

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON April 16, 2018, AT WILLISTON CITY HALL, 22 E. BROADWAY, WILLISTON, ND.**

Vice Chairman Hansen called the meeting to order at 5:30pm. Roll Call was taken. A quorum was present.

**MEMBERS PRESENT:** Eynon, Bauer, Aafedt (via phone), Hansen

**MEMBERS ABSENT:** Long, Giovig, Christensen

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Jeremy Miller, Staff Planner; Mark Schneider, Development Services Director; Bob Hanson, City Engineer; Jordon Evert, Assistant City Attorney; Howard Klug, Mayor; Christine Edwards, P&Z Office Manager.

**COMMUNICATIONS:**

**A. Approval of minutes of the March 19, 2018, Planning Commission Meeting.**

**MOTION BY EYNON, SECOND BY BAUER, to approve the minutes as presented. CARRIED ON VOICE CALL**

**PUBLIC HEARINGS:**

**A. Ordinance 1080, amending the C-3:Restricted Commercial and C-2:General Commercial zoning districts to allow for dwelling units to be located above a ground floor permitted use – Staff**

Vice Chairman Hansen introduced this item (as above) and asked Jarcik to present. Jarcik said this ordinance is amending Section 20.C-2: General Commercial and Section 21.C-3: Restricted Commercial to allow for dwelling units to be located above a ground floor permitted use which includes offices. The wording added to the two sections states:

“Dwellings above the ground floor provided the ground floor is used as a permitted use in the respective zone. Individual dwelling units containing more than 3 bedrooms require an SPU.” This would be subject to meeting all applicable fire and building codes to ensure compatibility with the ground floor use. Jarcik added that this is intended to be applied City wide.

Jarcik said that this item was brought before the regular Planning Commission ad hoc committee in February to consider new policy. The item was forwarded to a smaller review committee consisting of Commissioner Klug, Commissioner Cymbaluk, David Tuan, Shawn Wenko, Mark Schneider, Rachel Laqua and Kent Jarcik. Discussion included past conditions, current conditions and increasing use and foot traffic downtown.

Jarcik explained that Ordinance 914 was adopted in 2008 and allowed broad flexibility in dwelling units that were permitted on any floor including the basement of the building. As office activity increased there was more of an emphasis on office use and dwelling units and less of an emphasis on mixed uses. In 2013, Ordinance 961 was adopted which restricted dwelling units above a ground floor use that qualified as a retail use within the Renaissance Zone of the C-3 commercial district. In the C-3 commercial district outside of the Renaissance Zone, dwelling units could be permitted above a ground floor use of office as well with a Special Use Permit.

Conditions are such that the City has more developed residential and commercial areas. Jarcik added that Gov. Bergum is also promoting residential development downtown is part of the mixed use environment that is encouraged in vibrant downtowns. Allowing office and other permitted uses on the ground floor with dwelling units above will provide some additional flexibility to encourage more occupancy downtown.

General discussion was that it would be favorable to include this amendment to assist with getting some vacant store fronts occupied with increased opportunities on the ground floor. Second, it would be positive for more occupancy and foot traffic adjacent to existing retail uses. In addition, this could provide some additional housing opportunities downtown that may otherwise not be occupied. Finally, the current ordinance would be a disincentive to building up if you have a ground floor use of office or want to build a ground floor use of office, but would be restricted from being able to build additional floors up containing dwelling units.

The recommendation would be to make this amendment city wide. The original 613 ordinance applied throughout the C-2 and C-3 districts allowing dwelling units above a ground floor use of retail. Past amendments were geared more toward the downtown area and not as much toward other areas of the City that would be impacted by the ordinance. At one time, 2009 – 2010, the City had limited commercially zoned property, and regulations to incentivize retail were more applicable at the time. Under the current conditions with more zoned properties available, it would be viewed more favorably for city growth and expansion to make the permitted flexibility city wide.

Monitor in the future:

Input from the North Dakota Main Street conference was to work with existing business owners to maintain a mix of uses. Recommendation would be to monitor the downtown mix of uses and maintain a communication with downtown stakeholders. An annual survey of ground floor uses could be conducted for a subarea such as the renaissance zone and reported to the City Commissions, Economic Development, Chamber of Commerce and Downtowners Association to maintain a dialogue for obtaining downtown goals and objectives.

At the ad hoc meeting was held on April 2, 2018, general discussion at ad hoc was this would allow some additional flexibility and could bring more people downtown. Ad hoc commissioners in attendance were in favor of the proposed ordinance.

Jarcik asked Laqua so speak to second floor apartments in the downtown. She said that there are a number of buildings downtown with older apartments not being used and sited as example the south Grand Theater. That apartment had been used since a fire destroyed it but is being

re-done now to be used as living quarters for the owners; under the current ordinance this would not be allowed. She further said there are also some apartments in use above empty ground floor spaces such as the Dark Secrets building which is for sale but the apartment is rented; under the current ordinance the only option for selling the building and filling that space as only retail would be allowed.

Laqua said that at the ad hoc meeting there wasn't a lot of concern that either retail or office space would bring in higher rent, rents would be the same so it wouldn't matter which use went in those ground floors but this would allow more flexibility within the ordinance.

Laqua and Jarcik concluded their portions of the presentation and Hanson opened the public hearing. Angela Skogan, owner of Cooks on Main, spoke to the Commission. She said that sat on the steering committee in 2013 when this ordinance was re-written and at time the concern was a diversified downtown with an incentive to have retail and restaurants on main floors as offices were more easily located on second floors. She said there are currently several apartments available and while we do want to bring people into the downtown to live her concern is that in 2013 there was a strong desire to have a downtown that is open after 5 o'clock in the evening that would increase foot traffic, shopping, eating and enjoying a downtown district. She voiced concern that business owners, building owners and downtown groups have not had the opportunity to understand what impact this ordinance is going to have on the downtown. While she supports a mixed use downtown she stated she doesn't understand what has changed in the last four years to bring this ordinance amendment around now. Skogan asked the Commission to consider tabling this item until the downtown stakeholders had a chance to review it.

Commissioner Hansen asked Jarcik and Laqua if this had been discussed or shared with the Downtowners. Laqua said it was discussed with 5 board members and the Downtowners president. Skogan explained to the Commission that there are currently no business owners on the Downtowner's Board.

Bob Horab stood from the audience and asked if any research had been done in the ETJ (extra-territorial jurisdiction) to allow this in any vacant apartments that were built before the ETJ expansion. Laqua said there shouldn't be any C-2 or C-3 zoning in the ETJ but Jarcik added that this ordinance would be City wide. Horab asked if there would have to be a current business on the ground floor to allow the use of the 2<sup>nd</sup> floor apartments. Attorney Evert said that if a ground floor was empty in a commercial district they could have an apartment even though the ground floor was empty. Jarcik agreed that technically that was correct, as a City, we would want to be careful not to promote building or keeping buildings operating as apartments with nothing on the ground floors.

Development Services Director Mark Schneider stood to assure the public that no one was here to create a hindrance but rather that this proposed ordinance. He added that the reason this ordinance amendment is coming up is that a couple of places have come to staff with concerns that are unable to fill their spots with retail use but may have opportunity to fill with office.

Laqua added that as Economic Development has been working with future possible businesses they have approached other development staff about more flexibility for property owners as well.

Schneider thought it was a fair trade off between retail and office space and balanced with the apartments.

Micki Horab whose husband owns the Pita Palace said that he has looked at moving his restaurant and has found the biggest problem is not the lack of space but the high cost of the building rents.

Commissioner Bauer asked Laqua who from the Downtowner's Association was in any of the ad hoc meetings, Laqua stated none, and her conversations with them were at separate meetings. Bauer said that because the Downtowner's were not involved prior to this meeting he would support Skogan's request to table to this item.

Commissioner Eynon asked about an annual survey to help monitor the balance of office space and retail. Jarcik said that this is just a tool to handle mixed uses as there are a lot of downtown stake holders.

**MOTION BY BAUER, SECOND BY EYNON** to recommend that Ordinance 1080 be tabled until there has been more discussion with those affected. **AYES:** Eynon, Bauer, Hansen Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** Long, Christensen, Gjovig. **ABSTAINED:** None.

**B. Short Plat application to create two lots in the SE1/4, S17, T154N, R101W except deeded parts – Granite Peak Development/49th Latitude Surveying**

Vice Chairman Hansen introduced Items 5B, 5C and 5D and asked Laqua to present. This application is the result of a sale that was made while this property was still in the County, wherein Mr. Farris retained 8 acres (≈/-) of the original/current lot when he sold the property to Granite Peak. However, the lot was not split at the time. Mr. Farris has asked to split the property now. Because the property is now in the ETJ, there are several requirements, including the need for two variances to be approved, in order for this lot split to be approved. Laqua stated she would present the short plat and both variances together and reminded the Commission that each entitlement would require its own public hearing.

**5B. Short Plat:**

The lot split is a short plat which would split the lot into two sublots; one of about 116 acres, to be known as Sublot 8, and one of about 7 acres, to be known as Sublot 9 (there have been changes to the agreement since the sale, according to the applicant).

**5C. Variance 1: to create a lot smaller than 10 acres in an Agricultural zoning district**

This was a previous agreement that was made in the County. The previous owner (Larry Farris) agreed to sell the land based on the ability to retain 8 acres. Eight acres is smaller than the City's required 10 acre minimum lots in Agricultural zoning, which is why the variance was being requested.

However, this variance is being requested based on a previous agreement made when the property was in the County.

In addition, the situation is similar to one which the Development Services office has been working on with the City Attorney, to create a "homestead" or "accessory farm lot

split", where a large lot agriculturally zoned farm owner could split a small lot for purposes of retaining their home while selling the land.

5D. Variance 2: to create a parcel taking access other than from a public right of way

This property fronts along an undeveloped section line easement. There is no indication that this needs to be developed at this time. The property gains access through an existing private easement with the property owner to the south. Because the section line easement exists, there is public access to the property. There should not be a situation in which the property owner cannot access his land. Based on discussions with Engineering, we would request a non-protest agreement for dedication of the section line at such time as the development requires it.

Laqua explained that variances must meet the following criteria (please see attached for variance section of Ordinance 613):

- i. Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
- ii. That literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- iii. That the special conditions and circumstances do not result from the actions of the applicant.
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

There is currently a barn on Sublot 9. The lot is currently accessed through an existing 60' wide access easement through Robert and Heidi Hanson's property. This easement is currently exclusive to Larry Farris.

The property will remain zoned agriculture and will only be able to be used for uses that are permitted in the Agricultural zone.

The City has requested that in addition to the 33' statutory ROW easement that exists on the east side of Sublot 9 and the east and south sides of Sublot 8, an additional 17' access be granted via easement to the City. This would allow for a 50' ROW easement in case of future development. . Laqua added that there is a possibility that the 17' section line easement was vacated during WWII although at this time nothing can be found to support or deny that but if it was indeed vacated, the City will ask for a 50 ft. easement to insure it is in place.

In addition, the City has requested a 25' building setback from the easement line. This would allow for any future development along the ROW.

Williston Township was represented at the ad hoc meeting and was in approval, contingent on requirements.

Laqua said that at the ad hoc meeting on April 2, 2018, the committee noted several contingencies:

1. The private access easement must be updated to include all future owners of Sublot 9.
2. An additional 17 foot access easement must be included along 11<sup>th</sup> Street, to bring the total section line easement up to 50 feet, a 25 foot building setback must be maintained from the full 50' section line easement along the east side of Sublot 9 and the east and south lot lines along the section line easement.

The ad hoc committee did not make a final recommendation, as all commissioners needed additional information to be supplied through the above contingencies.

1. The private access easement must be updated to include all future owners of Sublot 9.
2. An additional 17 foot access easement must be included along 11<sup>th</sup> Street, to bring the total section line easement up to 50 feet.
3. A 25 foot building setback must be maintained from the full 50' section line easement along the east side of Sublot 9 and the east and south lot lines along the section line easement.
4. Non protest agreement for dedication of section line easements at such time as they are required for purposes of development.
5. Public Hearing for Variance #1 before Board of Adjustments.
6. Public Hearing for Variance #2 before Board of Adjustments.

Laqua stated that while this may be a slightly complicated short plat, the City is really just trying to deal with something that happened in the County. With that she concluded her presentation and Vice-Chairman Hansen opened the public hearing; first for the short plat.

Robert Hanson, owner of Sublot 3, is concerned about the private right-of-way as he has a detached shop that was built before he owned the property and it is in the 25 Ft. right-of-way. Assistant City Attorney Evert stated that the biggest concern is access and the geographic terrain as long as access is travelable to the north it doesn't need to be full width. Hanson also stated the right-of-way was given to Ferris during the purchase and asked what happens if the parcels are sold in the future? Attorney Evert said that in the easement documents it will be stated that the access agreement is binding on all heirs, assigns or successors of the parties but will not be opened to the public. Evert states the easement needs expanded just to allow further access for all three properties.

City Engineer Hanson stated a concern that if someone else bought that property in the future and wanted to split it into eight, one acre parcels you would suddenly have a great increase of people traveling that easement. He suggested, for Robert Hanson's (no relation) protection that some sort of limitation of development be placed on the Farris property unless some form of public access could be obtained to it. Evert said that the agriculture zoning district requires ten acre parcels and Ferris is actually asking for a variance for less than ten acres so that in itself would take care of any future ability to split that parcel.

Ed Rintimake, surveyor of record for this project, stated that it was understood and believed that the easement through the Hanson project that what was granted would be transferred to future owners. He added that Laqua had mentioned that the 33 ft. section has possibly been closed. He said has done his own research and worked with the County Recorder and County Auditor and no record of that section line being closed has been located.

No other public comment was offered; Hansen closed public comment and asked for any questions or discussion for the Commission. Eynon asked if staff was asking for a 50 ft. or 17 ft. section line easement. Laqua stated that they would ask for a 50 ft. easement and that will take care of the right-of-way whether the original easement has been vacated or not. City Engineer Hanson stated that this would actually be a right-of-way preservation project for the possible future extension of 48<sup>th</sup> Ave. to the north.

Dan Kalil, Williston Township officer, stated that many years ago he had a discussion with Dr. Hagen trying to find better access to the Town & Country Subdivision and the possible extension of 11 St. West. Dr. Hagen told him that during WWII there had been violent rains, and flooding that washed out a bridge on that section line easement. The County had no money at the time and there was not steel available and with no way to repair the bridge Dr. Hagen went to the County and had those section line easements vacated. Kalil said he is inclined to believe Dr. Hagen's claims even though the County has never found any documentation. Kalil said he did appreciate the staff trying to protect the Hanson property and keeping the easement a private right-of-way.

**MOTION BY BAUER, SECOND BY EYNON**, to recommend approval for the to approve the short plat for Sublots 8 and 9, in the SE 1/4 Section 17, T154N R101W, contingent on all completion and recordation requirements, and contingent on approval of Variance #1 and #2 by the Board of Adjustments **AYES:** Eynon, Bauer, Aafedt, Hansen. **NAYS:** None **ABSENT/NOT VOTING:** Long, Christensen, Giovig. **ABSTAINED:** None.

**C. Variance request to create a lot smaller than 10 acres in an Agriculture district located in the SE1/4, S17, T154N, R101W except deeded parts – Larry Farris**

No Public Comment –

**MOTION BY BAUER, SECOND BY AAFEDT**, to recommend approval of the requested variance to create a lot smaller than 10 acres in an Agricultural Zoning District for proposed Sublot 9, in the SE 1/4 Section 17, T154N R101W, contingent on all completion and recordation requirements. **AYES:** Eynon, Bauer, Aafedt, Hansen. **NAYS:** None **ABSENT/NOT VOTING:** Long, Christensen, Giovig. **ABSTAINED:** None.

**D. Variance request to create a parcel taking access other than from a public right-of-way, located in the SE1/4, S17, T154N, R101W except deeded parts – Larry Farris**

No Public Comment –

**MOTION BY BAUER, SECOND BY EYNON**, to recommend approval the requested variance to create a parcel taking access other than from a public right of way for proposed Sublot 9, in the SE 1/4 Section 77, T154N R101W, contingent on all completion and recordation requirements. **AYES:** Eynon, Bauer, Aafedt, Hansen. **NAYS:** None **ABSENT/NOT VOTING:** Long, Christensen, Giovig. **ABSTAINED:** None.

**UNFINISHED BUSINESS:**

**A. NONE**

**NEW BUSINESS:**

**A. Special Permitted Use request for a temporary concrete batch plant located Lot 3 & Lot 4, Kringen Subdivision, 6710 2nd Ave W, containing 8.52 acres – J.M. Marschuetz Construction/Kringen Properties LLC**

Vice Chairman Hansen introduced this item of New Business (as above) and asked Miller to present. Miller said the applicant, JM. Marschuetz Construction, requests a special permitted use (SPU) to operate a temporary concrete batch plant in a C-2: General Commercial zone on Lots 3 & 4 of the Kringen Subdivision. This use is a non-enumerated use meaning that it is a use not described as permitted in the C-2 zoning district but can be considered by the Planning & Zoning Commission.

Miller explained the temporary concrete batch plant would be used to supply the NDDOT project to reconstruct the north bound lands of Highway 2, from 58<sup>th</sup> Street to the 6-mile corner. The south bound lanes of Highway 2 will be converted into two-way traffic lanes for the duration of the project. The proposed location of the temporary concrete batch plant could be ideal to help lessen the amount of construction traffic entering live traffic.

The plant will be at this location from May 1<sup>st</sup>, 2018 – September 15<sup>th</sup>, 2018. The plant will operate Monday- Saturday from 7:00 AM until 9:00 PM. The applicant has stated that the plant will not be used every day and the use of the plant will be sporadic throughout the project to supply portions of the project with concrete. According to the applicant, there will be four days where the plant is heavily used to do the actual paving of the north bound lanes.

The aggregate used for this operation will be coming from the north. All utilities for this operation will be supplied by the applicant. The plant will use electricity from a generator, water will be trucked into the site, and sanitation needs will be met with portable facilities.

Miller said that at the ad hoc meeting, there were concerns with construction traffic using the south bound lanes to access the site. It was explained that with this location, construction traffic entering the south bound lanes would be reduced because the construction traffic would not have to leave the project area every time to get materials and could stay within the closed north bound lanes.

There were also concerns with the nuisances of noise and dust caused from this operation, for the residence to the east. The applicant explained that the plant will not be in operation from 7:00AM until 9:00 PM every day, but rather at various times to supply portions of the project and for maintenance. According to the applicant, the majority of the paving will be completed in a four day period where the plant will be heavily operated. The applicant also explained how the aggregate will be washed prior to delivery and this should help decrease the amount of dust created while moving the aggregate and making the concrete. Miller stated that the applicant also mentioned that the plant itself has a dust collection system in place and that there will be



water trucks on site to keep the surfaces where vehicles drive wet, helping to reduce the amount of dust created.

The City Engineer stated that the applicant will need to reclaim the site by removing all excess material and reclaiming and re-grassing the property.

In ad hoc, Commissioner Bauer stated that he would like the applicant to compile a list of other properties that were considered for this operation and the reasoning for them not using those locations. Miller said that this was added to the Commission packets for this meeting. Three alternate locations were shown and Marschuetz had said that because of topography and traffic they decided against these locations.

This use will not need to use the city water service. All necessary water for this operation would be brought in by water trucks.

This use will not need to use the city sewer service. Sanitary needs will be met with the use of portable facilities.

#### SPECIAL USE PERMIT CONSIDERATIONS

As part of the review for a special use permit, the following items are required to be considered:

1. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.* There is one access point to the property along Highway 2.
2. *Off-street parking and loading areas where required, with particular attention to the items in "1" above and the economic, noise, glare, or odor effects of the special permitted use on adjoining properties and properties generally in the district.* This use will not require any off-street parking spaces.
3. *Refuse and service areas, with particular reference to the items in "1" and "2" above.* This use will not affect the current refuse and service areas.
4. *Utilities, with reference to locations, availability, and compatibility.* All required utilities for this use will be provided by the applicant themselves. The plant will operate off a generator, water will be brought in by trucks, and sanitation requirements will be met with portable facilities.
5. *Screening and buffering with reference to type, dimensions, and character.* No screening or buffering will be required.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.* No additional signs are proposed.
7. *Required yards and other open spaces.* No yards or open spaces are required.
8. *General compatibility with adjacent properties and other property in the district.* The property to the north is used as an automotive services shop, the property to the south is vacant, and the properties to the east are used as a storage facility. The property will need to have all excess material removed and the site will need to be reclaimed once the construction project is complete.
9. *Use shall not impose a hazard to health or property.* This SPU will not impose hazards to health or property.

Miller concluded his presentation stating that the Planning Commissioners at ad hoc were reserved in had not made a recommendation that a representative for Marschuetz Construction was available for questions. Commissioner Bauer wanted to be clear that he was not reserved in his feelings during ad hoc but rather was a flat "no" to this SPU.

Commissioner Eynon asked when the applicant would intend to move materials in. Chris Filupo, representing Marschuetz, took the podium and stated that they would intend to start bringing in the materials as soon as they are given the okay from the City. Filupo added, for the Commission's understanding, that the materials they will be using are already washed to help eliminate some of the issue of dust pollution. Eynon further asked if the materials would be hauled in during full traffic volume or after the north bound traffic had been shut down for construction. Filupo stated that would depend on Knife River as they are the main contractor on the project but they could shut down when everything is ready. Eynon stated he would like to see the highway shut down prior to moving the materials.

Commissioner Bauer stated that he lives in the area of this proposal. He is concerned of three types of pollution; dust, odor and noise. Bauer stated he recently went into Dan's Tire to pick up some equipment and the dust from the wind traffic was so bad he had to cover his face to breath. Between that and previous issues with traffic, noise and dust out there why would the Commission consider allowing this when the Harley Davidson shop can't have too many balloons because its offensive he asked. Bauer finished by saying that he believes this is wrong and there are more options available to keep residences and businesses safe.

Filupo stated that the only real heave operation will be for 4 or 5 days of actual paving but they need time to set up and be ready to make the concrete. City Engineer Hanson said there are several stages to this kind of operation. 1. Haul in the aggregate, about one week. 2. Set up the temporary plant, about one week. 3. One week to do the heavy paving. He added that he intersection work will be done by Knife River so the concrete for that will be hauled in from elsewhere. There just is no schedule available at this time.

Filupo added that the location they are asking for was chosen in part because it would allow the trucks to back into the plant from the closed lanes and the short travel distances. If this plant is moved further north the trucks will be traveling to and from the site in live traffic.

Commissioner Aafedt asked of if they (Marschuetz) could haul aggregate after the north lanes are closed and stated that the road is going to be build no matter what "we" decide; is it really going to be any safer to have them traveling those distances than being right on site. Filupo agreed to wait for traffic to be closed to haul aggregate.

Bauer said he just did not feel Marschuetz was being honest about their project and this proposal is not in the best interest of the public.

Commissioner Eynon encouraged Vice-Chairman Hansen to take public comment. Hansen asked for public comment and several people spoke:

- Cliff Olsen, nearby property owner, asked where the aggregate will come from. Filupo said JMAC's north pit. Olsen said that he then felt alternate option #1 (Camp Creek Subdivision in the Bakken Ind. Park) would be best and bother the public less.
- Bill Murphy, lives in the Meadows Subdivision, asked the Commission to please not put "us" in that, better suited in an industrial area.

- Pat Schmaltz, manager of the Harley Davidson shop, said there is already a large amount of truck traffic coming from the Lippert project (Northern Heights Subd.) and adding this is going to increase what is already an issue. He reminded that the people from his business are generally on motorcycles, they are already vulnerable on the roads, and this is too dangerous.
- Dan Brome said it is foolish to put this in a residential area and will take away from any summertime enjoyment of nearby properties. He agreed that alternate option #1 in an industrial area makes most sense.
- Bob Horab suggested setting up near SunWell Services in the Bakken Industrial Park and said there are other options available on the east side of the highway if they would like to stay there.
- Williston Mayor, Howard Klug, said that no matter what traffic will be affected and reminded that this is the same exact project that was done two years ago on the other side of the road and the public was kept safe then; he believes they will be again.
- Micki Horab asked Marschuetz if there will be other equipment or work trailers on this proposed site. Filupo answered no. Ms. Horab said she lives in the area and that during construction of the MWEC building it was miserable. She believes there are other places this batch plant could go and added that all should know that no matter the schedule, schedules are not always followed.
- Bill Glenn voiced his support of alternate site #1 or other industrial sites on the east side of the highway.
- Mark Wroffson lives in the area and stated that noise and dust are already a constant and asked if anyone had considered the negative effect this would have on the public use of Spring Lake Park.
- Dale Branson said he has had a batch plant in front of his business before and although they did a good job of keeping it clean it did create a lot of traffic. He asked why not set up this batch plant at Knife River's location on County Rd. 9 as they are the main contractor on this project?
- Richard Martinez, part owner of Dan's Tire, stated there is already so much traffic and a lot of heavy truck traffic out there and the Harley Davidson shop probably sees 50-80 bikes in and out of their business every day in the summer months. He mentioned that two years ago when the work was being done on the south bound lanes of the highway it was a nightmare with up to a 20 minute wait to turn into traffic. He said the public needs better protection.
- Dan Brome added that in the last 3 to 4 years there have been several accidents and fatalities on that corner at Dan's Tire as it is.
- Micki Horab stated she has years of knowledge and experience with concrete and said that a concrete powder blower can take up to 45 minutes to empty and you cannot always control that dust and it will stick to everything and can etch glass.

City Engineer Hanson said that this is a state run project and that all issues with traffic and traffic control can and should be addressed to the NDDOT. Mayor Klug added that any citizen of Williston can at any time come to the City and "we" will get complaints and concerns right to the necessary state contact.

Commissioner Eynon asked Filupo what Marschuetz' drawbacks to using other sites, did you do due diligence? Filupo said they scouted the areas for terrain and such but never talked to owners.

Commissioner Aafedt asked if they could use the location that was used two years ago for the same project. Filupo said it was not considered.

**MOTION BY BAUER, SECOND BY EYNON** to deny the Special Permitted Use request for a temporary concrete batch plant located Lot 3 & Lot 4, Kringen Subdivision.

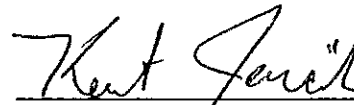
**AYES:** Eynon, Bauer, Aafedt, Hansen. **NAYS:** None **ABSENT/NOT VOTING:** Long, Christensen, Gjovig **ABSTAINED:** None.

**COMMITTEE REPORT:**

**A. NONE**

**DATE OF NEXT REGULAR MEETING:** Monday, April 16, 2018.

**MEETING ADJOURNED.**



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Kent Jarcik, Williston Planning Director

# **APPENDIX**

## **To the April 16, 2018 Planning & Zoning Commission Meeting**

1. Special Permitted Use request for a temporary concrete batch plant located Lot 3 & Lot 4, Kringen Subdivision, 6710 2nd Ave W, containing 8.52 acres – J.M. Marschuetz Construction/Kringen Properties LLC - **DENIED**