

Donna Lambert

From: dan schultz <dan.haines.ak@gmail.com>
Sent: Monday, April 22, 2024 2:15 PM
To: Donna Lambert
Subject: Fwd: comments on 11C7-SERB appeal of denial of CUP #23-87B

CAUTION: This email originated from outside of the Haines Borough. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded message -----

From: **dan schultz** <dan.haines.ak@gmail.com>
Date: Monday, April 22, 2024
Subject: comments on 11C7-SERB appeal of denial of CUP #23-87B
To: Tom Morphet <tmorphet@haines.ak.us>, Debra Schnabel <djschnabel@haines.ak.us>, gthomas@haines.ak.us, baultmanmoore@haines.ak.us, kforster@haines.ak.us, cloomis@haines.ak.us, ndawson@haines.ak.us, Clerk@haines.ak.us, Kiersten Long <klong@haines.ak.us>

Please post the following to the Borough web page for Tuesday's 4-23-24 Assembly meeting..

Thank you

Dan Schultz

To the Haines Borough Assembly members and Mayor, re CUP#23-87B;

I (Dan Schultz) submit these comments not as a representative of the Planning Commission, but as an individual who is on the Planning Commission (PC).

According to the Alaska Planning Commission Handbook(p20) "the following ideas may improve working relationships between the planning commission and elected officials":

- Attend the governing body's meeting when an appeal of one of your decisions is being heard;
- Do not rely solely on staff to convey your message – either to the public or to appropriate elected officials

Therefore, I would like to add clarity to my decision making process regarding Southeast Road Builders (SERB) application for a resource extraction conditional use permit (CUP) CUP#23-87B.

Each zoning district allows activities that are considered a use by right, and considers activities that need a Conditional Use Permit (CUP). The reason we have CUP's is because some activities have the potential to alter the characteristics of the surrounding area. This doesn't only apply to adjacent land parcels but includes all areas affected by this activity (both public and private, as well as land and water). Waterfront industrial zoning is used instead of heavy industrial zoning on the waterfront because some heavy industrial use by right activities will affect the adjacent public waters. We protect our public waters in this way by adding the CUP step, so that we can evaluate, for example, the effect that coastal resource extraction will have on our public waters.

The first requirement the planning commission considers for a CUP is: "The use is so located on the site as to avoid undue noise and other nuisances and dangers". Because the entire site will be used for resource extraction, the use cannot be moved to mitigate its effect. The next step is to then evaluate the rest of the requirement of undue noise and other nuisances and dangers. Currently there is noise in this zoning area from the freight dock and ferry. This noise is limited to the movement of cargo and the loading and unloading of trucks, which are considered a use by right for waterfront industrial zone. Resource extraction, with its use of dump trucks, excavators, front end loaders and especially rock crushers, will produce noise that will far exceed that of the current use by right. Most of us drove past the Haines Highway project gravel yard during construction and heard the deafening noise coming from the rock crushing. This project may be smaller but it is still significant. At peak levels SERB would be moving 20 truckloads an hour (one every three minutes; a number obtained from our questioning during the CUP hearing). Considering that sound travels much further over water, and that there is no possible buffer for this site (manmade or natural) that could effectively dampen the noise, I believe that this disturbance would be significant. The noise would affect areas of Lutak Inlet that people use for recreation, subsistence and commercial fishing; that sea birds and sea lions use to raft up during migration and the eulachon run; and that are used by passing tourists and locals. For many, this would make these areas intolerable for these activities and hence leave them unusable by much of the general public. So in effect, this CUP would give SERB the primary use of a section of public land and water. I did not feel that this was in the best interest of the Haines Borough and its residences.

I also considered that SERB had not studied the effects that this resource extraction could have on slope stability. In the past, permits have been issued without these necessary evaluations with the expectation that they would be produced before activities start. In light of the landslide disaster of 2020, and because we don't have a compliance officer, I believe we need to require this information before an application is permitted. HBC18.50.020 states "In all applications for approval, the burden of proof shall be on the developer to prove, by a preponderance of the evidence, that the criteria set forth in this title are met." I ultimately believe that this application did not, by a preponderance of the evidence, prove that it would not negatively affect the users of Lutak Inlet, the Lutak road, and the residences of Lutak Inlet.

Previously, our planning commission was an appointed body by the Mayor. The Haines Borough planning commission is now an elected body voted in by the Haines Borough community. Because of this, decisions made by this newly elected body will better represent the community as a whole than an appointed one. While this may sometimes look different than "how things have always been done", we are ultimately dedicated to following code. After many hours of research, however, it is clear to me that the Planning Commission made the best possible decision regarding this CUP application.

Thank you for your time and consideration of these comments.

Regards,

Dan Schultz