requirements will be managed with the authority having jurisdiction.

Finally, in approving the conditional use permit, the Planning Commission noted on multiple occasions that Southeast Roadbuilder is working with both ADEC and the Alaska Department of Fish & Game to ensure compliance water quality and fish habitat regulations.

### Alaska Marine Highway’s Water System

18.60.010 only requires connection to public water systems within 200 feet of the property; Southeast Roadbuilders does not intend to connect to Alaska Marine Highway’s water system. In addition, we note



| HC 60 Box 4800 Haines, AK 99827 | Phone : 907-766-2833 | Fax : 907-766-2832 |

that this issue was not raised by appellants (or anyone else) in front of the Planning Commission, and therefore we do not believe there is a basis for the Assembly to review this on appeal under 18.30.060.

#### Conclusion

We have shown that approval criteria 1 – 8 have been sufficiently addressed between the original permit application and this document consistent with previous approval standards. This project also supports Haines Borough’s Comprehensive Plan goals, such as: goal 3 – achieve a strong, diversified local economy<sup>2</sup> that provides employment and income for all citizens that desire to work...; goal 5 – provide an adequate supply of land for commercial and industrial development; and goal 10 – support responsible development (extracting resources from sites that have future use potential).

Given the above and given the existing Permit conditions (which already address many of the issues raised by appellants), we encourage the Assembly to maintain the Permit as-is.

Sincerely,

TJ Mason, PMP  
Area Manager/Assistant Secretary  
Glacier Construction dba Southeast Roadbuilders

---

<sup>2</sup> In addition to the general economic benefits to the community that this project will offer, redundancy of gravel and rock sources is important if access ever was cut off beyond Mile 4 of the Haines Highway and materials were needed to perform emergency repairs to protect the health and safety of life or property.



100 Mt. Roberts Street  
Juneau, AK 99801  
Main: (907) 586-3790  
jnuoffice@lynden.com

To Whom It May Concern,  
11/17/23

Alaska Marines Lines would like to offer its support for the Lutak Pit development project conducted by Southeast Roadbuilders. We do not anticipate the project to negatively impact our operations and see this as a benefit to the community by supplying a source of rock.

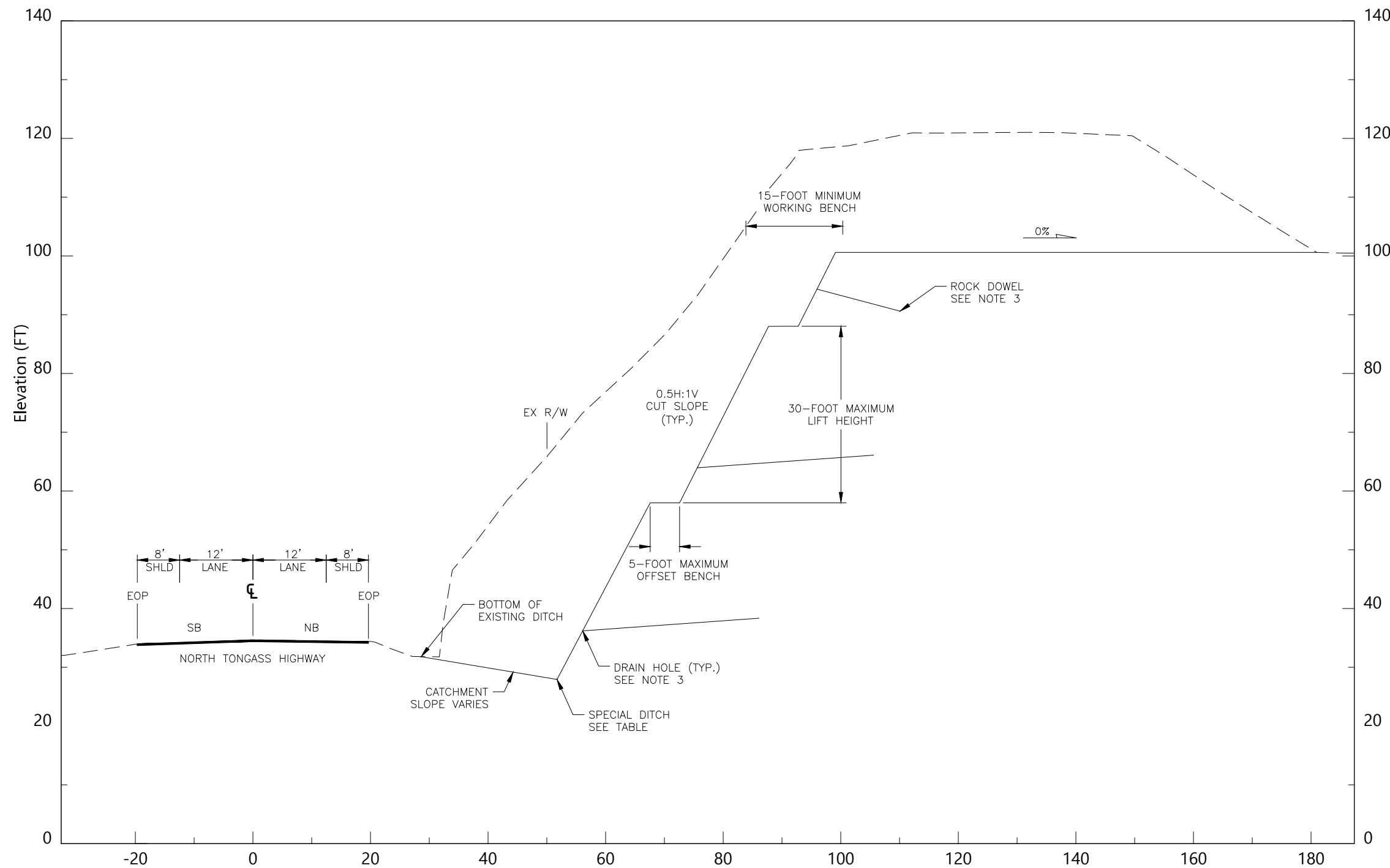
Sincerely,

A handwritten signature in black ink that reads 'Adam S. Anderson'.

Adam S. Anderson  
Southeast Regional Manager  
100 Mt. Robert St.  
Juneau, AK 99801  
[adama@lynden.com](mailto:adama@lynden.com)  
907-419-5600

NO.	DATE	REVISION	STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
			ALASKA	0920(032)/SFHWY00432	2023	B2	B4

FILE: H:\Jobs\17-004\_Southcoast\_Region\Mid-Slope\_Stabilization (Landslide Tech)\CAD\Drawings\68657-KTN-B01-B04.dwg  
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 DESIGNED: BAG CHECKED: SWD DRAFTED: WP



**NOTES:**

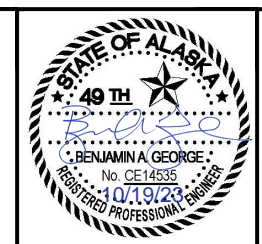
1. PROVIDE 15-FOOT WORKING BENCHES AND MAXIMUM 5-FOOT OFFSET BENCHES WITH A 0.5H:1V CUT SLOPE, WITH 30-FOOT MAXIMUM LIFT HEIGHTS.
2. INSTALL ROCK DOWELS AT LOCATIONS IDENTIFIED IN THE FIELD BY THE ENGINEER.
3. DRILL DRAIN HOLES ON A 30-FOOT SPACING ON THE LOWER AND MIDDLE BENCHES AT LOCATIONS IDENTIFIED IN THE FIELD BY THE ENGINEER.

**SPECIAL DITCH POINT TABLE**

STATION	OFFSET (FT)	ELEVATION (FT)
17+50		
17+60	37.781	23.03
17+80	61.340	18.04
18+00	60.000	18.77
18+20	58.390	19.44
18+40	57.450	20.10
18+60	56.380	21.50
18+80	56.920	22.02
19+00	54.960	22.94
19+20	52.360	24.02
19+40	54.620	24.39
19+60	54.330	25.19
19+80	74.400	26.00
20+00	54.520	26.84
20+20	57.100	27.32
20+40	61.490	27.56
20+60	64.360	27.94
20+80	85.610	28.65
21+00	67.660	29.24
21+20	71.370	29.52
21+40	52.740	52.5
21+60	31.750	36.05 (ME)

1 NORTH TONGASS TYPICAL SECTION  
B2 SCALE: NOT TO SCALE  
 STA 17+50 TO STA 22+10

PLANS DEVELOPED BY:  
 LANDSLIDE TECHNOLOGY  
 10250 SW GREENBURG RD,  
 SUITE 111  
 PORTLAND, OR 97223  
 (503)452-1200  
 AECL238440



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION  
 AND PUBLIC FACILITIES  
  
 KTN WOLFE POINT SLOPE  
 STABILITY IMPROVEMENTS  
  
 SLOPE STABILIZATION  
 TYPICAL SECTION

FIRM DOWL  
 FILE C:\civil\3D Projects\2016\24\61850-02\Civil\SA-CT-DT-B-61850.dwg  
 ADDRESS 9085 GLACIER HIGHWAY, JUNEAU, AK 99801  
 DATE 12/30/2019 LAYOUT B3  
 PHONE (907) 780-3533  
 DESIGNED HOBBS  
 CHECKED NOBLE  
 DRAFTED KEMP  
 CERTIFICATE OF AUTH # : AECL848  
 KEMP

NO.	DATE	REVISION	STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
			ALASKA	0956036/SFHwy00171	2020	B3	B5

FROM STA	TO STA	OFFSET	SLOPE	REMARK
621+00	623+00	LT	2.0:1	RIPRAP
641+00	642+00	LT	2.0:1	RIPRAP
666+50	674+00	LT	2.0:1	RIPRAP
688+00	704+00	LT	2.0:1	RIPRAP
706+50	707+00	RT	1.3:1	MINIMIZE CUT SLOPE LIMITS
735+50	738+00	LT	2.0:1	RIPRAP
752+00	753+50	LT	2.0:1	RIPRAP
759+40	762+17.81	LT	2.0:1	RIPRAP
765+50	769+50	LT	2.0:1	RIPRAP
788+00	792+00	LT	2.0:1	RIPRAP
816+00	820+00	LT	2.0:1	RIPRAP
862+50	864+50	RT	1.3:1	MINIMIZE CUT SLOPE LIMITS
872+75	874+50	LT	2.0:1	RIPRAP
954+80	955+00	LT	4.0:1	20 FT TRANSITIONS, MAINTENANCE ACCESS
983+06	983+20	LT/RT	4.0:1	20 FT TRANSITIONS, MAINTENANCE ACCESS
1008+39.75	1008+50.50	LT	1.3:1	MINIMIZE FILL SLOPE LIMITS
<del>1042+75</del>	<del>1043+50</del>	<del>RT</del>	<del>1.3:1</del>	<del>MINIMIZE CUT SLOPE LIMITS</del>
<del>1083+82.00</del>	<del>1104+17.10</del>	<del>LT</del>	<del>6.0:1</del>	<del>32.9 FT TRANSITIONS, MAINTENANCE ACCESS</del>
<del>1094+50</del>	<del>N/A</del>	<del>RT</del>	<del>1.4:1</del>	<del>MINIMIZE CUT SLOPE LIMITS</del>
<del>1096+00</del>	<del>N/A</del>	<del>RT</del>	<del>1.4:1</del>	<del>MINIMIZE CUT SLOPE LIMITS</del>

NIC

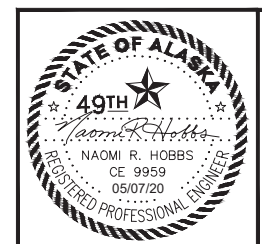
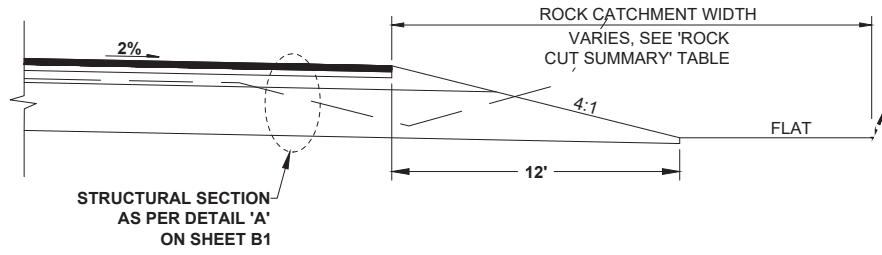
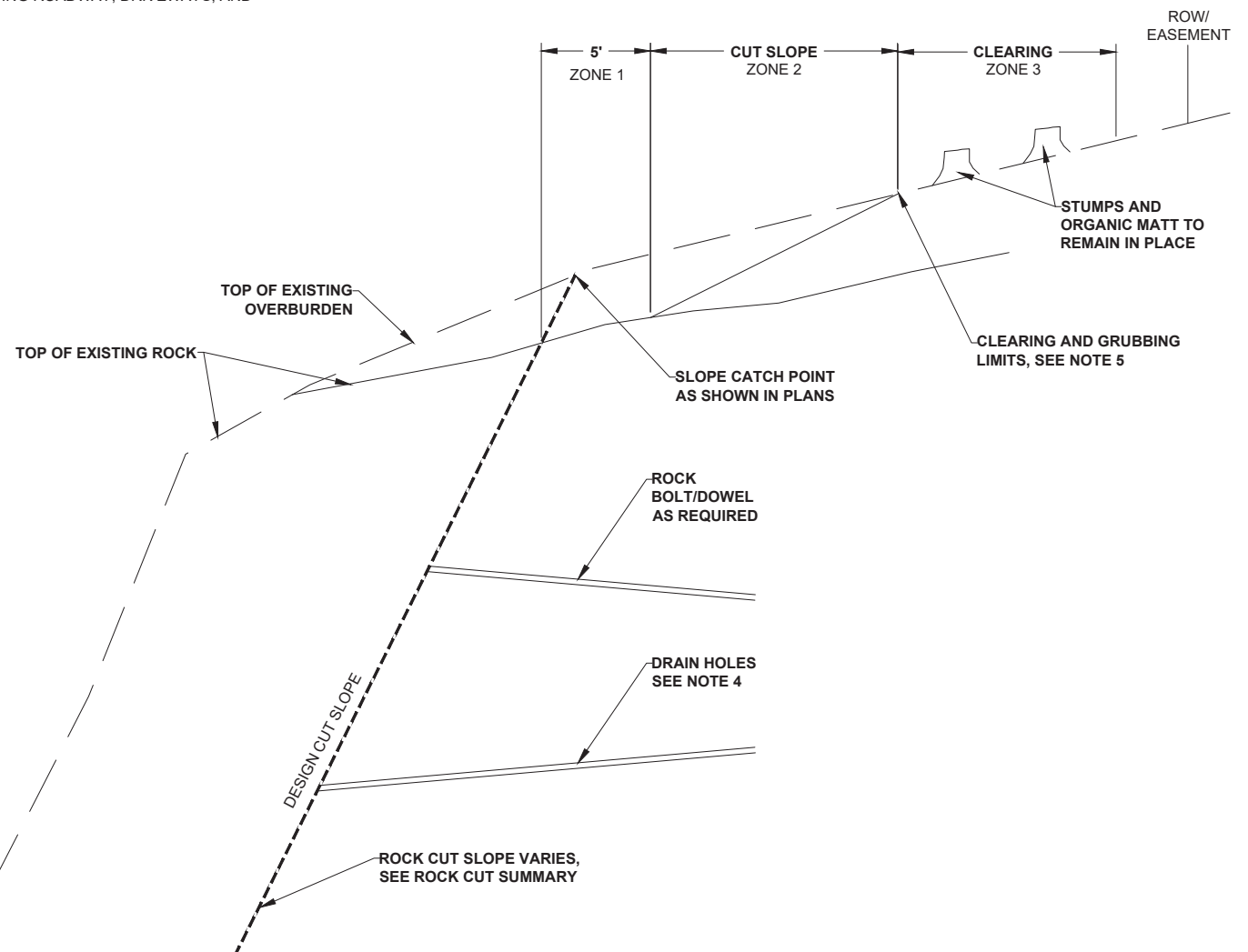
**NOTES:**

- UNCLASSIFIED EXCAVATION MEASURED FOR PAYMENT WILL BE LIMITED TO MATERIAL WITHIN THE PLANNED DESIGN CUT. EXCAVATED MATERIAL OUTSIDE THE PLANNED DESIGN CUT WILL BE CONSIDERED A MATERIAL SOURCE.
- THE EXTENT OF THE NEAT LINE PAY LIMIT FOR UNCLASSIFIED EXCAVATION SHALL BE ALONG A STRAIGHT LINE BEGINNING AT THE OUTER LIMIT OF THE ROCK CATCHMENT WIDTH AND PROJECTED TO THE CREST OF THE EXISTING ROCK AT THE DESIGN CUT SLOPE WHICH INCLUDES ALLOWANCE FOR OFFSET BENCHES AS DESCRIBED IN NOTE 3.
- MAXIMUM ALLOWABLE CONTROLLED BLAST FACE HEIGHT IS 30 FEET PER LIFT. LIMIT WIDTH OF OFFSET BENCHES TO 2 FEET FOR ROCK CUT SLOPES.
- DRILL 3 INCH MIN DIAMETER HOLES AT 5 TO 10 DEGREES ABOVE HORIZONTAL TO A DEPTH OF 20 FEET. DRILL 5 TO 10 FEET ABOVE THE TOE OF DITCH AND ALL INTERMEDIATE BENCHES. SPACE 20 FEET BETWEEN HOLES AND ADJUST LOCATIONS TO INTERCEPT VISIBLE WATER SEEP AND MOIST SPOTS. THERE SHALL BE ONE ROW OF DRAIN HOLES PER 30 FOOT LIFT.
- CLEARING AND GRUBBING LIMITS QUANTITY IS BASED ON THE AREA BETWEEN THE SLOPE CATCH POINTS (INCLUDING CUT SLOPE ZONE 2 IN ROCK CUT AREAS), EXCLUDING AREAS OF EXISTING ROADWAY, DRIVEWAYS, AND PULLOUT AREAS.

ZONE	DESCRIPTION
1	REMOVE ALL OVERBURDEN SOILS 5 HORIZONTAL FEET FROM CREST OF ROCK CUT TO PREVENT VEGETATION GROWTH.
2	IF A 2H:1V SLOPE IS NOT CONSTRUCTIBLE WITHIN THE ROW, EASEMENT, OR PERMITTED LIMITS CUT OVERBURDEN AT 1.5H:1V. IF 1.5H:1V IS NOT CONSTRUCTIBLE WITHIN THE ROW, EASEMENT, OR PERMITTED LIMITS CUT OVERBURDEN AT A 1H:1V. STABILIZE SOIL WITH DITCH LINING PER SECTION 610.
3	CLEAR ALL TREES 10 HORIZONTAL FEET FROM THE SLOPE CATCH POINT OF ZONE 2 OR TO THE ROW OR EASEMENT LINE, WHICHEVER IS CLOSER. LEAVE STUMPS AND ORGANIC MAT IN PLACE

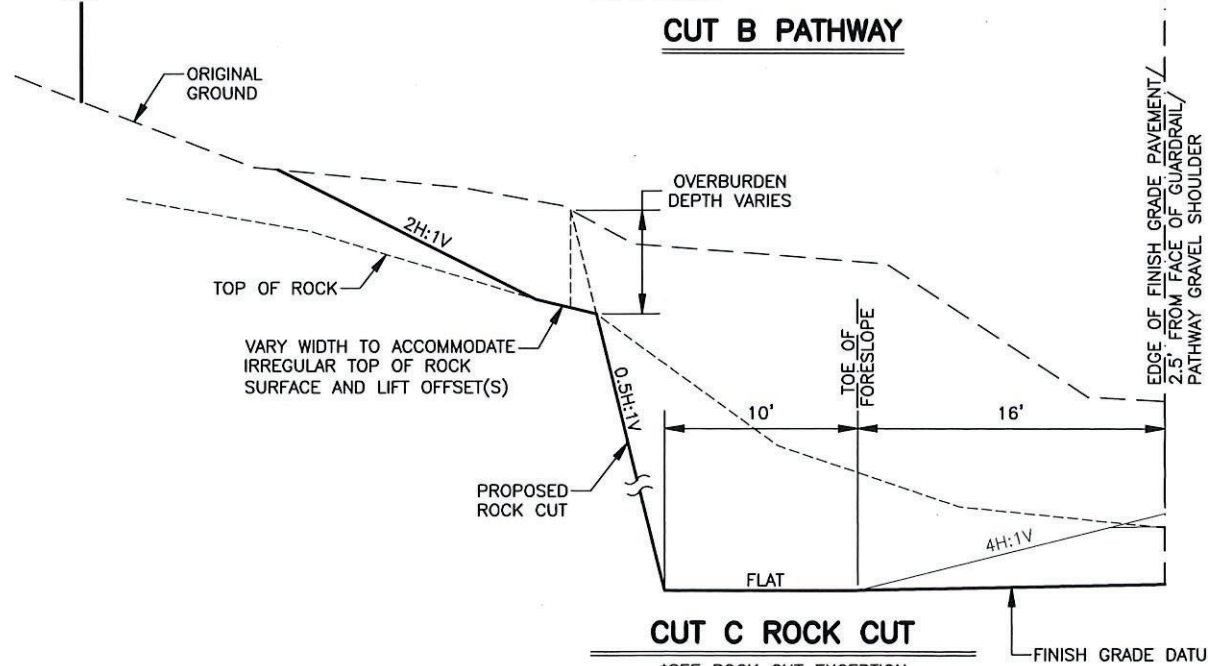
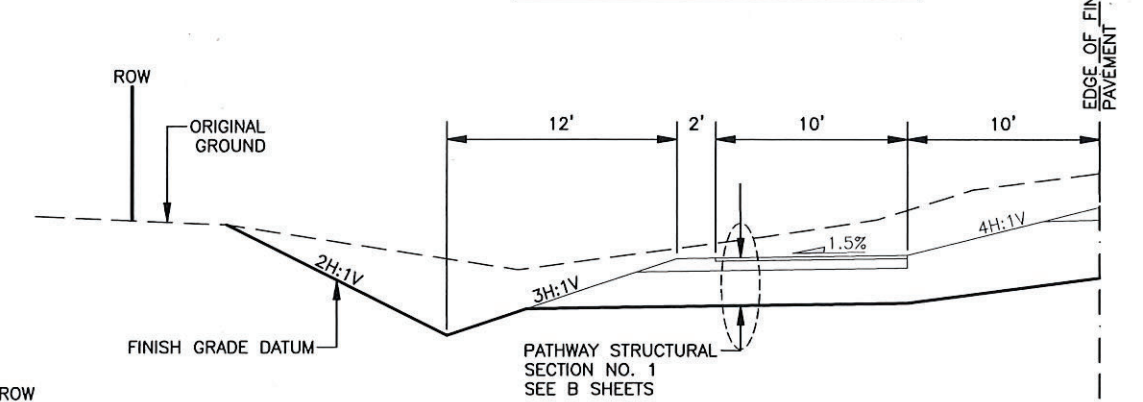
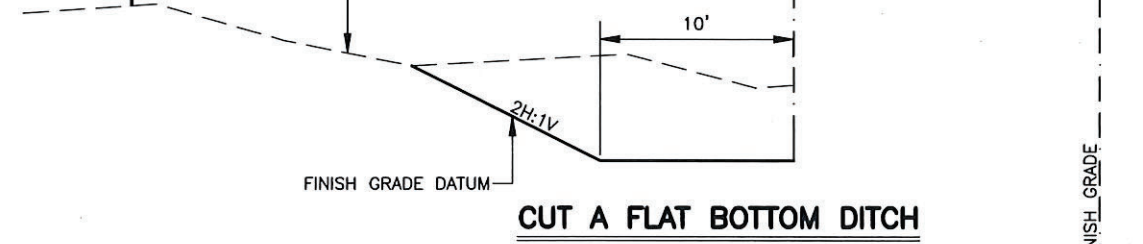
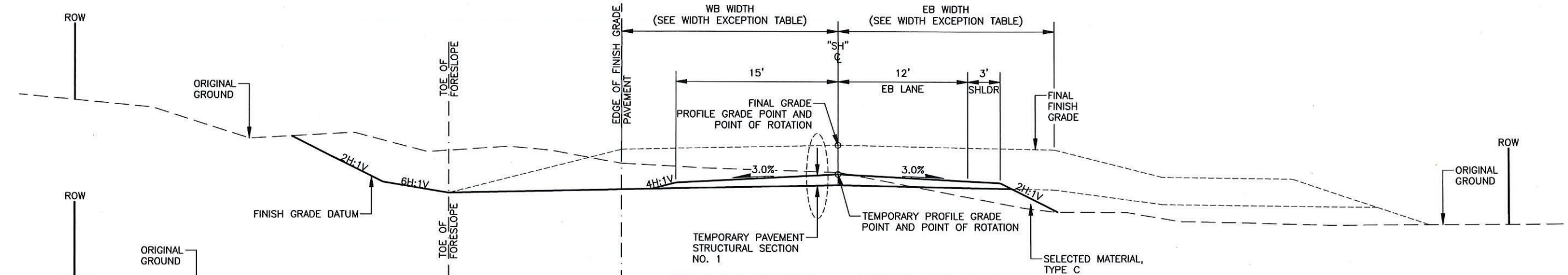
ROCK CUT	OFFSET	FROM STA	TO STA	CATCHMENT WIDTH	DESIGN CUT SLOPE	REMARKS
1	RT	674+00	680+60	25	0.25:1	
2	RT	684+00	686+00	20	0.25:1	
3	RT	688+00	694+50	40	0.50:1	
4	A	741+97.50	753+20	20	0.50:1	40-FOOT TRANSITION
	B	753+60	757+20	35	0.25:1	
	C	757+60	759+00	35	0.18:1	
5	A	779+40	780+40	30	0.25:1	20-FOOT TRANSITION
	B	780+60	782+60	20	0.25:1	
6	A	784+20	785+00	20	0.25:1	40-FOOT TRANSITION
	B	785+40	788+00	30	0.25:1	
7	RT	790+60	791+80	30	0.18:1	
8	RT	811+80	816+60	20	0.25:1	
9	RT	822+00	832+20	20	0.25:1	

NOTES:  
 1) ALLOWABLE OFFSET BENCHES (SEE NOTE 3 THIS SHEET) ARE REFLECTED IN PLANS (CUT LIMITS) AND IN SUPPLEMENTAL CROSS SECTIONS.  
 2) ADDITIONAL MATERIAL SOURCES LOCATED AT STATIONS 674+00 TO 710+00 (282,000 CY) AND 776+00 TO 797+00 (200,000 CY) IN SITU.  
 3) ADDITIONAL MATERIAL FOR EMBANKMENT CONSTRUCTION MAY BE OBTAINED FROM DEBRIS FLOW SITES AT STATIONS 948+00 TO 978+00 (91,100 CY) AND 1178+00 TO 1181+00 (67,300 CY). REFER TO SECTION 203 FOR REQUIREMENTS.



STATE OF ALASKA  
 DEPARTMENT OF TRANSPORTATION  
 AND PUBLIC FACILITIES  
**HAINES HIGHWAY RECONSTRUCTION**  
 MILEPOST 12.2 TO 20  
**TYPICAL SECTIONS**

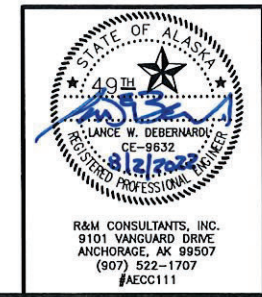
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**TEMPORARY PAVEMENT STRUCTURAL SECTION NO. 1**  
 FINAL GRADE PROFILE GRADE POINT AND POINT OF ROTATION  
 TEMPORARY PROFILE GRADE POINT AND POINT OF ROTATION  
 SELECTED MATERIAL, TYPE C

WIDTH EXCEPTION TABLE							
WB WIDTH	STATION FROM	STATION TO	REMARKS	EB WIDTH	STATION FROM	STATION TO	REMARKS
20'	"SH" 1259+50.00	"SH" 1372+48.25		32'	"SH" 1259+50.00	"SH" 1408+29.12	
32'	"SH" 1380+29.13	"SH" 1420+78.54		20'	"SH" 1417+01.48	"SH" 1420+78.60	
40'	"SH" 1425+98.66	"SH" 1433+39.15		28'	"SH" 1425+98.75	"SH" 1433+39.06	
32'	"SH" 1438+59.15	"SH" 1537+74.00		20'	"SH" 1438+59.06	"SH" 1659+00.00	
20'	"SH" 1545+54.00	"SH" 1574+36.00		20'	"SH" 2006+45.69	"SH" 2015+54.00	
32'	"SH" 1582+16.00	"SH" 1659+00.00		32'	"SH" 2017+34.00	"SH" 2021+44.00	
32'	"SH" 2006+45.69	"SH" 2010+54.00		20'	"SH" 2022+30.00	"SH" 2026+23.76	
48'	"SH" 2020+94.00	"SH" 2028+00.00		32'	"SH" 2027+02.80	"SH" 2028+00.00	

**NOTE:**  
 WIDTH EXCEPTION TABLE PROVIDES FULL BUILD ROAD WIDTH TO ESTABLISH EXCAVATION LIMITS AND SLOPE CATCH POINTS FOR GRUBBING EXTENTS.



STATE OF ALASKA  
 DEPARTMENT OF TRANSPORTATION  
 AND PUBLIC FACILITIES  
**STERLING HIGHWAY MP 45-60;  
 SUNRISE TO SKILAK RD  
 STAGES 3 & 4 EWP**  
 TYPICAL SECTION

DESIGNED BY: LKLVOS/ADRK  
 CHECKED BY: KEK/SAP/ARRH  
 DRAFTED BY: CHL/ZDK/VJS  
 XREFS: XR-53610-Border-Det01  
 SCALE: 1" = 5'  
 LAYOUT: B3  
 DATE TIME: 11/9/2021 7:43 AM  
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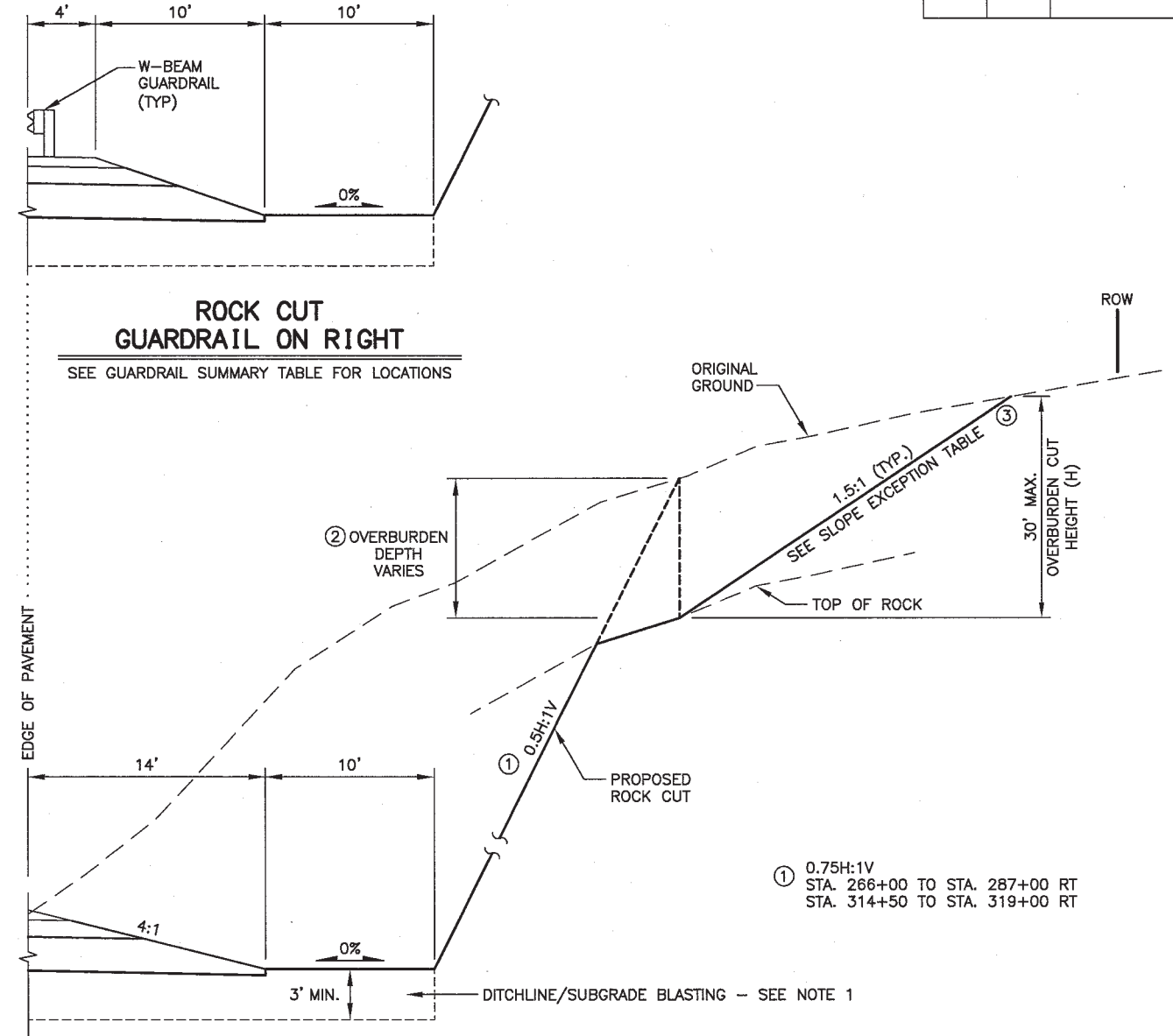
REVISIONS		
NO.	DATE	DESCRIPTION

STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
ALASKA	0311032/Z536100000	2021	B3	B5

③

OVERBURDEN CUT HEIGHT (H)	SLOPE	COMMENTS
<30'	1.5:1	SEE NOTE 3
IF H >30' AT 1.5:1	1:1	SEE NOTE 4
IF H >30' AT 1:1	0.75:1	SEE NOTE 4

STATION TO STATION	COMMENTS
162+00 TO 162+65	SEE NOTE 4
166+00 TO 178+50	SEE NOTE 4
180+00 TO 181+75	SEE NOTE 6
182+70 TO 187+75	SEE NOTE 4
191+50 TO 194+00	SEE NOTE 6
194+50 TO 195+25	SEE NOTE 6
196+75 TO 202+50	SEE NOTE 6
247+00 TO 250+50	SEE NOTE 6
251+75 TO 254+75	SEE NOTE 4
259+00 TO 259+50	SEE NOTE 4
262+25 TO 265+50	SEE NOTE 6
266+50 TO 267+75	SEE NOTE 6
271+25 TO 274+50	SEE NOTE 6
274+85 TO 278+00	SEE NOTE 4
284+65 TO 287+00	SEE NOTE 4
315+50 TO 317+65	SEE NOTE 6
319+25 TO 320+85	SEE NOTE 6
321+40 TO 325+25	SEE NOTE 4
326+00 TO 327+35	SEE NOTE 6
327+75 TO 333+20	SEE NOTE 4
334+50 TO 335+25	SEE NOTE 6
338+00 TO 340+00	SEE NOTE 6
345+50 TO 352+85	SEE NOTE 6
359+75 TO 362+75	SEE NOTE 4
363+50 TO 366+00	SEE NOTE 6
369+75 TO 371+25	SEE NOTE 4
376+00 TO 377+75	SEE NOTE 6
380+25 TO 381+25	SEE NOTE 4
383+00 TO 383+75	SEE NOTE 4
386+50 TO 393+75	SEE NOTE 6



**ROCK CUT GUARDRAIL ON RIGHT**  
SEE GUARDRAIL SUMMARY TABLE FOR LOCATIONS

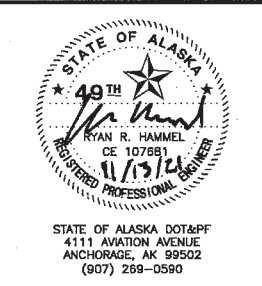
② **ROCK CUT**  
SEE ROCK CUT LOCATIONS AND OVERBURDEN DEPTH TABLE. SEE NOTE 2.

**NOTES:**

- WIDTH OF DITCHLINE/SUBGRADE BLASTING IS MEASURED FROM THE OUTSIDE EDGE OF FLAT BOTTOM DITCH, TOWARDS THE CENTERLINE.
- ROCK CUT LOCATIONS AND OVERBURDEN DEPTHS ARE ESTIMATED AND SHALL BE FIELD VERIFIED VIA EXPLORATION PER THE SPECIFICATIONS.
- ON 1.5:1 SLOPES, INSTALL HIGH PERFORMANCE TURF REINFORCEMENT MAT (HPTRM).
- ON 1:1 AND 0.75:1 SLOPES, INSTALL HPTRM AND WIRE MESH.
- SEE STABILIZATION, OVERBURDEN WIRE MESH - PINNED SUMMARY TABLE FOR LOCATIONS.
- NO OVERBURDEN SLOPE PROTECTION REQUIRED IN AREAS WITH 2:1 SLOPES.
- AS APPROVED BY THE ENGINEER, IF ROCK IS ENCOUNTERED DURING CONSTRUCTION, ROCK SHALL BE EXCAVATED TO FINISHED GRADE AND NO SLOPE STABILIZATION SHALL BE REQUIRED.

②

STATION TO STATION	OFFSET	DEPTH (FT)
160+00 TO 180+00	RT	3 TO 5
180+00 TO 182+50	RT	3
182+50 TO 183+50	RT	5
183+50 TO 185+00	RT	8
185+00 TO 191+00	RT	8
191+00 TO 196+50	RT	6
196+50 TO 199+00	RT	3
199+00 TO 202+00	RT	7
202+00 TO 206+00	RT	3
220+00 TO 225+00	RT	-
245+00 TO 247+00	RT	-
247+00 TO 263+00	RT	5
263+00 TO 266+00	RT	10
266+00 TO 270+00	RT	5
270+00 TO 278+50	RT	12
279+00 TO 284+00	RT	6
284+00 TO 287+00	RT	4
314+00 TO 317+00	RT	> 5
317+00 TO 319+00	RT	2
319+00 TO 323+00	RT	3
323+00 TO 324+75	RT	12
324+75 TO 328+00	RT	11
328+00 TO 336+50	RT	6
336+50 TO 353+00	RT	5
353+00 TO 360+25	RT	9
360+25 TO 366+00	RT	6
366+00 TO 368+50	RT	9
368+50 TO 371+00	RT	5
374+00 TO 378+00	RT	4
378+00 TO 382+00	RT	9
382+00 TO 393+50	RT	5



STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES  
**SEWARD HIGHWAY  
MP 17-22.5 REHABILITATION**

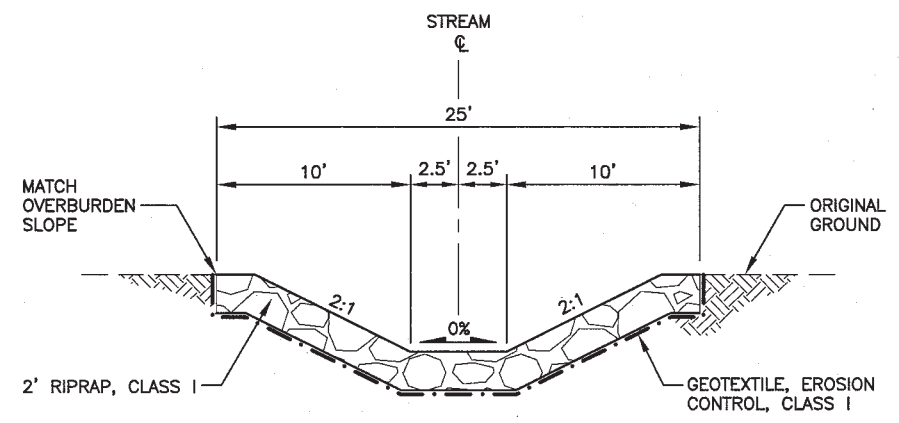
TYPICAL SECTIONS

STATE OF ALASKA DOT&PF  
4111 AVIATION AVENUE  
ANCHORAGE, AK 99502  
(907) 269-0590

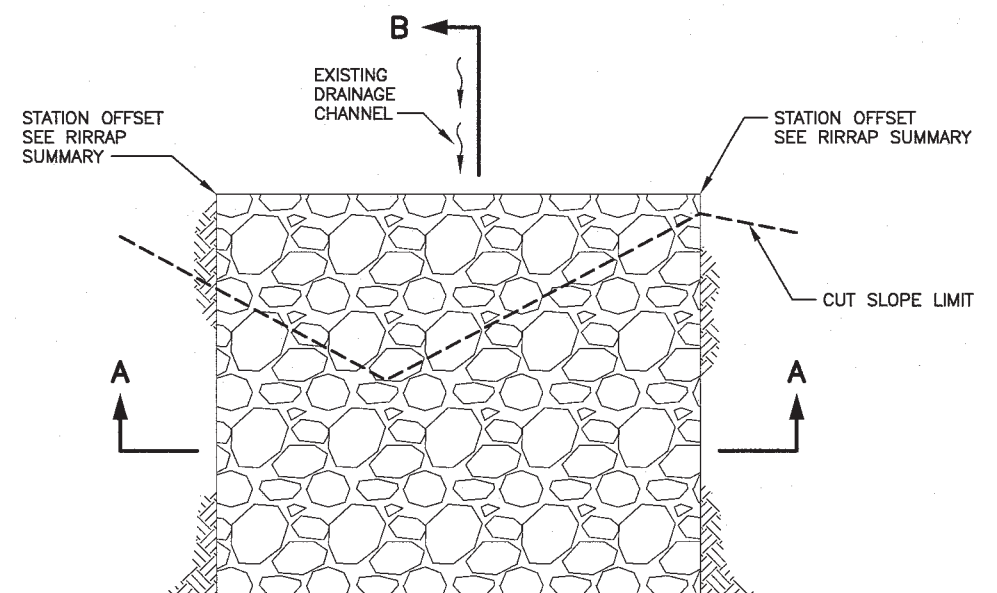


REVISIONS		
NO.	DATE	DESCRIPTION

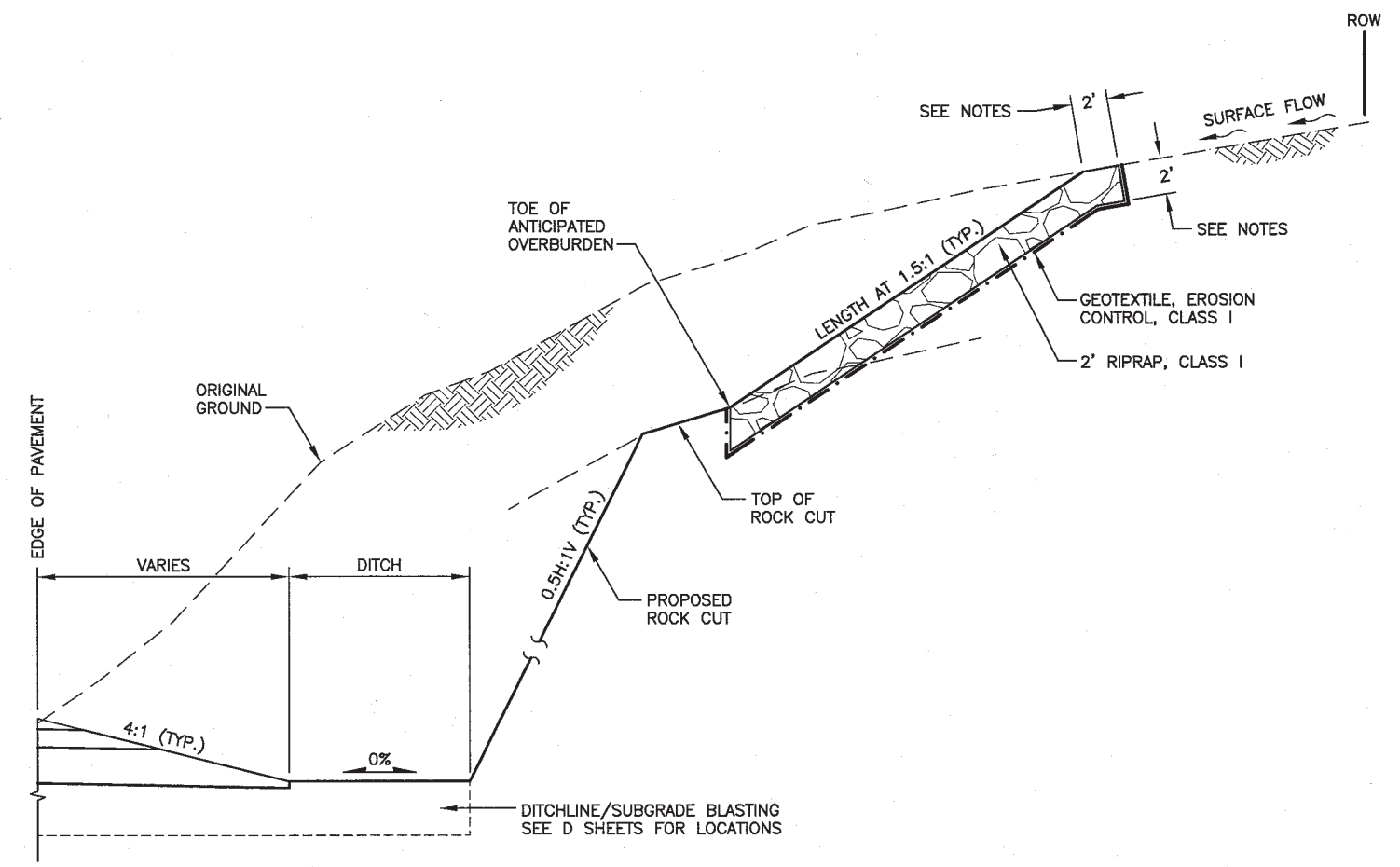
STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
ALASKA	0311032/Z536100000	2021	E8	E45



**SECTION A-A**



**PLAN**  
**ROCK GROTTO DETAIL**  
SEE RIRRAP SUMMARY



**SECTION B-B**

**NOTES:**

1. LOCATIONS TO BE FIELD ADJUSTED TO MATCH NEW STREAM LOCATIONS AS APPROVED BY THE ENGINEER. KEY IN RIPRAP AT THE TOE OF GROTTO.
2. WHERE BEDROCK IS ENCOUNTERED, NO RIPRAP IS NECESSARY. STABILIZE SLOPE AS DIRECTED BY THE ENGINEER.
3. SLOPES MAY VARY. SEE TYPICAL SECTIONS AND EXCEPTION TABLES.
4. WHERE OVERBURDEN SLOPES ARE 1:1 OR GREATER, INSTALL WIRE MESH PER PLAN, SPECIFICATION, AND MANUFACTURER'S RECOMMENDATIONS.
5. ADJUST WIDTH AT NEW STREAM LOCATIONS AS APPROVED BY THE ENGINEER.
6. EXTEND RIPRAP AND EROSION CONTROL GEOTEXTILE ON SATURATED SLOPES ADJACENT TO ROCK GROTTOS AS DIRECTED BY THE ENGINEER.

DRAWING LOCATION: w:\Projects\seward hwy mp 17-22.5 rehabilitation - 53610\Civ3D\16\Plansee\53610\_E08\_Rock Grotto Details.dwg  
 DATE TIME: 11/9/2021 8:08 AM  
 LAYOUT: EB  
 SCALE: 1" = 5'  
 DESIGNED BY: KCS/ZDK  
 CHECKED BY: KSK/SJR/ARR  
 DRAFTED BY: ZDK/VJS  
 XREFS: XR-53610-Barrier-Det.c1



STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES

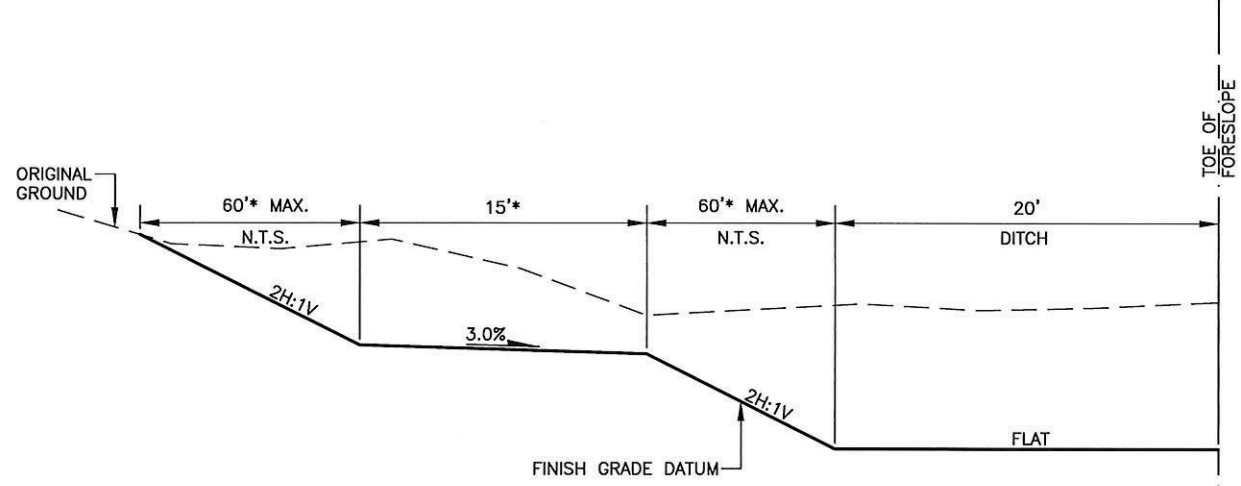
**SEWARD HIGHWAY  
MP 17-22.5 REHABILITATION**

**ROCK GROTTO DETAILS**

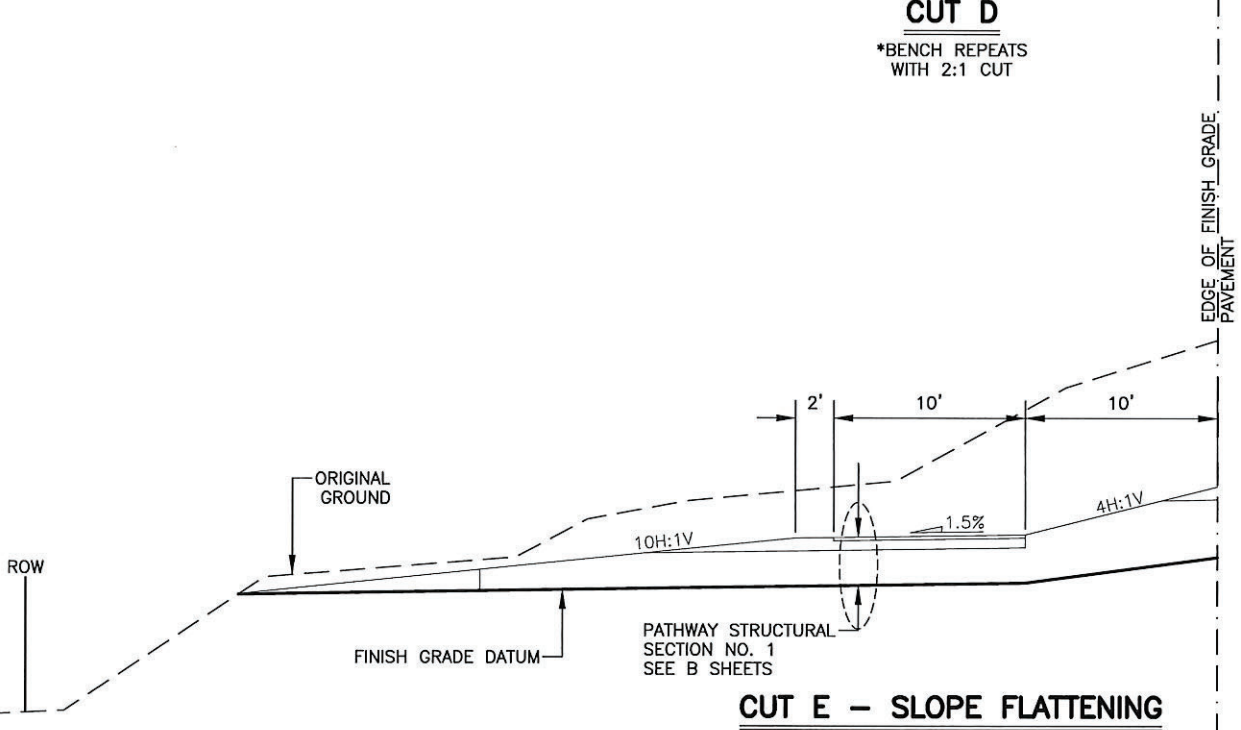
STATE OF ALASKA DOT&P  
4111 AVIATION AVENUE  
ANCHORAGE, AK 99502  
(907) 269-0590

NO.	DATE	REVISION	STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
			ALASKA	0A33032/CFHWY00895	2022	EWP	
						BT3	BT9

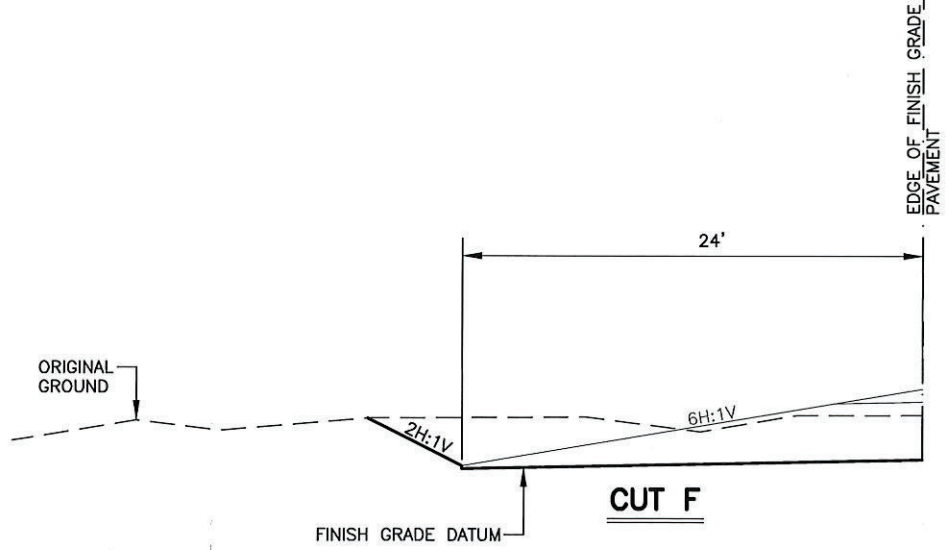
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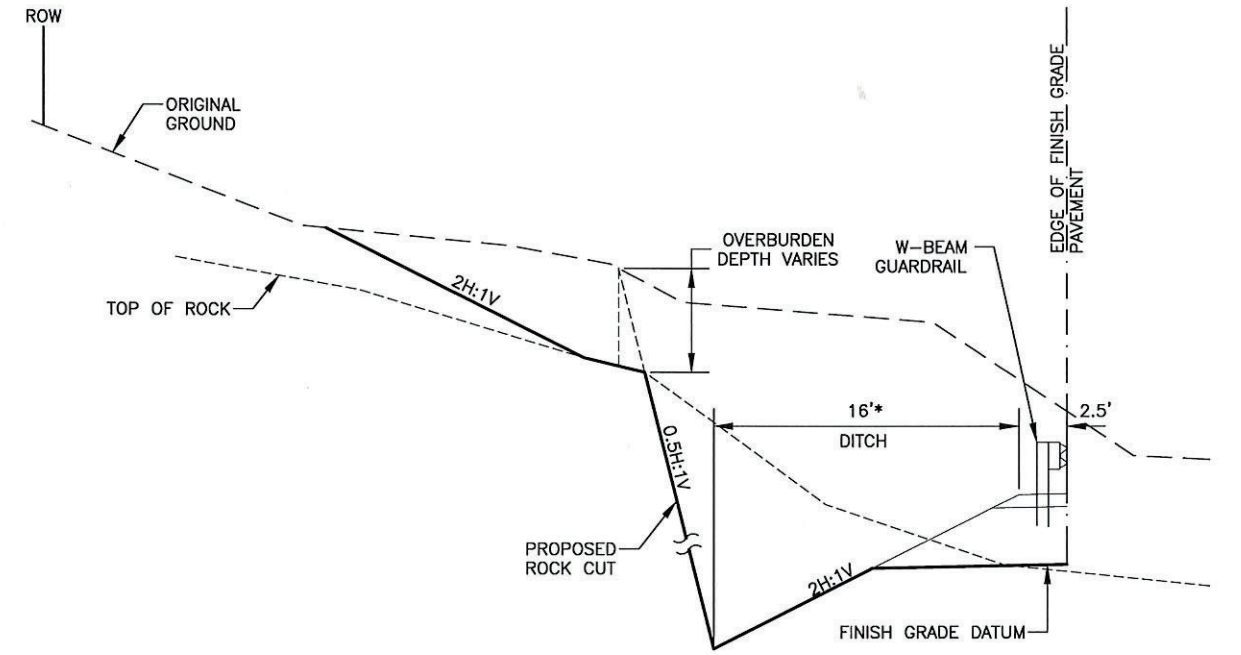
**CUT D**  
 \*BENCH REPEATS WITH 2:1 CUT



**CUT E - SLOPE FLATTENING**

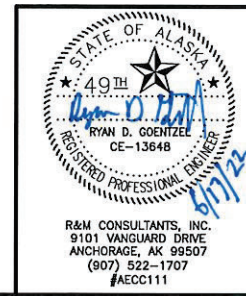


**CUT F**



**CUT G**

\*WIDTH VARIES. SEE SHEET F38 FOR DITCH ELEVATIONS AND OFFSETS



STATE OF ALASKA  
 DEPARTMENT OF TRANSPORTATION  
 AND PUBLIC FACILITIES  
**STERLING HIGHWAY MP 45-60;  
 SUNRISE TO SKILAK RD  
 STAGES 3 & 4 EWP**  
 TYPICAL SECTION

## ATTACHMENT A

### SITE PLAN REQUIREMENTS

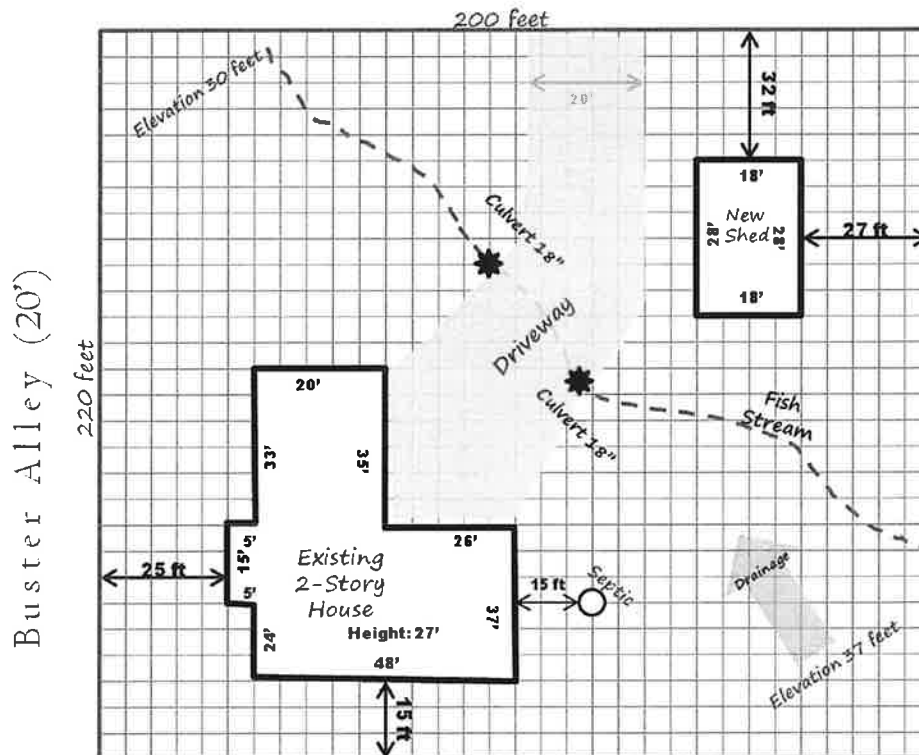
1. Drawing showing dimensions of all buildings, including elevations, of lot on which activity/use/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot 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 23<sup>rd</sup>, 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 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

**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-04-0800**  
Parcel 1  
Lot 3, Sec 10

(C-LTR-04-0900)

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

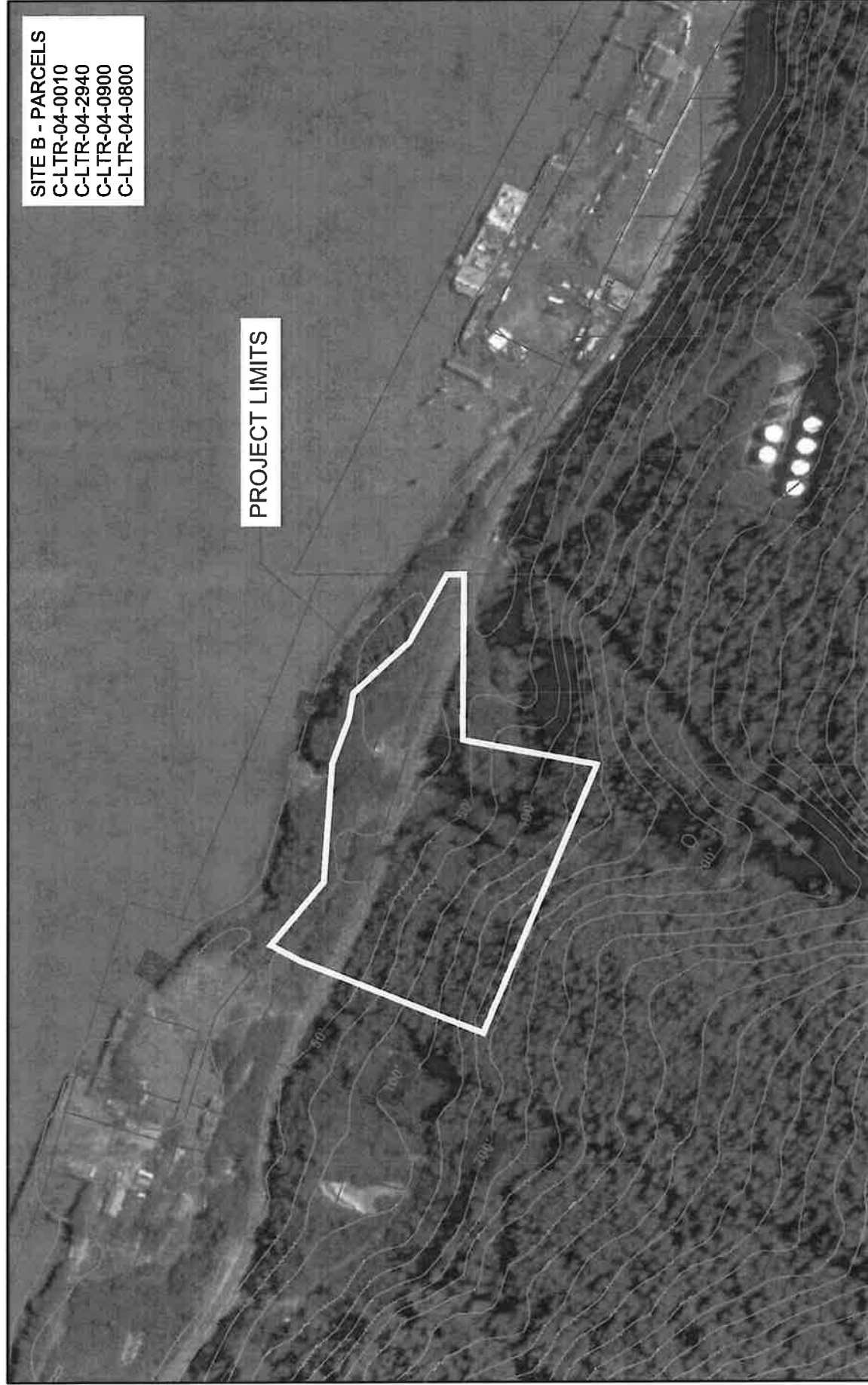
**C-LTR-04-1000**  
Parcel 3  
Portion, USS 178

*Lutvik Rd.*

*Creek  
(Not Anadromous)*

100 ft

# ArcGIS Web Map



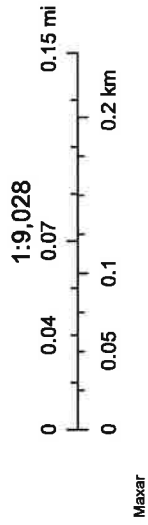
SITE B - PARCELS  
C-LTR-04-0010  
C-LTR-04-2940  
C-LTR-04-0900  
C-LTR-04-0800

PROJECT LIMITS

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

— Contours - contour25'ts

□ Parcels



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  
Planning Commission Meeting  
October 23, 2023  
MINUTES

Approved

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.**

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ATTEST:

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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**

<b>I. Property Owner/Agent</b>		<b>Owner's Contractor(If Any)</b>	
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:	
<b>II. Property Information</b>			
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 _____			
<b>OR</b> 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			
<b>III. Description of Work</b>			
<b>Type of Application</b> (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 _____	<b>Project Description</b> (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> _____	<b>Water Supply</b> 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 _____	<b>Sewage Disposal</b> 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**

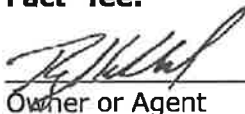
**NOTICE**

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"/>	<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 <b>substantial completion of construction within two</b> 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

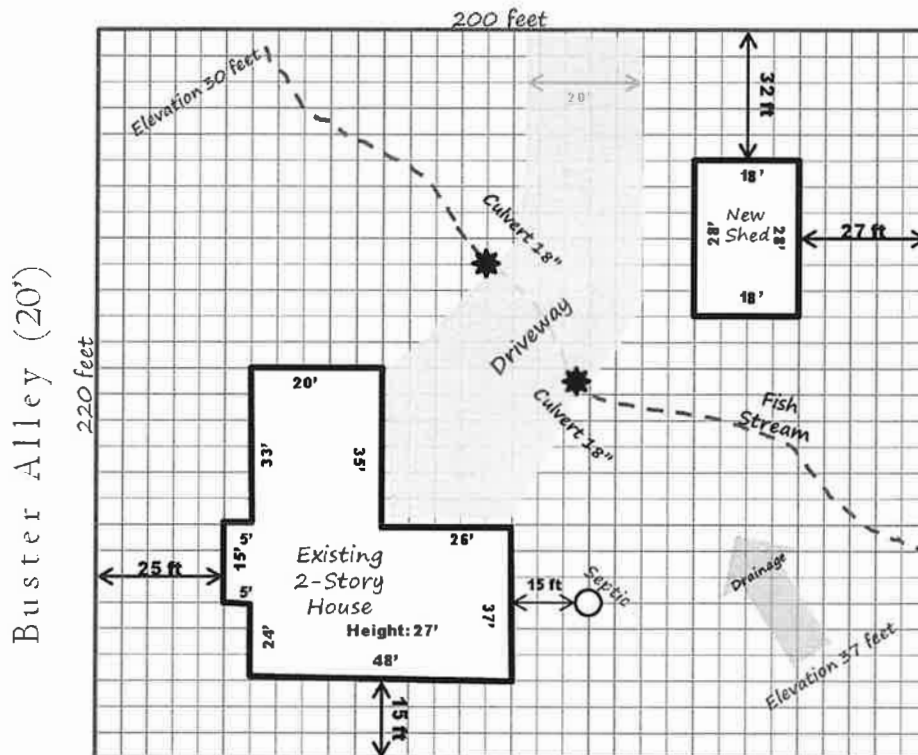
1. Drawing showing dimensions of all buildings, including elevations, of lot on which activity/use/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot 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 23<sup>rd</sup>, 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

**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-04-0800**  
Parcel 1  
Lot 3, Sec 10

(C-LTR-04-0900)

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

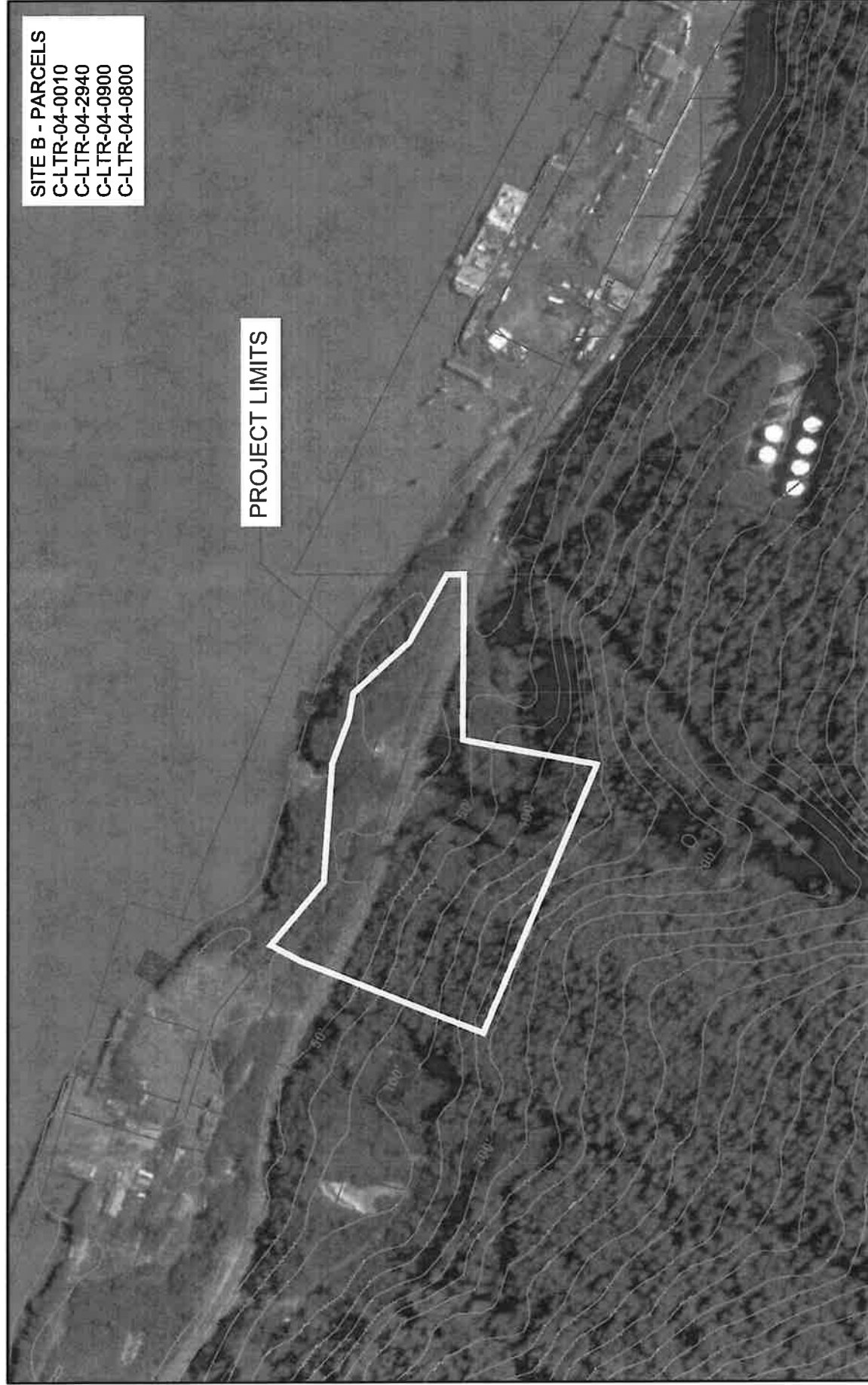
**C-LTR-04-1000**  
Parcel 3  
Portion, USS 178

*Lutvik Rd.*

*Creek  
(Not Anadromous)*

100 ft

# ArcGIS Web Map



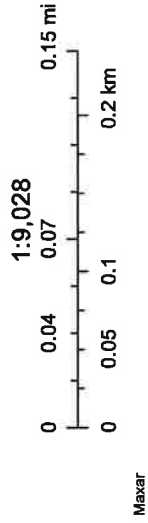
SITE B - PARCELS  
C-LTR-04-0010  
C-LTR-04-2940  
C-LTR-04-0900  
C-LTR-04-0800

PROJECT LIMITS

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

— Contours - contour25'ts

□ Parcels



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

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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](mailto: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](mailto: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:**

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

**COMMISSIONER RESPONSE:**

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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:**

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

**COMMISSIONER RESPONSE:**

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

**COMMISSIONER RESPONSE:**

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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:**

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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:**

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

**COMMISSIONER RESPONSE:**

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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:**

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**USE:**

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**OWNER’S ASSOCIATION:**

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**DEDICATIONS:**

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**CONSTRUCTION GUARANTEES:**

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**COMMITMENT LETTER:**

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**COVENANTS:**

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**DESIGN:**

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## **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.