

My fellow Assembly members:

I am concerned that our collective approach to settling SERB's appeal of the Planning Commission's decision to deny a CUP for resource extraction is off the mark, and is leading us into a protracted legal process.

Whether the Planning Commission wanted to allow resource extraction at this location does not matter. What matters is under what conditions the use could be allowed. At least one Commissioner indicated that they could not support the activity because there were no conditions, indicating that the commissioner was unaware that it is the Commission's responsibility to describe conditions that may be required to meet the criteria. Use cannot be denied if conditions can be met.

Our approach should be to determine whether the Planning Commission erred in its deliberation and whether SERB produced a preponderance of evidence that the Planning Commission did not give due consideration to the proposed operating plan and conditions that could be set to meet codified criteria. The finding of fact recorded in the minutes of the Planning Commission meeting contained unfounded and erroneous assertions.

As a quasi-judicial body we engaged in discussion about SERB's ability to meet criteria #1, #4, #5, #6 and #7 with conditions. I call for a reconsideration of our determination of unmet criteria #1 on the basis that the assembly based its decision 4-2 on the creation of noise, when creating noise is an acknowledged use by right in a heavy industrial zone. An industrial sawmill operated on the waterfront for decades apparently without degradation to people's quality of life or marine habitat; eulachon and sealions and whales and salmon and subsistence users continued to enter and thrive in Lutak Inlet. Noise can be irritating and allowable.

The character of our community is undergoing change. I bear witness to that and practice embracing it. We are no longer a community unified around resource extraction. We are a community in transition, and many are hopeful that we have developed and will publish and activate a comprehensive plan to guide us in decisions affecting development and community character. All Assemblies, now and future, are responsible to base decisions on the agreements we have among ourselves. That is our code. Code guides us always. I believe the Planning Commission over time will amend or rewrite code to suit the community as it morphs, however that is. Our current reality is that code allows heavy industry in a marine industrial zone; heavy industry generates noise, dust and use of public roads.

We talk about a diversified economy. It is not a requirement that we support resource extraction, but we would be a very poor and sorry community without it. Would a quarry or rock pit provide a needed product to local people? I think so. Some of us are grateful that we have a rock source, unlike other southeast communities that must purchase and import rock for local construction. The local government is highly supportive of growing a tourism industry and providing enhanced recreational opportunities for locals and guests. But no industry has a hold on transportation corridors; trucks carrying rocks and tour buses and bicycles carrying people have equal claim to the use of roads.

I believe the Assembly and the community would be negligent if it did not reverse the Planning Commission's decision to deny permit 23-87B with conditions as described out in the manager's memo and described by the Assembly on April 23.