

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

4. Conditional Land Use Permit Modification

Materials Extraction; PC RES 2023-23

Applicant: Tutka, LLC; Land Owner: State of Alaska

Location: T04N, R01W, SEC 24, S.M., SW Govt Lot 13

Crown Point Area

To: Kenai Peninsula Planning Commission Chairman
Re: Scheduled Public Hearing Monday, July 17, 2023 on Conditional land use permit modification application for Parcel Number 125-324-13

To: KPB Planning Commission Members:

My husband and I own and reside on the residential parcel immediately north and west of Parcel 125-324-13. In September 2022 I opposed the CLUP expansion due to unresolved concerns and questions. In addition to the operator's request for hours of operation extension many of my concerns and questions are now more urgent and are listed below. I would appreciate your consideration of each.

1 – **Night time operations from 8:30 pm to 9:30 am Sunday through Thursday** Riprap loading and incessant alarming back-up beeping violate the intent of the KPB ordinance to prohibit disturbance at night. Crown Point is residential on three sides of the quarry parcel. Crown Point residents should be protected from this intolerable disturbance, especially for a plan to last for the next 15 years.

2 – **Fifty ft Buffer zones.** The property line between our residential parcel and the State of Alaska parcel is a rocky cliff. A 50 ft buffer shows a lack of understanding of the terrain, or willful misleading of that required to protect private property. A more thorough review is needed in light of the incremental encroachment so far advanced and not addressed by the permit.

Special concerns by us, the adjacent property owners:

3- **Quarry Expansion.** Concerns will be magnified if expansion continues. Permitting incrementally, as has happened, will not protect against damage to our property from this CLUP. The map provided indicates the quarry will extend along the complete length of our property on our south and east side. Unless the KPB Planning Commission understands the mountainous nature of the area it will be impossible to understand how the permit buffers, blasting, drainage, hours of operation, hauling, etc. magnify exponentially with expansion.

4 – **Blasting effects.** Previous notification prior to blasting has been inadequate, but worse is the strength of the blasts. Several have felt worse than any earthquake we've had. More information is needed on the potential geological effects on adjacent properties to prevent potential damage to residential structures.

5 – **Slope stability.** The entire property line between the quarry parcel and our private parcel is a rocky, cliff-like foothill of a ridge up to hundreds of feet high. Alaska soils are thin and stability depends on the intact forests currently present. My concern is that blasts and only a "50 ft buffer" will cause instability.

6 – **Water drainage effects.** Water drainage off the mountain ridge cited above would inevitably be changed by quarry operations and blasting. A haul road to our west related to this project already may block drainage of water off our property and is yet to be addressed by permitting.

Conclusion - I request that KPB Planning Commission representative please take my concerns seriously, gather more information including from a site visit and a meeting with my husband and myself about these issues before continuing to approve permit applications for this parcel.

Thank you for your attention,

Ellen O'Brien
33749 Solar Mountain Road, Mile 24 & ¼ Seward Highway, Seward, Alaska 99664
907-288-3614

Jennifer Boyle
PO Box 121
Moose Pass, AK 99631
July 11, 2023

Chairman Jeremy Brantley
Kenai Peninsula Borough Planning Commission
144 N. Binkley Street
Soldotna, AK 99669

Subject: Opposition to Conditional Land Use Permit Modification for Tutka, LLC

Dear Chairman Brantley,

I, as a commissioner on the Moose Pass Advisory Planning Commission, am writing to strongly oppose the proposed modification of the Conditional Land Use Permit for Tutka, LLC, allowing night work in the Crown point area of Moose Pass. This opposition is based on the concerns raised by multiple residents in our community, as well as the potential negative impact on tourism in the borough.

Moose Pass is cherished for its tranquility and scenic beauty, attracting homeowners who specifically choose to live in this rural area for its peaceful environment. Allowing night work with noise and truck activity near residential areas would severely disrupt the rest and enjoyment of our residents' homes. It is our duty to protect their quality of life and preserve the unique character of our community.

Additionally, the daytime work conducted by Tutka is already audible and disruptive at nearby Ptarmigan Creek Campground and Trail River Campground. Granting the modification for night work would further compromise the peaceful environment, negatively affecting the experience of tourists and visitors and will discourage potential visitors from exploring our area. This in turn, negatively impacts local businesses.

Considering the concerns expressed by both residents and the potential consequences for tourism, I strongly urge the Kenai Peninsula Borough Planning Commission to reject Tutka, LLC's proposed modification to allow night work. Thank you for considering the Moose Pass community. I rely on the Planning Commission to make the decision that is in the best interest of the residents of Moose Pass.

Sincerely,

Jennifer Boyle
Moose Pass APC Commissioner

7/10/23

Kenai Peninsula Borough Planning Commission Chairman:

I oppose granting a land-use permit modification to Tutka, LLC on parcel number 125-324-13 with underlying landowner State of Alaska.

I own and reside at 33749 Solar Mountain Road, adjacent to and directly below a steep mountainside that Tutka plans to quarry. Refer to KPB property tax account number 12514022 or Ptarmigan Lake replat and ROW vacation tract 2A. I have reviewed Tutka's plan and proposed mitigation. Nothing in the plan can prevent damage to my property.

Consider the following.

1. Unlike most developed land in the KPB, this parcel lies on extremely steep terrain. Standard buffers and mitigations developed for flat land simply to not work on these slopes of 30, 40 and 50 percent.
2. This proposed quarry expansion has nothing in common with sand and gravel pits common in the flat lands of the KPB. Tutka does not dig sand; it blasts rock.
3. Unlike many land use disputes between adjacent private landowners in the KPB, each with a right to peaceful development, here, the State of Alaska owns the land. Presumably, SOA has some responsibility to not cause undue harm to the peaceful enjoyment of adjacent private land.
4. The land at 33749 and 33746 Solar Mountain Road became private property as a homestead in 1927. First came the residence: then came the quarry.

Before issuing the permit, I urge the commission to take a field trip or at least send staff to observe the on-going work at the quarry. Visit the property line literally 50 feet from my door. See for yourself if the quarry can reasonably operate there.

Rick Smeriglio
Moose Pass, Alaska

7/11/23

KPB Planning Commission Chairman
144 N. Binkley St. Soldotna, AK

I oppose granting Tutka, LLC a modification of its existing CLUP on KPB parcel 125-324-13 near the Lawing airstrip. The existing permit established hours of operation in response to local public demand for quiet hours. This modification ignores those demands by proposing to make loud noises, during sleep hours, in a rural residential area.

My wife and I own 33749 Solar Mountain Road. Our house stands about 1,000 feet from the source of the noise. We hear it incessantly during daytime work hours. It seems unreasonable to allow the noise during sleep hours as well. Although Tutka's request refers to AKDoT's work schedule for a local highway project, once the permit allows all-night operations, that stipulation would then apply to all projects for the 15-year life of the quarry.

The life of the project, its growth, and the incremental nature of the damage concern me most of all. Clearly, the quarry project has grown to include more than just this quarry. Quality Asphalt Paving just finished clearing a haul road that connects a gravel pit on Rail Road property to this quarry. A KPB permit for the pit allows transfer of rock from the quarry to the pit for processing and further transport.

I urge the Commission to broaden the scope of its consideration to include more than just hours of operation. I fear that the project has grown beyond the ability of KPB to manage with inspection and enforcement.

Rick Smeriglio
Moose Pass, Alaska

PLANNING COMMISSION CHAIRMAN

This is in reference to Tutka, LLC application for permit modification for conditional land use at The Lowing airport location. I AM against extending any more land use than Tutka already is permitted for.

I am a property owner in the Crown Point area. The added land area surrounds the east side of private property.

Not one mile worth on railroad property. There will be a new gravel pit with trucks running constantly back and forth along the railroad siding, plus an asphalt batch plant. There are other gravel pits at mile post 33 & 34 plus one at mile 40 Sterling Hwy. The mp. 33 & 34 are USFS the Sterling is State of Alaska. I would like to see another site looked at further away from private property and residences, before we strip away more land.

David W. Lindquist
30495 Seward Hwy

Raidmae, Ryan

From: Dan Mico <danmico@hotmail.com>
Sent: Friday, July 14, 2023 11:08 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER> Tutka, LLC Permit Modification - Lawing Airstrip

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

As a resident of Crown Point, I oppose granting Tutka LLC's permit modification request for night work at the Lawing Airport extraction site. There are now two active material extraction sites in Crown Point and both are requesting a modification to allow night shifts. If granted, area residents would be subject to constant noise from the operations 24 hours a day, this is unacceptable. Also, the request states white noise backup alarms would be used. While this may help a small amount, the rest of the noise associated with the work cannot be mitigated. We already listen to the noise from this site all day, I urge you to not make it all night as well.

Sent from my Verizon LG Smartphone

Raidmae, Ryan

From: Jennifer Mevissen <jennifermevissen@yahoo.com>
Sent: Friday, July 14, 2023 11:15 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Crown point permit mod. Opposition

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July 13, 2023

Jennifer Mevissen
29834 Seward Highway
Seward, Highway

Kenai Borough
Planning Department
114 N. Binkley
Soldotna, AK

I am providing the following response to the Planning Commission Agenda July 17, 2023. Specifically, I strongly oppose item number 4 which is proposing a conditional use permit modification for material extraction on a parcel in the Crown Point area of Moose Pass. My residence is on Seward Highway at Mile 23 which is next to Rock Ptarmigan Road. The current permit for material extraction is causing significant damage to Rock Ptarmigan Road. There has been no evidence of keeping the road in drivable condition with just day time use. I would like the Planning Commission to consider the following concerns.

1. I think it unreasonable to provide a 15 year permit for material extraction. Explain why!!!!
2. The area around Rock Ptarmigan Road is a residential area and all residents will be adversely affected by the increased noise of trucks going up and down Rock Ptarmigan Road. Number 21 in the bid states that all the activity will be conducted in a manner which minimizes noise disturbances. Trucks going up and down Rock Ptarmigan Road already create significant noise during the day so having trucks going all night will be very disruptive to me and my family.
3. It is proposed that there will be one loader but there is no limit to the number of trucks that will be loaded. Each and every truck unloaded and loaded will create a disturbance on Rock Ptarmigan Road and Seward Highway
4. I receive my mail on Rock Ptarmigan Road. I am concerned about the safety for me and my son going to get our mail. We have historically walked along this road and that will no longer be possible in the evening.

5. My house is right on Seward Highway and there is already increased noise with construction season on that road but it is less noisy at night. When am I supposed to sleep!!!!
6. My husband works very long days and the increased night noise will be a major problem for me and my family.
7. I own my home and I believe that a 15 year permit will adversely affect my property value especially if the permit allows 24 hour work 365 days a year. Is the company going to compensate me for the decrease in my home value with the kind of noise the company is creating?
8. I have lived in Moose Pass for 25 years and I don't plan to leave but I am very upset by this application as I believe it is disrespectful to the residents and homeowners in the small community that shares Rock Ptarmigan Road and Seward Highway

DO NOT ALLOW THE MODIFICATION TO THE USE PERMIT.

Jennifer Mevissen

[Sent from Yahoo Mail for iPhone](#)

Raidmae, Ryan

From: Lisa Slepetski <lslepets@alumni.colostate.edu>
Sent: Friday, July 14, 2023 11:51 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Re: Public comment on CLUP modification for Tutka in the Crown Point area

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Apologies, I had a typo in my first letter (last sentence of first paragraph). Edited to clarify the two CLUPs are nearly adjacent to each other.

On Fri, Jul 14, 2023, 11:10 AM Lisa Slepetski <lslepets@alumni.colostate.edu> wrote:

KPB Planning Commission,

Please do not permit the CLUP modification for Tutka. A month ago, you granted Coalaska a variance to operate overnight under their CLUP. Now, a month later we have yet another request from a different contractor working nearly adjacent to each other.

Per the KPB Code C:HAPTER 21.05. - PROCEDURES FOR VARIANCE FROM TITLE 21:

The purpose of this chapter is to grant relief from the literal application of this title where unusual individualized situations result in more stringent burdens being placed on some parcels of land than others and to prevent special hardships to individual landowners or deprivation of rights commonly enjoyed by other properties in a district. (Ord. No. 2001-32, § 1, 10-23-01; Ord. No. 97-52, § 1(part), 1997)

- 21.05.020. - Burden of proof: **The situations justifying variances are rare** and the burden of proof that an application meets the standards of this ordinance is on the applicant.

The applicant has not met the conditions outlined. Specifically:

3. The applicant's certification that: a.The variance is not being sought by the person causing the conditions requiring the variance, b. That the variance will not permit a land use in a district where the use is prohibited, and

c. That the variance is not sought solely to relieve pecuniary hardship or inconvenience.

Crown Point residents already contend with the noise from THREE major projects going on - Tutka blasting/material extraction near the Lawing Airport, Coalaska extracting material on the railroad property, and the major Seward Highway construction project. Allowing these variances to the hours of operation exposes residents to constant, chronic noise **literally** around the clock, and negatively affects the value, use, and enjoyment of our properties. This CLUP involves material extraction 30 vertical feet above a cliff face, so normal buffer and berm size may be inadequate to provide relief of exposure to neighboring homes.

This is the second variance in a month for projects within .5 miles of each other. This illustrates the urgent need for KPB to take action on implementing the recommendations from the working group. Decibel limits instead of saying only "rock crushing" is disallowed overnight should be a critical fix. Thank you,

Lisa Slepetski

30391 Seward Hwy

PO Box 51

Moose Pass AK 99631

907-288-2026