Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 8:56 AM
To: Mark Mussman
Subject: FW: FCU-20-04

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Christy Smith <christysmith224@gmail.com>
Sent: Tuesday, May 19, 2020 8:46 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04

FCU- 20-04 A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

A deal's a deal. In November 2010, after five years of litigation, the landowners made an agreement with their West Valley neighbors – they would give up the right to an asphalt operation and in exchange would be allowed to operate a gravel pit with extraction and crushing. **Period**. They should honor and abide by the deal and LEGAL AGREEMENT they made. (MT Eleventh District Court Final Judgment, Cause No. DV-08-985B. Nov, 2010)

***DECREASED PROPERTY VALUES...I believe that allowing an asphalt and/or concrete batch plant will impact property values and property rights. If so, then the amendment would go against the Flathead County Zoning Regulations (FCZR) 2.06.080 and 2.06.090 that states Applicant (Schellinger for Sec16 Family Ltd Partnership) must show that there will be "no detriment to the neighborhood…"**

***TRAFFIC … The report estimates 75-100 more trucks per day on Farm To Market and Church. On what facts do they base this? Have they included extra trucks for sand and oil? (Finding 11-12)**

***NOISE. The winds blow strong and wide in the WV. The existing berms are inadequate to mitigate impact to nearby property owners. Noise is a NEGATIVE impact.()Finding 13**

***ODOR... I think that the odors and fumes from an asphalt plant will affect the West Valley residential area. The staff report asserts "…minimal impact as result of dust, heat, smoke, fumes, odors". Do (Finding 14)**

*** HOURS OF OPERATION... I don't want to hear the noise, obnoxious fumes, and battle with truck traffic on a SATURDAY? The staff report states, "HOURS OF OPERATION appear to be appropriate … <u>7 am – 7pm</u>, AND <u>SATURDAY 7am -2 pm</u>. (Finding 15)**

*** NO ASPHALT IN RESIDENTIAL AREAS...The Montana Supreme Court ruled that West Valley is a residential area. The District Court stated that "asphalt and concrete plant operations are prohibited". (Montana Eleventh District Court Judgment in Tutvedt Family Partnership vs Flathead Co et al) Nov 2010.**

***APPROVAL OF REQUEST WILL SET A PRECEDENT...I am worried that this will open the door to industrial and/or commercial permits in West Valley.**

With West Valley School being within 5 miles of the proposed asphalt plant, the trucks that will be operating past the school will cause disruption in the classrooms, that face Farm To Market Road, from the noise of the trucks.

There is no traffic light or four way stop sign at the entrance to the school, and it will be harder for the parents to merge into traffic. What about the safety of the students at West Valley? There are many students that walk to and from school and there is only one walkway from McMannamy Draw to Rhodes Draw. Students come from all directions to get to and from school. I shutter at the thought of even one of these students getting hit.

I am so opposed to this request from Schellinger Construction.

Please vote no on this matter.

Christine Smith

MAY 19 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:57 AM
To: Mark Mussman
Subject: FW: Schillinger Construction and Section16 Asphalt plant 2020

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Charles Kleffner <mtlaser@montanasky.net>
Sent: Tuesday, May 19, 2020 7:56 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schillinger Construction and Section16 Asphalt plant 2020

I've lived in the flathead for 40+ years and it's nice to drive on asphalt and not have dust.
Schillinger Construction always does a nice job and are always good neighbors.
Having all the asphalt plants in one general location is much better than all over the valley.
There is nothing wrong with adding to the county tax revenue.

With this said; I'm in favor of modifying the conditional use permit!

Chuck Kleffner
406-253-6655

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:34 AM
To: Mark Mussman
Subject: FW: Batch plant

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Rogers <lvmowing@gmail.com>
Sent: Tuesday, May 19, 2020 6:02 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Batch plant

Dear Mr. Mussman,

I am writing to voice my opposition to an asphalt or concrete operation at Church drive and Farm to Market.
It's my understanding the Supreme Court of Montana has ruled the area is for residential use.
The owners of the property agreed to not have such an operation when they were allowed to mine gravel.
I would hate to see our government roll over to business again at the expense of the common property owner.
I've witnessed the ill effects from that Knife River operation on Stillwater Rd. and don't want to see that happen in the west valley. It's ridiculous to have the noise and odor occurring 24-7.
What's happened to quality of life considerations? It's taken a backseat to making money every time a business wants to make more money.
We buy a property taking into consideration what the neighborhood has been zoned for. To then make changes to that zoning is unacceptable.
Mother Nature is screaming enough is enough. Maybe we Montanans should listen to her instead of the money mongers.

Roger Gussner
Kalispell

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Objection Letter re: Proposed Concrete/Asphalt Batch Plant

From: Rebecca Briber <rebecca.briber@gmail.com>
Sent: Monday, May 18, 2020 5:42 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Douggie Griesel <doug.griesel@gmail.com>
Subject: Objection Letter re: Proposed Concrete/Asphalt Batch Plant

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

May 18, 2020

Flathead County Planning & Zoning Office
West Valley Land Use Advisory Committee
40 11th Street West, Ste 220
Kalispell, MT 59901

Dear West Valley Land Use Advisory Committee:

We are writing to voice our opposition to the following: "A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana."

While we do not live in the immediate vicinity of the parcel in question (we live farther North off of Farm to Market Road), we believe that the parcel in question is not suitable for a concrete and/or asphalt batch plant, for several reasons: (1) a concrete and/or batch asphalt plant was not the approved use of this parcel when the condition of approval for gravel extraction operation was granted; (2) the proposed condition modification for operation of a concrete and/or asphalt batch plant is not in keeping with the surrounding agricultural and residential uses of surrounding parcels (both abutting parcels and parcels in the general vicinity); and (3) the operation of a concrete and/or asphalt batch plant is likely to be a nuisance due to the storage and use of toxic chemicals, production and storage of toxic byproducts, the foul-smelling nature of asphalt batch production, and the increase in commercial traffic that will result. We expand on each of these below:

(1) A concrete/asphalt batch plant was not the approved use of the parcel in question when the condition of approval for the gravel extraction operation was granted. There are many surrounding homeowners and developers who purchased surrounding parcels knowing there was a gravel extraction operation but whom likely would have opted not to purchase parcels knowing that a concrete and/or asphalt batch plant might be installed, due to the foul smell, the likelihood of toxic chemical spills, and the increase in traffic a plant like this could cause.

(2) The proposed condition modification for operation of a concrete and/or asphalt batch plant is not in keeping with the surrounding agricultural and residential uses of surrounding parcels (both abutting parcels and parcels in the general vicinity). Currently, only gravel extraction is occurring on the parcel in question. A concrete and/or asphalt batch plant would increase the industrial use of the parcel, all while other parcels in the area are being converted to residential use from agricultural use as our valley's population expands. While we understand that it certainly must be more convenient for the gravel pit owner to put a concrete plant on the same parcel, there must be an alternative location in a non-residential area for such a plant. Anyone who has lived in the valley for even the last five years has seen this exact area and many others like it transition to residential parcels from primarily agricultural parcels. We need to take this as a sign that as our valley's population grows, it will need room to expand, and we need to plan ahead for this residential expansion. Approving a concrete/asphalt batch plant in this zone of previous and almost certain future residential expansion makes no sense whatsoever.

(3) The operation of a concrete and/or asphalt batch plant is likely to be a nuisance due to the storage and use of toxic chemicals, production and storage of toxic byproducts, the foul-smelling nature of asphalt batch production, and the increase in commercial traffic that will result. Once again, this point has a lot to do with the fact that the surrounding parcels are, increasingly over the last five years and presumably ever more increasingly in the near future, residential. The area surrounding the parcel in question is perfect for such residential expansion; why allow a concrete/asphalt batch plant when such a plant would be a hinderance to surrounding residential property values and enjoyment, and could always be built in another neighborhood that already has primarily industrial uses?

We do understand the current owner's desire for efficiency, but we feel that the look and feel of the surrounding neighborhood does not comport with a concrete/asphalt batch plant and the resulting increase in commercial activity in the area. Thank you for your time and consideration.

Best Regards,
/s/

Rebecca Briber and Doug Griesel
501 Stovepipe Rd., Whitefish, MT 59937

MAY 18 2020

MAY 19 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: William Boehme <wmb1620@gmail.com>
Sent: Monday, May 18, 2020 4:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020

I live about a mile due west of this proposed West Valley project. So I do have a dog in this fight. I am IN FAVOR of the project. Schellinger Construction has been a staple of the valley for decades. They have been a community supporter of many community functions such as ALERT, RMEF, to mention a few. The number of new construction jobs coming available will need their products. Once the economy returns to more normal and especially if the state starts looking into more infrastructure projects they will need asphalt and having another plant can only lead to more competition and lower costs. An expanded plant would create more jobs and tax revenues. Since there are already three gravel pits within a mile of each other I can't see any reason not to allow further use of a resource that is already being extracted and contain the activity rather than open it elsewhere.

William Boehme, MD
1121 Crane Drive
Kalispell, MT 59901

Sent from Mail for Windows 10

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Yes on asphalt plant

RECEIVED
MAY 19 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Irene Ewing <ikewing10@gmail.com>
Sent: Monday, May 18, 2020 4:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Yes on asphalt plant

I am in support of the Schellinger Construction permit, Section 16 Asphalt Plant 2020 With kind regards, Irene Ewing

Sent from my iPhone

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:49 PM
To: Mark Mussman
Subject: FW: Asphalt plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: John Rodwick <johnrodwick@gmail.com>
Sent: Monday, May 18, 2020 4:47 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt plant

This proposed business is totally inappropriate for the residential area it is located in. It will have detrimental effects on home values, air quality, ground water, noise and quality of life. These facilities smell horrible and the air around them is probably full of carcinogens.
Thank you for listening.
John Rodwick
Holly Hand
Lakeside MT
To sum
It up in a nutshell

A Deal is a Deal!
And the county should
uphold this court approved deal
and deny this permit

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:51 PM
To: Mark Mussman
Subject: FW: Schellinger asphalt plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:50 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger asphalt plant

The 2 Buettner letters were from 285 Browns road, Kalispell 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:34 PM
To: Mark Mussman
Subject: FW: Schellinger Asphalt plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:34 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Asphalt plant

"Not in my backyard" sounds really self-centered. Safer, cleaner, and a more quality highway system will benefit more of us than just those in "Their backyard." I support Schellinger's asphalt at 3475 Farm to Market Road plant and " yes, my whole yard is in West Valley".

Thank You,

Kevin Buettner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:34 PM
To: Mark Mussman
Subject: FW: Schellinger Construction-Asphalt plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:30 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Construction-Asphalt plant

Dear Planning Board,

Competition is good for the bidding process and helps to keep costs down. Local job opportunities add to our quality of life here in the Flathead.

I am in support of Schellinger's asphalt plant on Farm to Market Road.

Thank You,

Jeanine Buettner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:12 PM
To: Mark Mussman
Subject: FW: West Valley Asphalt Plant Permit Request

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Dennis Heinzig <dennis_heinzig@yahoo.com>
Sent: Monday, May 18, 2020 4:10 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Asphalt Plant Permit Request

Dear Madam/Sir:
I would like to express my thoughts on this permit process. I do NOT think this gravel pit expansion to include an asphalt plant is appropriate for the following reasons:

1. This type of operation is not acceptable due to its negative impacts to home-owner property values.
2. Asphalt plants should not be located near residential neighborhoods.
3. There are unacceptable risks to our ground water from such an operation.
4. There are threat to public health for people living near the operation.
5. It does not appear that the Flathead Board of Adjustment has provided the factual data for public review upon which they based their findings.
6. Additional research and public input is should be required as this will affect many people in the West Valley and NOT just those within 100 feet.

Thank you for your consideration of my points.

Regards,
Dennis Heinzig
1617 Whitefish Hills Dr.
Whitefish, MT 59937

•

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 3:38 PM
To: Mark Mussman
Subject: FW: Residential Zoning

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Ben Barckholtz <bbarckholtz@gmail.com>
Sent: Monday, May 18, 2020 3:25 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Residential Zoning

I would like to show my support of residential Zoning and the prohibition of the proposed asphalt operations in the west valley. While I love small government, these zoning rules exist for a reason.
-Ben Barckholtz

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: Proposed asphalt batch plant in a West Valley residential area

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Catherine Haug <cmhaug44@gmail.com>
Sent: Monday, May 18, 2020 12:54 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Richard Turbiac, Exec. Dir. <citizens@flatheadcitizens.org>
Subject: Proposed asphalt batch plant in a West Valley residential area

I strongly believe industrial asphalt batch plants should be kept out of residential areas. Please do not approve the proposal. They are toxic and dangerous in the same neighborhood where humans live, especially children and seniors.

It is my understanding that the proposed plant is to be added on property that is already a gravel pit. Yet a 2010 final court settlement regarding the gravel pit stated asphalt and concrete batch plant operations are prohibited. Please respect the court settlement and disapprove this current proposal.

Catherine Haug
145 Bay Drive
PO Box 1693
Bigfork MT 59911
(406) 837-4577

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: Proposed Asphalt batch Plant in the West valley

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Michael Moffitt <mmoffitt406@gmail.com>
Sent: Monday, May 18, 2020 12:20 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Proposed Asphalt batch Plant in the West valley

I have read the background information on the Asphalt batch Plant proposed by the Tutvedt Partnership and I want to state that my entire family strongly opposes this proposal. The agreement reached with the County 15 years ago should stand.
Michael Moffitt
Whitefish

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: West Valley and proposed Asphalt Plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Nuggett Carmalt <nuggett@majesticvalleyarena.com>
Sent: Monday, May 18, 2020 12:04 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley and proposed Asphalt Plant

To whom it concerns,
I would like to voice my concerns about the proposed asphalt plant in West Valley on the Tutvedt land. I was highly involved in 1995-1996 organizing and establishing the updated West Valley zoning. We never intended for there to be a large scale gravel pit, and in no way shape or form an asphalt plant.
I drive Church Drive regularly and have on a regular basis watched dump trucks, and belly dump trucks on an average one truck every 2-3 minutes from highway 93 to Farm to Market. From highway 93 to Farm to Market there are trucks coming and going from LHC off Stillwater, Kueger sand pit, Tutvedt gravel off West Valley, and another Tutvedt gravel pit off Farm to Market. In a 4 mile stretch of road you have 4 pits running numerous pits and Church Drive is not the only route they drive.
We have dealt with contaminated water in the same radius as the proposed asphalt pit and some wells are still not whole. No one was ever held accountable for the contamination. I have lived at the same address for close to 50 years and the wells were not contaminated growing up, but with the increase in pivots and nitrates being injected into the water we (the neighbors) got contaminated wells.
Tutvedts agreed to not have an asphalt plant during the second go around with the West Valley board and they need to leave it be. We do not want an asphalt plant in our neighborhood. It will adversely affect the immediate neighborhood and a 4 mile radius which includes the West Valley School and the families and kids that drive that stretch of road.
West Valley is not commercial, we are Ag and residential, the folks out here do not want an Asphalt Plant and our voices have the right to be heard and we will be heard.
Thank you,
Nuggett Otten Carmalt
1925 Church Drive
Kalisell

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 1:16 PM
To: Mark Mussman
Subject: FW: Batch plant in West Valley

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Edd Blackler <blacksandedd@gmail.com>
Sent: Monday, May 18, 2020 1:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Batch plant in West Valley

Whomever:

A batch plant should not be approved in West Valley as Montana Supreme Court ruled that it is a residential zone. Batch plants are not allowed in residential zones.
People have purchased property in West Valley with the understanding that batch plants and other Industrial operations were not allowed. They stand to lose property value if the residential zoning rules are not upheld.
I strongly urge you to deny the batch plant in West Valley request.
Industrial zones and residential zones must be separate.
Thank you for your consideration.
Edd Blackler, 33435 Quarter Circle Way, Bigfork, MT 59911

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:26 AM
To: Mark Mussman
Subject: FW: batch plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Mary Jo Gardner <mjgardner1234@gmail.com>
Sent: Monday, May 18, 2020 10:25 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: batch plant

NO to asphalt batch plant. I rode my bike most nice days to work at FairMontEgan school for 22 years. The blue smoke and pungent and acrid smell from the asphalt plant along the way was disturbing to the senses along with being a health hazard!

--

Mary Jo Gardner
1230 5th Avenue East
Kalispell MT 59901
406-249-2497

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:23 AM
To: Mark Mussman
Subject: FW: Tutvedt Family Partnership Batch Plant Proposal

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Catherine Malarchick <catchick89@montanasky.net>
Sent: Monday, May 18, 2020 10:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Tutvedt Family Partnership Batch Plant Proposal

1. **Impacts to home-owner property values are unacceptable**

2. **Asphalt Plants don't belong in residential neighborhoods.**

3. **Risks to ground water contamination are unacceptable.**

4. **Likely impacts to the health of family's living near this proposed plant are unacceptable.**

5. **Where is the factual data that Flathead County Zoning regulations require to for the Flathead Board of Adjustment to base their findings on?**

6. **Additional research and testimony is needed.**

The addition of a batch plant in this and virtually ANY residential area will negatively impact infrastructure capacity, traffic (both pedestrian and motorized), noise, public safety, air quality, West Valley School, including staff, students and parents).

Catherine Malarchick & Ken Siderius
688 Madera Trail
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:07 AM
To: Mark Mussman
Subject: FW: Remain Residential

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Barbara Lewis <pblewis@centurytel.net>
Sent: Monday, May 18, 2020 10:03 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Remain Residential

Hi,
Please consider the following:

Where is the factual data that Flathead County Zoning regulations require to for the Flathead Board of Adjustment to base their findings on?

Risks to ground water contamination are unacceptable.

Asphalt Plants don't belong in residential neighborhoods.

Impacts to home-owner property values are unacceptable

Thank you.
Barbara Lewis
670 Armory Rd
Whitefish, MT. 59937

Sent from my iPad

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:31 AM
To: Mark Mussman
Subject: FW: Asphalt Plant at 3427 Farm to Market Rd

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Colin McClure <cbmcclure22@gmail.com>
Sent: Monday, May 18, 2020 9:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt Plant at 3427 Farm to Market Rd

I support the Shellinger Asphalt Plant. As someone who has grown up in West Valley, I appreciate driving on asphalt, instead of gravel or dirt roads.

An asphalt plant the size of two semi trailers will not cause any more harm than the current gravel pit and it should put fewer gravel trucks on the road. Not to mention the current state of the roads in West Valley, we need all the asphalt we can get.

Thank you,

Colin McClure
555 Clark Dr
Kalispell, MT 59901

"I prefer to drive on asphalt, there is less dust than on gravel, I support Schellinger's asphalt plant at 3427 Farm to Market Road.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:31 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Danielle Blanc <blanc.danielle.r@gmail.com>
Sent: Monday, May 18, 2020 9:13 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020

To Whom It May Concern:

I would like to express my support of the proposed asphalt plant on Farm to Market Rd. I live in West Valley and feel that the area will benefit from the influx of jobs in these challenging times.

Regards,
Danielle Blanc

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:28 AM
To: Mark Mussman
Subject: FW: OPPOSE - asphalt and/or concrete batch plant at Church Drive

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Linda Hubner <lahubner@centurylink.net>
Sent: Monday, May 18, 2020 8:54 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Linda Hubner <lahubner@centurylink.net>
Subject: OPPOSE - asphalt and/or concrete batch plant at Church Drive

Dear Mr. Mussman,

I am writing to oppose that the county allow Schellinger Construction to modify their existing agreement to operate a gravel pit by adding a asphalt or concrete batch plant at Church Drive and Farm to Market. This was previously addressed in 2010 when the landowners agreed to only allow a gravel pit to operate. Nothing has changed - this is a residential area, not an industrial area.

I live off Farm To Market road about 3-4 miles north of the proposed asphalt and/or concrete batch plant and frequently travel Farm to Market and Church Drive past the existing plant.

I am adamantly opposed to the proposal. Such a development will decrease property values and quality of life in the West Valley area. Most importantly, it will increase the already large number of trucks that are constantly moving on Church Drive and on Farm to Market. This is unsafe for the people who live on Farm to Market and Church Drive and who travel the road to get to work and to school. It will be exceptionally dangerous for the children who travel to West Valley School.

The Schellinger gravel pit is already an eyesore for Flathead County and West Valley. The berms are not maintained and the landscaping is pitiful. No modification to existing agreements to permit further expansion should be allowed.

Thank you for your consideration,
Linda Hubner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 8:01 AM
To: Mark Mussman
Subject: FW: WVLUAC Meeting May 21, 2020

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: G & D Nielsen <nielsen@fastmail.com>
Sent: Monday, May 18, 2020 7:56 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: WVLUAC Meeting May 21, 2020

Mr. Mark Mussman, Director
Flathead County Board of Adjustments

Ref: Proposed construction of a concrete and/or asphalt batch plant at 3427 Farm-To-Market Road

Dear Mr. Mussman,

Since we are unable to attend the May 21st of the West Valley Land Use Advisory Committee (WVLUAC) this email is to inform you that my wife and I formally go on record as opposing the granting of the conditional use permit (CUP) application #FCU-20-04 concerning the construction of a concrete and/or asphalt batch plant at the existing gravel mine at 3427 Farm-To-Market Road in West Valley.

Not only will a concrete and/or asphalt batch plant degrade the market value of all the surrounding property, it will also certainly negatively impact the residents, wildlife, livestock, water, noise, and air quality in a very scenic part of the valley.

The construction of these plants is not in the interest of the residents of West Valley, nor is it in the best interest of maintaining the integrity of the West Valley Zoning as has been in effect in the area for many decades.

Respectfully,

MSgt. Gerald Nielsen, USAF (Ret)
Diana Nielsen, RDH

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:40 AM
To: Mark Mussman
Subject: FW: Opposition to Batch Plant in West Valley

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Jan Fiaschetti <jfiaschetti@krmc.org>
Sent: Monday, May 18, 2020 7:26 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Opposition to Batch Plant in West Valley

Dr. Mr. Mussman, I am a resident of Lone Coyote Trail in the West Valley and have already been subjected to the noise, heavy traffic and all the environmental insults that accompany the gravel pit that is North/West of my home. I am a home owner who pays her mortgage and taxes, and I value the property and environment that I chose to make my forever home. From what I have researched about the environmental consequences of a working gravel pit/batch plant, the potential adverse impact on the air, water and land are enormous , as well as a direct threat to the health and welfare of the residents who live nearby. Clearly, Schellinger Construction and Linda Tutvedt are more interested in the favorable financial impact this project will have on them than on the welfare of those residents that approval for this venture will threaten. I am opposed to a Batch Plant being approved. You have my unwavering support on this matter and if there is anything more that I can do, please let me know. Sincerely, Jan Fiaschetti, LCPC,LAC

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Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:39 AM
To: Mark Mussman
Subject: FW: Schellinger Asphalt Plant

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Linda Tutvedt <lindatutvedt@gmail.com>
Sent: Sunday, May 17, 2020 2:02 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Asphalt Plant

Section 16 Asphalt plant 2020

Schellinger Construction and Section 16 FLP are requesting modification of their conditional use permit to allow the operation of a concrete and/or asphalt plant on an existing gravel extraction operation located at 3427 Farm to Market Road. I support this modification for the following reasons:

1. **Jobs** – We are heading into a recession larger than the great depression.
   Schellinger Construction is investing in infrastructure that will help to create more jobs at a time when they will be desperately needed. "36.5 million people have filed applications (for unemployment) in the past eight weeks". *Wall street Journal Friday, May 15, 2020.*
   Many of us want our children to be able to stay in the Flathead when they graduate from school. We need good jobs here in the flathead for them to be able to do that.

2. **Fair play** – There are three gravel extraction operations within three miles of the subject property all zoned West Valley. All are allowed asphalt and concrete plants. Not allowing Schellinger an asphalt plant gives the others an unfair advantage. Any restrictions put on the asphalt plant will do the same.
   It is like expecting one little league team to play without thumbs on their gloves.

3. **Taxes** – Any increase in product will increase tax revenue, reducing the tax burden on other tax payers.

4. **Road Quality** - Farm to market is built to a higher standard than other county roads in West Valley, and it is designed for the heavier traffic.

5. **Quality** - Schellinger Construction is a quality firm that does quality work, they are good neighbors and will continue to be a good neighbor.

Linda Tutvedt
Managing Partner Section 16 FLP
2335 West Valley Drive

Kalispell Mt 59901

MAY 18 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:39 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Debbie Snyder <dandebs1978@gmail.com>
Sent: Sunday, May 17, 2020 12:49 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020

I was born and raised in the West Valley area. The West Valley area will continue to grow, especially in the near future. The gravel is needed, the jobs are needed, the time is now. Let's level the playing field. I am in full support of Schillinger's Asphalt plant at 3427 Farm to Market Road.

Thank You

Sincerely,
Debbie Snyder
271 Commons Way
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:36 AM
To: Mark Mussman
Subject: FW: FCU-20-04

RECEIVED
MAY 18 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Frank & Linda de Kort <dekort@montanasky.com>
Sent: Sunday, May 17, 2020 11:47 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04

To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel, Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: May 17, 2020

We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road.

We have many objections to this plant and the manner in which it seemed to be expedited. Our main concern however is based on the staff report's argument that there are other asphalt batch plants that have been approved in this area since the definition of gravel extraction has been changed. The report argues that the Tutvedt gravel pit, which was approved prior to this change in definition, should therefore be given the same economic benefit. Our counter argument is that these existing asphalt plants are located in very different geological locations. The Tutvedt gravel pit is located over the very fragile Lost Creek Fan. As determined by the Montana Bureau of Mines and Geology (Favre, Smith and Patton, 2000): ***"Lost Creek fan (is) a thick accumulation of outwash deposited by glacial meltwater. These data suggest that protective layers of till and glacial-lake deposits may be locally absent or discontinuous and that the deep alluvial aquifer may be locally vulnerable***

to surface contamination. " It is this vulnerability to surface contamination that is so concerning because asphalt contains toxic chemicals. According to *Ullman's Encyclopedia of Industrial Chemistry*: ***The components of asphalt include four main classes of compounds: Naphthlene, High Molecular weight*** <https://en.wikipedia.org/wiki/Molecular_weight> ***phenols*** <https://en.wikipedia.org/wiki/Phenols> **, *Carboxylic acids, Saturated hydrocarbons*** <https://en.wikipedia.org/wiki/Saturated_hydrocarbons> **. *In addition, most natural bitumens also contain organic sulfur compounds, nickel and vanadium.***
The potential of a major accident or even a minor spill at the asphalt plant contaminating Lost Creek Fan from which residents receive well water was not addressed. In fact both the application and the staff report state unequivocally that: "all environmental impacts are addressed."

Another major concern that we have is the growing residential nature of the surrounding property on Farm to Market Road. The other two existing asphalt treatment plants in the West Valley area are on back roads with few existing residences. The location map which was submitted with the application is dated 12/18. Many new residential plots have been established and developed, several by the applicants themselves, since that map was produced.

Moreover, "GRANDFATHERING IN"works both ways. Our understanding is after a rule (or definition) change, new rules and definitions apply to new members only. The old members are "grandfathered in" in which case, the old rules still apply. Since the original gravel pit permit specifically prohibited asphalt and concrete batch plant, that prohibition is grandfathered in despite the change in definition made after the permit was granted.
We also find it very unsettling that this application and review process seems to be hurried through. The application lacked any details of the plant design, duration, dimensions…etc. The original staff report was extremely deficient of detail and examination. The carelessness with which this important issue was handled is very evident in the last cut and paste paragraph of the original staff report:

"Upon review of this application, the request to allow for <u>Recreational Facility</u> on the subject property is generally supported by the review criteria and the Findings of Fact listed above. "

MAY 18 2020

We are certain that if indeed a recreational facility were the subject of review here, it would not be subjected to such opposition by the neighborhood.

We conclude that because of the major environmental concerns and related legal issues, this application should be rejected. We trust that you will conclude the same.

Sincerely,

Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

Tele: 406 755 3704

MAY 18 2020

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901

RECEIVED
MAY 7 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Dear Flathead County Board of Adjustment:

As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations".

A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely,

W. Kim Davis
Janet Davis

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 3:45 PM
To: Mark Mussman
Subject: FW: Schellinger Construction Asphalt Plant Application

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Dan Leatzow <dmleatzow@gmail.com>
Sent: Tuesday, May 5, 2020 3:44 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Elaine Brewer <brewer4of6@hotmail.com>; Denise Brewer <moobrew2@montanasky.net>
Subject: Schellinger Construction Asphalt Plant Application

Dear Planning and Zoning Team:

I am writing to put forth my comment that is strongly AGAINST the current application by Schellinger Construction for modification of the Gavel Pit operating permit in West Valley just south of Church Drive and east of Farm-to-Market Road. It is my understanding that the staff report finds no reason to deny the application. However, I would tend to disagree with the finding based on the simple fact that the activity is in direct conflict with the West Valley Planning document. The intent of the West Valley Plan is to preserve the character of the West Valley area as agricultural and residential. An asphalt or concrete batch plant are very much industrial applications, which is not allowed under the intent of the plan.

Also, the applicant knowingly accepted the condition of NO Asphalt or Concrete plant in order to secure the ability to operate a gravel pit. Now 15 years later, does Schellinger Construction really believe that public sentiment has changed regarding the operation? I adamantly submit NO. As a resident, living at 2111 Church Drive, I can testify to the dust and debris on Farm-to-Market resulting from the current gravel pit operation. As a Montana licensed Professional Engineer, I would state without reservation that the environmental impact of expanding the pit operation with exacerbate the tracking of mud, dirt and rocks onto public roadways. Case in point, during the week of April 27, 2020, my wife (Elaine Brewer-Leatzow of Bald Rock Road) was driving Farm-to-Market when the van she was driving was struck by a rock thrown by a dump truck, owned by Massey Construction, while utilizing the Schellinger pit. The windshield sustained a golf ball sized contusion that necessitates replacement. This example of damage to the public will only continue and increase with increased activity.

Schellinger Construction already has an asphalt and batch plant. It is entirely possible to follow the same model used by LHC, Inc., who trucks all material to their plants located off Stillwater Road. Schellinger Construction can haul the gravel and material needed from the West Valley pit to their plant. Incidentally, LHC erected their asphalt and concrete plants in 1999 and 2002, respectively. The plants were established before the Schellinger pit existed.

Lastly, the addition of asphalt and gravel operations to the pit will have a negative impact on surrounding land valuation. It is beyond comprehension how an individual could create a housing development and then vastly change the character of the surrounding area, unless one's conscience is clouded by greed and money. The production of asphalt and/or concrete does not belong in the West Valley area. The conditions were accepted by the application in 2005 and nothing has changed.

I submit to the Board of Adjustments that the application be denied.

Sincerely,

--

Dan Leatzow, PhD, PE
Montana PE#18382
2111 Church Drive
Kalispell, MT 59901

P: (406) 471-1422

MAY 04 2020

Mark Mussman

From: Maria Albertson
Sent: Tuesday, May 5, 2020 12:41 PM
To: Pamela Holmquist; Randy Brodehl; Phil Mitchell
Cc: Mark Mussman; Elaine Nelson
Subject: FW: Trail maintenance and Implementation Plan

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Sheila Shapiro <sshapiro0252@gmail.com>
Sent: Tuesday, May 5, 2020 12:26 PM
To: Maria Albertson <malbertson@flathead.mt.gov>
Subject: Trail maintenance and Implementation Plan

I support this. I am a proud resident of Flathead County for 40+ years and wish to see careful maintenance and access to these trails etc. Please guard these open spaces and care for them with the appropriate PLANNING AND FUNDING that will preserve their character and longevity for years and generations of our children to come. Sincerely, Sheila A. Shapiro 1032 Mountain Park Drive. Whitefish, Montana

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 10:45 AM
To: Mark Mussman
Subject: FW: Postponed Vote Request/Concern

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Tiffany Moloney <tmoloney@krmc.org>
Sent: Tuesday, May 5, 2020 10:35 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Postponed Vote Request/Concern

To Whom It May Concern,

I am writing to you today to request that you postpone the vote regarding the application for a concrete and/or asphalt batch plant on the existing gravel site at 3427 Farm To Market Road. I feel the residents need more information and that the notification process of making residents aware was not thorough and was not timely. The public has not been given adequate information or time to comment, especially due to the recent COVID-19 restrictions that have been in place.

I oppose the pit for health and safety concerns as well as all the impacts it will have to values within close proximity to it. I have children that attend West Valley School. The traffic is a major concern in that area, especially with its proximity to the school and sharing Farm to Market Road. I am also a current owner of a lot on Canola Road. No notification was posed to me directly and I feel this is a direct impact to me and my future plans with my property.

Please postpone the vote until COVID-19 restrictions have been lifted through phase 3 OR until at least July 1, 2020. This will allow for proper communication to all West Valley residents and allow enough time for feedback and comments on the proposal.

Thank you for your time,

Tiffany Moloney

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Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 10:20 AM
To: Mark Mussman
Subject: FW: Asphalt

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE
RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Sarah Cameron <sarah.e.cameron@icloud.com>
Sent: Tuesday, May 5, 2020 10:19 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt

I was just notified about the meeting this evening and am very much against the permit being expanded to include batch processing. My children go to West Valley School and we are residents in West Valley and do not want this potential hazard to be part of our neighborhood or school. Please do not expand the permit. Thank you.
Sarah Cameron

Sent from my iPhone

Mark Mussman

From: Peter Fennelly <peter.fennelly@gmail.com>
Sent: Monday, May 4, 2020 9:42 PM
To: Mark Mussman
Subject: Asphalt concrete plant Wesvalley

We suggest that the board of adjustments table the matter for Shellinger request until the fall until the residence of Wesvalley can get legal counsel and do their own due diligence and the applicant can do their proper diligence. This whole thing for an application at this time when the state country and county are a scent and dealing with COVID-19 is an underhanded way to handle business definitely opens a big can Of worms for a lawsuit attached to this if it is not tabled at least until the fall of 2020. This will give at least some respect and time for the local residence some time to digest this illegal underhanded big change to our neighborhood environment.

Regards. Peter fennelly
1585 Church drive

Sent from my iPad

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Monday, May 4, 2020 9:28 PM
To: Mark Mussman
Subject: Addl comment. Re: Agenda

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Hi

Are there enviro impact studies, traffic studies, etc? How old are these studies? What happened with the study in the Lost Creek area water table. Isn't there a lack of clay base or some other Oddity about the area - aquifor?

Teri Bjornrud

On Apr 30, 2020, at 2:38 PM,<mmussman@flathead.mt.gov> wrote:

Attached is the agenda of the May 5 Board of Adjustment meeting with instructions on how to access the meeting by phone.

Mark Mussman, CFM

Director
Flathead County Planning & Zoning
40 11th Street West
Kalispell, MT 59901-5607
Phone: 406.751.8200
Fax: 406.751.8210

<5-5 BOA Agenda.pdf>

Mark Mussman

From: Amy Fennelly <amyfennelly10@gmail.com>
Sent: Monday, May 4, 2020 9:10 PM
To: Mark Mussman
Subject: concrete/asphalt batch plant

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark, I spoke with you last week. I am again urging you to postpone this vote until the June meeting, too little time and too much covid 19. This is way too important and affects too many lives!

Thank you,

Amy Fennelly

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 8:15 AM
To: Mark Mussman
Subject: FW: NO concrete batch plant in west valley

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Reddy Waters <reddy.waters@gmail.com>
Sent: Tuesday, May 5, 2020 8:14 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: NO concrete batch plant in west valley

Hard no on this one, in fact a firm fuck you to the county commissioners.

We get it. Pam, Randy, & Phil could give two shits less about anything but lining their pockets with as much cash as possible.

Why inform the public of anything? Schellinger is your daddy, and you are their bitches doing the dirty work.

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: Public Comment, Farm to Market Asphalt Batch Plant
Attachments: Public Comment, Asphalt Batch Plant.pdf

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Sierra McCartney <mccartney13@csld.edu>
Sent: Monday, May 4, 2020 11:19 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; Mark Mussman <mmussman@flathead.mt.gov>
Subject: Public Comment, Farm to Market Asphalt Batch Plant

Mark,

Please see my comments regarding the proposed asphalt batch plant on Farm to Market Road.

Thank you,

Sierra

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Sierra McCartney
7227 Farm to Market Road
Whitefish, MT 59937

May 4, 2020

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman
Planning and Zoning Department
40 11th Street West, Suite 220
Kalispell, MT 59901

Dear Mark,

I do not support the Application for Condition Modification to FCU-05-07(a) for the following reasons:

1. Zoning was created to separate uses that are incompatible with each other. In the Flathead County Planning and Zoning Office Conditional Use Permit Report, the adjacent land uses are described as being agriculture and single family dwellings. An industrial asphalt batch plant is incompatible with these uses, and therefore, shall not be permitted. Zoning is put in place to protect property owners. Buying a house is the largest investment most families will make in their lifetime. When West Valley residents bought property in the neighborhood, they thought it would be just that, a neighborhood, not an industrial park. How much will property values decrease in the area due to the proposed development? The planning office cannot devalue properties by approving incompatible conditional use permits.
2. Site maps were provided for the proposed development, but in order to understand the project, detailed structural plans and elevations need to be provided. How large is the proposed equipment/structure? A rectangle labeled 'Equipment Set Up' on a google earth map does not provide enough information for review and comment.
3. Public notification about the proposed Application for Condition Modification has been inadequate. The permit report describes the adjacent properties as being large acreage properties, and yet only property owners within 150' of the proposed plant have been notified. Three or four property owners were notified, while the proposed plant will affect all properties in the entire West Valley zoning district. In 2010, the original permit was approved based on the condition that "Asphalt and concrete batch plant operations are prohibited." How can this condition be reversed without adequate public comment? We are currently in the middle of a pandemic, and inadequate notification, on top of a telephone conference public hearing, qualifies as a misuse of the review process.

Mark, in the community, you are known as "the planner who has never seen a development you do not like." From my point of view, this request for an amendment is a simple no. Its proposed use does not fit the adjacent land uses, and the original permit was approved based on the condition that its proposed use was prohibited. I hold on to the hope that my comments will be taken into consideration,

and that there will be some developments in the Flathead Valley that we can all agree, should not be approved.

Sincerely,

Sierra McCartney

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: Letter to review regarding Proposed Asphalt plant zoning amendment

From: Brett Svetlik <brett.svetlik@gmail.com>
Sent: Monday, May 4, 2020 11:14 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Letter to review regarding Proposed Asphalt plant zoning amendment

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Flathead County Planning and Zoning Office
Board of Adjustments
Monday, May 4, 2020

From: Brett Svetlik
7227 Farm to Market Rd, Whitefish, MT 59937

Dear Mark Mussman and Staff,

I am writing to share my concerns regarding the proposed asphalt plant amendment to the current conditional use permit #20-04 (Shellinger Construction) - located at: the north one-half of Section 16, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

First of all, I want to share my view that this issue is being forced through the planning and zoning laws without proper notification to affected persons and without proper review from our county leadership. Online meeting? Give me a break. Postpone it until we can get real people affected by this issue into the room to talk to your board members in person. Mailed notification to property owners within 150 feet? 6 people? Now that's a great base of community members to judge your new asphalt plant amendment on!

If this issue wasn't shared with me from my friends and family, this plant would have been pushed forward and most likely approved only with hesitation, unrest, and disappointment seeping in afterward. Let's do the right, civil thing by including everyone involved and listening to what they have to say. Give it more time and plan it like your job calls for.

Although this property is privately owned, there is currently a huge mine dug in the ground and rural roads intersect the operation on two sides. Let's not let it get worse and let new stipulations get added without proper review and insight. When was the last time your board members and office staff have taken a drive past the pit? Do the newly planted lines of trees and berms really mask what's happening behind the gate? Do we really need an asphalt plant in the West Valley, where we are trying to salvage what's left of our agricultural heritage of the Flathead Valley? How about putting it next to the new Ford dealership, Silverbrook Estates and the Gym on the other side of Church Drive? That just got trashed in the last few years. They might get a little more excited. How about next to the newly approved Town Dump in Whitefish?

Looking into the current regulations, your office is seeing if the issue can be amended to put the one rule that prohibits this use under the rug. Why can't you just say NO? Your office and leadership has been voted in to

serve the community and people of the Flathead Valley. If you listen to them, the majority of them will tell you that this isn't approved for this property. I read the rule in the property's conditional use permit.
The residential and agricultural uses of the surrounding area will be negatively impacted by this use. According to our state constitution, we are guaranteed clean air and water, both of which will be negatively affected by this operation.

If our state was in dire need of more asphalt and our community depended on it, maybe, as a community, we'd look into it further and come up with a solution for everyone. I'd love for you to send me a list of everyone positively affected by this proposed conditional use amendment and the destruction and conversion of another 40 acres of open agricultural space. I'd bet that the list of people against might just be a little bit more. I can see the deer, elk, migratory birds, and countless other wildlife singing in unity now.

All I'm asking for in this letter is for your office to visit the current laws regarding this property use, giving more time, listening to the entire community that this project proposal affects, thinking of what kind of legacy you want to leave for your children and taking a drive down Farm to Market Road to see who it is really going to affect.

Your neighbor who lives more than 150 feet away from the proposed site,

Brett Svetlik
7227 Farm to Market Road
Whitefish, MT
406-863-9664

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a concrete/ashphalt plant

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Karli Miller <kmiller13133@gmail.com>
Sent: Monday, May 4, 2020 9:57 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a concrete/ashphalt plant

Hello,

Dated May 4th, 2020

I am writing in objection of the county allowing Schellinger Construction to modify their conditional use permit to allow a concrete/asphalt batch plant.

We recently built in west valley and are concerned of amount of extra traffic this will bring to the area. Not to mention the safety of our students with the school right there with bus stops on the route to the current gravel pit.

West valley is not a commercial business area and we do not agree with the idea of adding a asphalt/concrete plant to this location.

Thank you for your time.
Karli Miller
kmiller13133@gmail.com

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:43 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:56 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Christine Smith
Email:	razberry1260@yahoo.com
Subject:	Scellinger Construction request you modify original permit
Message:	I strongly oppose Rob Koizer of Schellinger Construction request to modify conditions of the original permit to asphalt and concrete batch plant in regards to the property located at 3427 Farm to Market Road. These permits were denied when the gravel pit originally opened. Why are they being requested again, during a time when concerned residents cannot attend the meeting because of the COVID 19 is highly suspicious. My main concerns are water supply and quality. In addition, West Valley School, just south of the pit, is already severely contested with traffic from school drop-offs and picking up their kids. Trucks were told to to stay away from the school when the pit first opened, but they still roar down the road, going over the posted speed limit. Our children's safety and the noise from these trucks should be our top priority.

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:43 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 7:39 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Ronald and Patricia Nelson
Email:	ronpatnelson@gmail.com
Subject:	conditional-use permit for concrete and asphalt plant
Message:	If adding a concrete and asphalt plant to the gravel site on Farm To Market road will add 100 trips per day, assuming round trips and 8 hour days, it is an additional 25 trucks per hour on Farm To Market. If half of them head south, thats a truck every 5 minutes at the intersection of West Reserve and Farm To Market. West Valley School has already had a large expansion since 2005 and needs another to handle 1000 more students. Trucks will either have to drive past the school or turn left onto West Reserve. Either way they will be 90 degrees to traffic into or exiting the school. It is our wish you do not approve the expansion of the conditional-use permit. If you do I hope you add provisions limiting hours to avoid school drop off and pick-up and lunch times. We also hope you get funding to expand traffic control at the intersection of West Reserve and Farm To Market. Sincerely, Ronald and Patricia Nelson

Mark Mussman

From: Brett Svetlik <brett.svetlik@gmail.com>
Sent: Monday, May 4, 2020 11:22 PM
To: Mark Mussman
Subject: Public Comment for Proposed Asphalt Plant on Farm to Market Road

Flathead County Planning and Zoning Office
Board of Adjustments
Monday, May 4, 2020

RECEIVED
MAY 5 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Brett Svetlik
7227 Farm to Market Rd, Whitefish, MT 59937

Dear Mark Mussman and Staff,

I am writing to share my concerns regarding the proposed asphalt plant amendment to the current conditio Construction) - located at: the north one-half of Section
16, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

First of all, I want to share my view that this issue is being forced through the planning and zoning laws wit and without proper review from our county leadership. Online meeting? Give me a break. Postpone it until into the room to talk to your board members in person. Mailed notification to property owners within 150 fe community members to judge your new asphalt plant amendment on!

If this issue wasn't shared with me from my friends and family, this plant would have been pushed forward unrest, and disappointment seeping in afterward. Let's do the right, civil thing by including everyone involve Give it more time and plan it like your job calls for.

Although this property is privately owned, there is currently a huge mine dug in the ground and rural roads let it get worse and let new stipulations get added without proper review and insight. When was the last tim have taken a drive past the pit? Do the newly planted lines of trees and berms really mask what's happenir asphalt plant in the West Valley, where we are trying to salvage what's left of our agricultural heritage of th to the new Ford dealership, Silverbrook Estates and the Gym on the other side of Church Drive? That just get a little more excited. How about next to the newly approved Town Dump in Whitefish?

Looking into the current regulations, your office is seeing if the issue can be amended to put the one rule t you just say NO? Your office and leadership has been voted in to serve the community and people of the F majority of them will tell you that this isn't approved for this property. I read the rule in the property's conditi The residential and agricultural uses of the surrounding area will be negatively impacted by this use. Accor guaranteed clean air and water, both of which will be negatively affected by this operation.

If our state was in dire need of more asphalt and our community depended on it, maybe, as a community, solution for everyone. I'd love for you to send me a list of everyone positively affected by this proposed con and conversion of another 40 acres of open agricultural space. I'd bet that the list of people against might j migratory birds, and countless other wildlife singing in unity now.

All I'm asking for in this letter is for your office to visit the current laws regarding this property use, giving m
that this project proposal affects, thinking of what kind of legacy you want to leave for your children and tak
see who it is really going to affect.

Your neighbor who lives more than 150 feet away from the proposed site,

Brett Svetlik
7227 Farm to Market Road
Whitefish, MT
406-863-9664

ReplyForward

MAY 04 2020

April 30, 2020

Mark Mussman
Planning Director
Flathead County Planning & Zoning
40 11th Street West, Suite 220
Kalispell, MT 59901

RE: FCU-05-07 Modification

Dear Mr. Mussman:

Be advised that I oppose the addition of a concrete and/or asphalt batch plant to the current FCU-05-07 located on 3427 Farm To Market Road. The West Valley Plan does not allow for this type of industry.

Sincerely,

Mark Schwager

Mark Schwager
PO Box 7634
Kalispell, MT 59904

RECEIVED
4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

This is Jim Hanson May 1-2020

To who this may concern, I recieved a notice from the board of adjustments about Schillinger Construction request to be modified to allow the operation of a concrete and asphalt batch plant on existing gravel extraction operation FCU-05-07

The problem I have is the site is across the fence from an irrigation water Pit that I irrigate from. I'm worried about toxic spills getting into the water pit and being put out on the farm land if the plant is to close to the pit. the agreement when the county O.K.ed the pit (gravel) was to stop 10' above the high water level. I've seen the water about 8' above the fence in the area

My other thought is the spring run off water washing into the pit from the asphalt Plant.

I'm sorry but I object to it to close to the Pit
FCU-05-07

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Thank Jim Hanson

406-250-6168

May 3, 2020

Flathead County Board of Adjustment
Mark Mussman, Planning Director

To Mr. Mussman and all members of the Flathead County Board of Adjustment,

This letter is concerning the request by Rob Koelzer, Schellinger Construction Company to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on the existing extraction gravel operation located at 3427 Farm-to-Market Road. The 160 acres are described as the northwest quarter of section 16, Township 29 North, Range 22 West, P.M.M. Flathead County.

When the Tutvedt's first wanted to open a gravel pit, they sent a document showing where the gravel pit was to be located and how much land would be involved. It seemed like it would not be a serious problem, so we sent our approval in a letter to the planning board.

A few years later, they came to our house again with an expansion proposal. We reluctantly agreed again, and now we regret that decision.

We have just now learned of this latest development of Schellinger's wanting another expansion in a note taped to our mail box by a concerned West Valley resident. There was no notification from Tutvedts nor Schellinger. That seems to us to be sneaky and underhanded! It certainly does not inspire confidence nor cooperation.

The gravel truck traffic is much more than we were lead to believe. We like to walk on Church Drive, where we have lived for over 40 years. Before the several gravel pits around us were put into operation, traffic on Church Drive was light with cars and pickup trucks and sometimes there was an occasional logging truck. Since Church Drive has no shoulder, we must now often take to the ditch to avoid two gravel trucks with trailers that are passing in opposite directions right where we would have been standing! The gravel truck traffic is bad enough at this time, and now they want to add asphalt and/or concrete trucks, too!

In addition, we are very concerned about the emissions stench of an asphalt plant plus the noise, both of which are carried on the wind to the surrounding area. We often smell the pig farm to the northwest of us. That is bad enough. At least that is not the chemicals that an asphalt plant would put into our air!

Who knows what damage will be done to the ground water. There was already a nitrite presence in some of the wells near here.

We strongly urge denial for the proposed change in zoning.

Irwin & Judy Bennett
Irwin Bennett
Judy Bennett
1565 Church Drive
Kalispell, Mt
406-257-3175

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MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Cheryl JURGENS <crjurgens2@gmail.com>
Sent: Monday, May 4, 2020 10:43 AM
To: Mark Mussman
Subject: Postpone board of adjustment meeting

Dear Mr. Mussman, please postpone the may 5 meeting of board of adjustments. Specific to the request for operation of a concrete/asphalt plant at 3427 Farm to Market Road. As a resident of flathead county, I think this request should be postponed so that the public has more time to review the request. It seems as though there are several environmental & regulation issues that need further review before the Board takes action. Thank you.
Cheryl Jurgens
Concerned Citizen

Sent from my iPad

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MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Randy and Alison Harris <randy.alison.harris@gmail.com>
Sent: Monday, May 4, 2020 11:33 AM
To: Mark Mussman
Subject: please postpone vote

Good morning, it has been brought to our attention that there has been an application by Shellinger Construction submitted to The Zoning Department to allow for a concrete and/or asphalt batch plant on the gravel site at 3427 Farm-To-Market Road, west of Kalispell.

We live at 1898 Church Drive and are very concerned about this new development, for many obvious reasons. We need more information on this action and more specific details of what Schellinger Construction intends to do with this Conditional Use Permit. For example, how large an operation, asphalt or concrete or both, how much traffic, and loads, and how will it affect property value, noise and air quality and also water quality? How will it affect the health of those in the area and the school which is nearby? Since this is zoned as a residential area, can such a plant be prohibited under MCA 72-20-209?

We appreciate your consideration of this request to postpone the vote related to this matter. Please consider the community, and the need for further public knowledge and discourse.

Sincerely,
Randy and Alison Harris
1898 Church Drive
Kalispell MT 59901
406-261-7238

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MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Tiffany Moloney <tmoloney@krmc.org>
Sent: Monday, May 4, 2020 12:29 PM
To: Mark Mussman
Cc: 'gandrutr@yahoo.com'
Subject: Postponed Vote Reqeust

To Whom It May Concern,

I am writing to you today to request that you postpone the vote regarding the application for a concrete and/or asphalt batch plant on the existing gravel site at 3427 Farm To Market Road. I feel the residents need more information and that the notification process of making residents aware was not thorough. The public has not been given adequate information or time to comment, especially due to the recent COVID-19 restrictions that have been in place.

I oppose the pit for health and safety concerns as well as all the impacts it will have to values within close proximity to it. I am a current owner of a lot on Canola Road. I was not notified and I feel this will impact my property.

Please postpone the vote until COVID-19 restrictions have been lifted through phase 3 OR until July 1, 2020.

Thank you for your time,

Tiffany Moloney

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PLANNING & ZONING OFFICE

Mark Mussman

From: Jan Fiaschetti <jfiaschetti@krmc.org>
Sent: Monday, May 4, 2020 12:35 PM
To: Mark Mussman
Subject: Event 281 792 188# /Conditional Use Permit Report #FCU-20-04 / Re: Proposed West Valley concrete/asphalt plant

Dear Planning Office/BOA members, As a resident of the West Valley (at 620 Lone Coyote Trail, off Church Drive & West Valley), I am strongly opposed to the proposed concrete/asphalt batch plant that is being considered. I am asking for the meeting, scheduled for May 5th, 2020 at 6:00 pm, to be postponed until June, 2020. Thank you for your notification/up-dates to the residents in the West Valley who will, sadly , pay the price for such an invasive and potentially dangerous business. Keep me informed re: the status of the meeting.

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PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:03 PM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a Concrete/Asphalt Plant

From: Tkachyk, Ashley <atkachyk@westvalleyschool.com>
Sent: Monday, May 4, 2020 11:55 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a Concrete/Asphalt Plant

May 4, 2020
Flathead County Planning Board,

I am writing to oppose Schellinger Construction modifying their conditional use permit to allow a concrete and asphalt batch plant.
My family is currently having a house built on property just south of the current Schellinger Gravel Pit. I believe that this will have a negative impact on the value of my home. I chose this location in West Valley because it's quiet. Allowing Schellinger to expand their operations only makes more noise and traffic.
I have small children that I don't want exposed to the smells and added danger of increased trucking equipment.

I hope you will take my concerns into consideration. At the very least, I ask that you delay this decision until more residents feel comfortable coming to the meeting to express their concerns.
--
Ashley Tkachyk
4th Grade Teacher
West Valley School

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:04 PM
To: Mark Mussman
Subject: FW: May 5th meeting

From: CHARLES HUNTER <hunter3490@centurylink.net>
Sent: Monday, May 4, 2020 12:44 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: May 5th meeting

Greetings to the members of the Planning committee.

I am addressing you today in regards of the proposed concrete and asphalt batch plant planned on Farm to Market Rd. I ask that you deny the request to allow this facility to be constructed. A quick internet search will show you that there are ample facilities of this nature already in the valley. Allowing a new one will not add to the valleys tax revenue it would only decrease the earnings of the other facilities already in place. There are also the risks involved in such a facility. There is the potential for contaminating the ground water if a spill or leak were to accrue, not to mention the lowering of the air quality for all those in the surrounding area. If a leak were to accrue it would have the potential to contaminate not only the water under the plant but everyone's water downflow of the plant. Then you should look at the tax ramifications in the area. If you take a close look at the building going on you will find a lot of new houses around the proposed site. If the plant were to be built I'm sure these new houses value would go way down resulting in lower tax's brought in for the valley. I have not even touched on the possible impacts to the farm land around such a plant. I'm sure you will do a study on that before any consideration are made.

I thank you for your time.

Charles Hunter.

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:04 PM
To: Mark Mussman
Subject: FW: Concrete and asphalt permit

-----Original Message-----
From: Catherine Kraft <cathy.kraft.54@outlook.com>
Sent: Monday, May 4, 2020 12:48 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Concrete and asphalt permit

I am writing to express my dismay at the idea of allowing additional industrial services to be added to the gravel pit on Farm to Market Rd, just north of the West Valley school. We are already experiencing a sharp uptick in truck traffic coming out of the gravel pit on West Valley Rd north of Church. I take that road frequently and ALWAYS see dump trucks coming and going along Church. I cannot imagine adding 70 additional trucks daily out of the pit on FTM Road. They either have to join the truck parade on Church or use Reserve (which is due for major construction) or head past the school to Three Mile. What a mess! And we are a rural community without sidewalks. Kids ride bikes on these roads, people ride horses and bikes too. West Valley School is super busy, traffic-wise, early a.m. and mid-afternoon. Please. No more. Catherine Kraft 250 Lore Lake Rd Kalispell, MT 59901

Sent from my iPad

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Rita Peiffer <klppfm@hotmail.com>
Sent: Monday, May 4, 2020 2:02 PM
To: Mark Mussman
Subject: Concrete/Asphalt batch plant

I am requesting that you postpone the meeting in regards to Concrete and /or asphalt batch plant on the existing gravel site at 3427 Farm to Market Road. I have breathing issues as does my husband and would like more information on this before it just gets pushed through! And with everything else that is shut down due to Covid 19, I feel this should also wait until there is more information given to the public and All the residences that live here. We already have 2 Gravel pits next to us. Noise and Dust, not to mention the violation of times of operations! Yes, I have been outside at 11:30 at night listening and seeing the lights of whatever they are running in the pit next to Moon Lake. Hours of operation are SUPPOSED TO BE 7 AM TO 7 PM. I also see them running at 6:30 Am. So, we know how they follow compliance! And of course, the extra traffic, noise, and stench of an asphalt plant. We do have children and others with health issues already that will be breathing this and the concrete dust. FYI I strongly oppose this happening at all!! Thanks Rita

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May 1, 2020

TO: Mark Mussman, Flathead County Zoning Administrator
Flathead County Board of Adjustment

I am writing to oppose (#FCU-20-04. The applicant wants to amend the original Conditional Use Agreement by removing item # 28. That item expressly prohibits asphalt and concrete batch plants. The original Conditional Use Permits for this site do not include industrial activities.

The existing gravel pit has been deemed acceptable for this residential neighborhood. Several more new homes have been added to the area surrounding the gravel pit. That would indicate acceptance of a gravel operation; the one now in existence.

Enclosed with this letter are photos of some of the surrounding new houses. Immediately south of the existing gravel pit are three new homes: photo # 1 shows one of the homes. The other photos show both new homes and existing homes in the near-by area.

There are eighteen (18) houses within 1200' of the perimeter as marked on pages 2 and 3; labeled **Figure 1** and **Figure 2.**

The West Valley Neighborhood Plan was cited in paragraph 81 of No. DA 06-0173 as a residential area.

The CUP Report does not indicate in either **Figure 1** or **Figure 2**, the newly cleared areas: one in the NW corner of the existing operation; the other opening is further East opening onto Church Drive. The fence has been removed and land has been leveled.

Figure 1 and **Figure 2** do not show the 200' of paved access road mentioned in the permit review.

The road surface of Farm to Market has been steadily deteriorating in the past ten years. The southbound lane shows ample evidence of heavy truck traffic. Rebuilding this road in the near future does not seem likely

.

Granting of this permit would be illegal.

Charles J. Clark

Charles J Clark

MAY 04 2020

MAY 04 2020

5. A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

All decisions made by the Board of Adjustment are considered final actions. Interested parties are encouraged to attend the meeting to make their views or concerns known to the Board. **Written comments are strongly encouraged and should be received by the Flathead County Planning & Zoning Office, no later than 5:00 pm, May 5, 2020.** Information and documents pertaining to the above requests are on file in the Flathead County Planning & Zoning Office, 40 11th Street West, Ste 220 Kalispell, MT 59901, and may be reviewed during regular office hours, or you may call (406) 751-8200 for more information.

Please note agenda items are subject to change without notice.

Persons with a disability may request a reasonable accommodation by contacting Elaine Nelson at the Flathead County Commissioner's Office at 758-5503 or TTY (800) 335-7592, or call Montana Relay at 711. Requests should be made as early as possible to allow time to arrange the accommodation.

/s/ Mark Mussman

Mark Mussman, CFM®
Planning Director

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

opposed to Asphalt will have
advers impact on neighborhood
from oder Fumes and West Valley is Residential
smell
I own a New Built 2020 House
Knowing There is no Asphalt Batch Plant
I have consulted with the county Zoning
Kurt Thompson Dated 5-4-2020
Kurt Thompson 100 Canola Drive Kalispell 5990

Mark Mussman

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Monday, May 4, 2020 8:13 AM
To: Mark Mussman
Subject: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

To Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please postpone any further approvals of this operation expansion until further public comment can be submitted.

Thank You,
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:15 AM
To: Mark Mussman
Subject: FW: Questions / Comments for May 5, 2020
Attachments: Questions for May 5 20 Flathead County Board of Adjustment.docx

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: W. Leuthe <schatzee2000@gmail.com>
Sent: Monday, May 4, 2020 8:14 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Questions / Comments for May 5, 2020

In Reference to: Request by Rob Koelzer, Schellinger Contruction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition to be modified is to allow the operation of concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road.

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since after the gravel extraction phase the gravel is next processed and manufactured into a hot asphalt by an asphalt batch plant which supports an industry (for economic gain), therefore denial of this request/modification is the only appropriate decision.

The Montana Supreme Court rendered a decision and a Stipulated Consent Decree and Final Judgement was issued on November 22, 2010 in favor of no asphalt batch plant based on the Flathead County Zoning approval of West Valley Zoning, even though the Flathead County Zoning Regulations was amended on March 1, 2010. This was recognized and subject to the conditions listed in Flathead County Conditional Use Permit FCU 05-07a and the Settlement Agreement ordered on 11/22/2010. Therefore, denial of this request/modification is the only appropriate decision.

Additional, This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county. Again, the only appropriate decision is denial of the request.

QUESTIONS:

Section A: Site Suitability

(1) Adequate Usable Space

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

Section B: Appropriateness of Design

(2) Traffic Circulation

Question #1: Staff Report indicates "an increase of traffic generated from the facility during times of major road improvements needing asphalt. However, this increase in traffic will be relatively short in duration" What is the exact timeframe (months, weeks, days, hours) meant by relatively short in duration? What is the exact increase in truck traffic? Please specify if this is round trip or a one-way trip. Is the truck traffic only on Farm to Market or does this include Church Road? Has the planning committee considered the another gravel extraction company already is using Church Road?

(4) Fencing and Screening

Question #2: There is a fencing break on Church Road approximately ½ mile to the east that is a natural wildlife crossing. Therefore, in violating of the existing conditional permit rendering the current permit null and void. When will contiguous fencing be put into place?

Question #3: No screening berms to the north parallel to Church Road, to the south or to the east. Screening berms only on the west side of the property parallel to Farm to Market Road. Therefore, in violating of the existing conditional permit. What is the specific plan for additional screening berms?

Question #4: Screening of trees is non-existent and merely planted twigs. This provides zero screening or noise mitigation. How will company mitigate the noise?

(5) Landscaping

Question #5: Lack of contiguous berms to north, east and south with prevailing winds from southwest to northeast. Therefore, in violating of the existing conditional permit. What is the noxious weed infestation specific plan?

Section D: Neighborhood Impact

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county.

(1) Excessive Traffic

Question #5: 12-hours of operations adversely impacts traffic in residential zoned west valley, especially as school ends with buses as well as at approximately 500pm when a natural spike in car vehicle traffic increases due to residents ending their work-day. What is the specific heavy truck traffic frequency increase to Farm to Market Road? Church Road is already used by another gravel extraction company. What is the timeframe to begin to use Church Road?

MAY 04 2020

(2) Noise and Vibration

Question #6: How do berms decrease noise, when the berms are not contiguous? Twigs are not sufficient to mitigate noise. What is the specific plan to mitigate the noise?

(3) Smoke, Fumes, Gas, Odors

Question #7: What is your specific plan to mitigate odors? Does your operations consist of a baghouse? If so, what type? If not, why not?

Question #8: What days of the week and what times of day do your operations create the most noxious odors? During increase demand for asphalt, does this impact increase the days of week and times of day? Are these during summer months when most residents are outside with their animals? How does this noxious odor affect the migration of birds in the spring? What is the mitigation plan to minimize these odors?

Question #9: As indicated by request, truck fumes will increase. Recommend decreasing to 8-hours of operations to mitigate. How will company mitigate these fumes?

Question #10: How many diesel fired engines / generators will be used on site per hour and day?

(5) Inappropriate Hours of Operations

Question #10: Hours of operations are 12 hours a day; including 5-hours on Saturday are not normal business hours in residential and agriculture zoned areas creating additional unnecessary fumes, noise, and odors with adverse impact to residential and animals. Recommend mitigation to normal business (8 hour day) for operations from 800am to 400pm so residential areas can be outside.

Thank You,

Jeff and Wendy Peterman

3625 Farm to Market Road

MAY 04 2020

In Reference to: Request by Rob Koelzer, Schellinger Contruction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition to be modified is to allow the operation of concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road.

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since after the gravel extraction phase the gravel is next processed and manufactured into a hot asphalt by an asphalt batch plant which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

The Montana Supreme Court rendered a decision and a Stipulated Consent Decree and Final Judgement was issued on November 22, 2010 in favor of no asphalt batch plant based on the Flathead County Zoning approval of West Valley Zoning, even though the Flathead County Zoning Regulations was amended on March 1, 2010. This was recognized and subject to the conditions listed in Flathead County Conditional Use Permit FCU 05-07a and the Settlement Agreement ordered on 11/22/2010.

Additional, This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county.

QUESTIONS:

Section A: Site Suitability

(1) Adequate Usable Space

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

Section B: Appropriateness of Design

(2) Traffic Circulation

Question #1: Staff Report indicates "an increase of traffic generated from the facility during times of major road improvements needing asphalt. However, this increase in traffic will be relatively short in duration" What is the exact timeframe (months, weeks, days, hours) meant by relatively short in duration? What is the exact increase in truck traffic? Please specify if this is round trip or a one-way trip. Is the truck traffic only on Farm to Market or does this include Church Road? Has the planning committee considered the another gravel extraction company already is using Church Road?

(4) Fencing and Screening

Question #2: There is a fencing break on Church Road approximately ½ mile to the east that is a natural wildlife crossing. Therefore, in violating of the existing conditional

MAY 04 2020

permit rendering the current permit null and void. When will contiguous fencing be put into place?

Question #3: No screening berms to the north parallel to Church Road, to the south or to the east. Screening berms only on the west side of the property parallel to Farm to Market Road. Therefore, in violating of the existing conditional permit. What is the specific plan for additional screening berms?

Question #4: Screening of trees is non-existent and merely planted twigs. This provides zero screening or noise mitigation. How will company mitigate the noise?

(5) Landscaping

Question #5: Lack of contiguous berms to north, east and south with prevailing winds from southwest to northeast. Therefore, in violating of the existing conditional permit. What is the noxious weed infestation specific plan?

Section D: Neighborhood Impact

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county.

(1) Excessive Traffic

Question #5: 12-hours of operations adversely impacts traffic in residential zoned west valley, especially as school ends with buses as well as at approximately 500pm when a natural spike in car vehicle traffic increases due to residents ending their work-day. What is the specific heavy truck traffic frequency increase to Farm to Market Road? Church Road is already used by another gravel extraction company. What is the timeframe to begin to use Church Road?

(2) Noise and Vibration

Question #6: How do berms decrease noise, when the berms are not contiguous? Twigs are not sufficient to mitigate noise. What is the specific plan to mitigate the noise?

(3) Smoke, Fumes, Gas, Odors

Question #7: What is your specific plan to mitigate odors? Does your operations consist of a baghouse? If so, what type? If not, why not?

MAY 04 2020

Question #8: What days of the week and what times of day do your operations create the most noxious odors? During increase demand for asphalt, does this impact increase the days of week and times of day? Are these during summer months when most residents are outside with their animals? How does this noxious odor affect the migration of birds in the spring? What is the mitigation plan to minimize these odors?

Question #9: As indicated by request, truck fumes will increase. Recommend decreasing to 8-hours of operations to mitigate. How will company mitigate these fumes?

Question #10: How many diesel fired engines / generators will be used on site per hour and day?

(5) Inappropriate Hours of Operations

Question #10: Hours of operations are 12 hours a day; including 5-hours on Saturday are not normal business hours in residential and agriculture zoned areas creating additional unnecessary fumes, noise, and odors with adverse impact to residential and animals. Recommend mitigation to normal business (8 hour day) for operations from 800am to 400pm so residential areas can be outside.

MAY 04 2023

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:25 AM
To: Mark Mussman
Subject: FW: West Valley Gravel Pit

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Kim Davis <wkimd123@centurytel.net>
Sent: Monday, May 4, 2020 9:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Gravel Pit

Dear Mr. Mussman,

We have put a letter in the mail to the Board of Adjustment and also sent a message through the website. We do not want to be a bother, but we also would like to be sure that our concerns about changing the restrictions on the West Valley gravel pit on Farm to Market Road. The letter we sent is as follows:

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901

Dear Flathead County Board of Adjustment:

As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations".

A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely, W. Kim Davis Janet Davis

Thank you very much for your time Mr. Mussman. Take Care and Stay Safe.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:44 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:43 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Reta Sweeney
Email:	mtsweeneys@hotmail.com
Subject:	Tutvedt-Schellinger Gravel Pit
Message:	Flathead County Planning Board: I spent some time today reading the specific sections of the Flathead County Zoning Regulations which apply to the WV West Valley Zoning District wherein the Tutvedt-Schellinger organization seeks to expand their existing gravel mining activity to encompass the manufacture of asphalt concrete for roads, driveways and parking lots as well as traditional portland cement concrete. Between the recent InterLake article and Mr. Corey Hill's Letter to the Editor in the same edition, the numerous reasons for you to reject this latest appeal are well documented. I reread those zoning use sections, both permitted and conditional, and as I am sure you realize, the words "asphalt" and "concrete" are not to be found therein. "It would seem" therefore, that to change the zoning for these applicants is just as outrageous as whatever was done to give away our groundwater to the Creston bottling outfit. But the main reason for this email is that the notification of the telephonic meeting was skimpy at best being limited to a legal notice in the InterLake and whatever other publications that you use, and speaking for most newspaper readers, legal notices are seldom read at best. Also a majority of Flathead County residents are not subscribers to the InterLake and learn of major local issues from their informed friends or sometimes electronically. Therefore I am pleading with you to postpone Tuesday's public hearing until the COVID-19 emergency is over in this county and public meetings are once again allowed. After all, there is no asphalt or concrete shortage that I am aware of and furthermore your own COVID-19 website reports that documented new virus cases in Flathead County as of today (Sunday, May 3) have been at zero for more than 14 days, which removes at least one legal impediment from holding public hearings. In conclusion, my relatives settled in the West Valley over a century ago (along with probably the Tutvedts, Hedstroms, and others), I have lived here since 1965, and it would be a major tragedy to allow further industrial inroads into an area currently comprising some of the most spectacular views from residential lots in the USA as well as the continued use of the land for various farming activities. Sincerely, Reta Sweeney

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:17 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:17 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	W. Kim and Janet Davis
Email:	wkimd123@centurytel.net
Subject:	West Valley Gravel Pit
Message:	W. Kim and Janet Davis 200 Brookside Trail Kalispell, MT 59901 Dear Flathead County Board of Adjustment: As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations". A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment. We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations. Thank you very much for your time and effort in this matter, and thank you for your service to the community. Sincerely, W. Kim Davis Janet Davis

Mark Mussman

From: Bob & Lori <bob_lori@montanasky.net>
Sent: Saturday, May 2, 2020 11:14 AM
To: Mark Mussman
Subject: Proposed concrete/asphalt batch plant on Farm to Market

To Whom it May Concern;

We are residents of Tall Pine Ridge, approximately 1 mile from the gravel pit at 3427 Farm to Market. We understand there is an application for a concrete asphalt batch plant at that location and would like to know more about it since information regarding this to the general public has been inadequate. We need more time to assess the potential ramifications to the home owners in the area since this is zoned as residential and an operation that mines sand and gravel or an operation that mixes concrete or batches of asphalt may be reasonably conditioned or prohibited in a geographic area zoned as residential. There is a school approximately 2 miles away from this location!

Specifics and technical details would certainly be appreciated since this proposition stands to have an impact on the traffic flow on Farm to Market, air and water quality and resident's respiratory health. We ask that the vote be postponed until June. The public has not been given adequate information or time for comment!

Thank you,

Lori Bell Safford and Robert Safford
565 Tall Pine Ridge
Kalispell, MT.
59901

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Carol Marino <cjmarino36@gmail.com>
Sent: Saturday, May 2, 2020 12:17 PM
To: Planning.Zoning; Mark Mussman
Subject: Re: Conditional Use Permit FCU-20-04 request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07.

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

May 2, 2020

Good Day,

As residents of the West Valley, we are expressing our disapproval of this proposal by Mr. Koelzer of Schellinger Construction to, yet again, try to wheedle a concrete and/or asphalt batch plant under violation of the protected West Valley Neighborhood Plan.

This same construction company unsuccessfully tried to get an concrete/asphalt batch plant approved in June 2005 and it was firmly denied.

The West Valley Neighborhood Plan was legally established and adopted by the Kalispell City Council April 7, 1997 (Resolution No. 4323) and by the Flathead County Commissioners April 9, 1997 (Resolution No. 955AA). Please refer to the attachment).
https://flathead.mt.gov/planning_zoning/documents/WestValleyNeighborhoodPlan.pdf

Quoting from the West Valley Neighborhood Plan document: "The land use character of the West Valley is primarily "Residential," "Agricultural," and "Forest."

Again quoting from same document at the time of its creation, "existing agricultural uses include a saw mill, gravel operation, and various agriculture-dependent uses, such as mint stills."

Most importantly the Plan states: "Industrial uses should not be permitted except those accessory to normal farm operations."

Let's state the obvious: a concrete/asphalt batch plant is a non-agricultural, heavy industrial use of said property.

Furthermore, under its OPEN SPACE clause the West Valley Neighborhood Plan emphasizes that "as an important philosophy to help maintain open space in the West Valley issues include protecting water quality and air quality."

Since 1999, LHC Inc. has been operating an asphalt batch plant and serving Flathead County's needs just 5 miles from the gravel site at 3427 Farm-To-Market Road. Asphalt plants are hazardous to underground aquifers and wells and to the air we breathe… and they are stinky. Studies have affirmed exposure to asphalt fumes have been connected to lung, stomach and skin cancers.

In the 15 years since Schellinger initially made and was denied a permit to allow a concrete and/or asphalt batch plant in the West Valley the area has grown and is continuing to grow exponentially. West Valley School is just 2 miles away.

Where are the traffic studies?

Where are the environmental studies?

Let's not be fooled by this same old request. Flathead County deserves better. West Valley residents deserve better.

Please deny or, at the very least, postpone the voting until late June to provide West Valley residents an opportunity to obtain more information to protect our health, our community, and our property values.

Thank you for your consideration,

Carol and Jim Marino

1555 Church Drive

Kalispell, MT 59901

MAY 04 2020

Mark Mussman

From:	Natalie Ten Eyck <natteneyck@yahoo.com>
Sent:	Monday, May 4, 2020 9:10 AM
To:	Mark Mussman
Cc:	Jason Ten Eyck
Subject:	Board of Adjustment Meeting for May 5, 6pm - REQUEST TO POSTPONE

Good Morning Mr. Mussman,

I am writing today to request, among many of my neighbors, that you postpone the Zoning Department WebEx meeting for May 5, at 6pm that will be reviewing the permits submitted by Schellinger Construction that would allow for a concrete/asphalt batch plant in West Valley.

My family and I reside at 1826 Church Drive, adjacent to the existing gravel pit on Farm to Market Road, and would like more information regarding these permits and its impact on our area. I am asking that you postpone your review and vote until at least June so we may have more time to get specifics and details, and potentially petition the permits if needed.

I may be reached via email or at 360-852-3357 for any questions or concerns. Thank you for your time and consideration.

Best in Health,

Natalie Ten Eyck

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Monday, May 4, 2020 8:46 AM
To: Mark Mussman
Subject: West Valley zoning

ATTENTION Plannning Office and BOA:

I request that Planning Office postpone vote on request for batch plant until June. I did not even receive a notice of this application even though I live very close to the gravel pit and have always received notices in the past.

Thank You,

Terry and Rhonda Longenecker
3230 Farm to Market Rd
Kalispell, MT

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Babby M <munchybear@live.com>
Sent: Monday, May 4, 2020 8:54 AM
To: Mark Mussman
Subject: FCU-05-07

Mark,
This request is in follow up to my email to you and the Board of Adjustment sent May 1st.

Due to Covid -19's overwhelming impact to citizens of the Nation, Montana and the Flathead Valley, we respectfully request that you and the Flathead Planning Zoning and Flathead County Board of Adjustment postpone the request to modify a condition FCU-05-07 for a concrete and / or asphalt batch plant on existing gravel extraction operation located at 3427 Farm to Market Road until June 2020.

Sincerely ,
Babby McCartney and Klaus Kleinke
3603 and 3575 Farm to Market Road

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:58 AM
To: Mark Mussman
Subject: FW: FCU-20-04

From: jeaolson@cyberport.net <jeaolson@cyberport.net>
Sent: Monday, May 4, 2020 7:59 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; jeanne Olson <jeaolson@cyberport.net>
Subject: FCU-20-04

There were good reasons for prohibiting asphalt/concrete batch plants in this Farm-to Market gravel pit on Tutvendt land in the original permit. Foremost is the possibility of contamination of the shallow aquifer in this area upon which many area residents depend for their water. Water is our most precious resource and needs to always be protected.

Noise, dust, air pollution, increased traffic will all impact every resident of this rural residential area of West Valley as well as the students of West Valley school for the sole benefit of the owners. If this asphalt/concrete plant is approved what other industrial use is next? The intent of the West Valley Plan was to preserve West Valley as a rural residential, agricultural, and forestry area. Industrial and large commercial uses were specifically forbidden or strongly discouraged.

We urge you to leave the prohibition on asphalt/concrete batch plants in place on this gravel pit.

Thank you.

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT 59901

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Monday, May 4, 2020 8:00 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

To Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please postpone any further approvals of this operation expansion until further public comment can be submitted.

Thank You,
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: West Valley neighborhood comments on #FCU-20-04

-----Original Message-----
From: Family <mtbernts8985@gmail.com>
Sent: Sunday, May 3, 2020 9:06 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley neighborhood comments on #FCU-20-04

Planning and Zoning Office, Flathead County:

We are writing to express our concern about increasing the scope of the usage permit at the gravel pit on Farm to Market Road. At the time of it's approval originally, it was quite controversial even with a very limited scope of simple removal and crushing of gravel. The increased scope to include asphalt or cement batch processing should get wider review and public comment.

As neighbors to the plant, we are concerned about local water supply and quality, increased traffic and noise (especially around West Valley School), and damage to the road surface from from an even higher concentration of heavy truck traffic. As a regular drivers on Church, Reserve, and Farm to Market Roads, we already see safety concerns around numerous large trucks on our narrow country roads.

We think the original scope of permitting should be maintained, not expanded to include concrete and asphalt batch operations.

Best Regards,
Susan and Marvin Bernt
294 Lone Fox Trail
Kalispell, MT

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: Permit for asphalt plant

-----Original Message-----
From: Gmail <nannyosler@gmail.com>
Sent: Sunday, May 3, 2020 6:25 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Permit for asphalt plant

I would like to ask the committee to please turn down this request for expansion of the gravel pit on Farm to Market Road. The amount of traffic increase in that area would absolutely be a huge concern. I worked at W.V. School for 30 years and I have seen the normal traffic grow and grow. Much concern over the students and parents with all the added truck traffic. The added noise, smell and traffic would be devastating to all those home owners and their families. There's got to be a better choice of where to have this plant. Thank you for reading my concerns regarding this modification to the existing permit. Nancy Osler

Sent from my iPhone

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:59 AM
To: Mark Mussman
Subject: FW: Contact Message

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 5:32 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	George Allen
Email:	Georgehenryallen@hotmail.com
Subject:	Tutvedt gravel pit/mine
Message:	Hello I live along Mcmannamy Draw and myself and my family oppose the mine and gravel pit that is proposed. We have small children that we try and walk with to the west valley school to play, but there is no sidewalk and this can get even more dangerous if there is increased truck traffic along McMannamy Draw. Please reconsider. Thank you!

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Flathead County Board of Adjustment meeting May 5 agenda item #5

From: Walter Kroemer <kroemer@montanasky.net>
Sent: Sunday, May 3, 2020 3:43 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Flathead County Board of Adjustment meeting May 5 agenda item #5

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-------- Forwarded Message --------
Subject: Flathead County Board of Adjustment meeting May 5 agenda item #5
Date: Thu, 30 Apr 2020 12:26:30 -0600
From: Walter Kroemer <kroemer@montanasky.net>
To:planning.zoning@flathead.mt.gov

Update to previous email ...

RE: A request by Rob Koelzer, Scliellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

We live approximately ½ mile from this site at 1979 Church Drive. We strongly oppose modifying the current permit to allow the operation of a concrete and/or asphalt batch plant at this site. Much of the surrounding property (south, west and north) is increasingly residential. Changing the use of this property to add a concrete and/or asphalt batch plant would negatively impact our neighborhood due to the noise, emissions and traffic created by the new use and would also negatively impact the values of our land. We request the Board deny this modification to the current permit.

Today's paper added additional details which create additional comments:
History -- The property is zoned "WV West Valley," defined as "a district to promote orderly growth and development in the West Valley area consistent with the community vision statements."
In 2005 a conditional use permit was granted for gravel extraction and specifically prohibited asphalt and concrete batch plant operations.
In 2010 the county added asphalt, wash and concrete plants to the definition of "gravel extraction".
If the Board is to looking to make any changes, it needs to vacate the old conditional use permit as it specifically excluded asphalt and concrete batch plant operations which are now part of the new definition of gravel extraction. This would then require to owner to stop the current operation and again request a special use

permit based upon the current definition of "gravel extraction".

As previously stated, we strongly oppose modifying the current permit to allow the operation of a concrete and/or asphalt batch plant at this site. We believe the current request is a backdoor means of skirting the zoning process to allow a use that was specifically excluded in the original conditional use permit. This is not consistent with the area zoning which is to promote orderly growth and development in the West Valley area consistent with the community vision statements.

Please reply to this message to confirm that it has been received. Thank you!

Walter & Christine Kroemer
1979 Church Drive
PO Box 2958
Kalispell, MT 59903

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 2:35 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	PJ Rismon
Email:	pjrismon@gmail.com
Subject:	Request for asphalt and concrete plants on Farm to Market Rd.
Message:	Hello, I and my husband were unpleasantly surprised to read in today's paper that the County Board of Adjustment is about to consider a request to allow an asphalt and concrete plant to be added to the gravel pit located on the property owned by the Tutvedt family near the corner of Church Drive and Farm to Market Road. We live just South of the location and are very concerned about the possible negative environmental effects such as air and water pollution. In addition, the increased large truck traffic would mean additional noise, dust, diesel exhaust and safety issues. It's dangerous and annoying to have the current gravel trucks traveling to and from the aforementioned gravel pit; we certainly don't want the additional heavy truck traffic in our residential neighborhood. Please deny the request to allow a concrete and asphalt plant in the above-mentioned location. Thank you. Peggy Rismon Paul Beckley

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Hearing on asphalt/batch plant

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: wvacres@aol.com <wvacres@aol.com>
Sent: Sunday, May 3, 2020 2:30 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Hearing on asphalt/batch plant

We are in strong opposition to this zoning being changed to allow Bruce Tutdvet to create a batch plant on the property on Farm to Market road. The whole process feels untrustworthy, as we have received little notice of this proposal, and it overturns zoning that we have fought hard to maintain. West Valley is not suited to this industrial development, as it is near to school, produces dangerous and noisy traffic and can pollute the clear skies. Please do not change the zoning to allow Mr. Tutdvet to create this nightmare for the residents of West Valley.

Barbara Myers
Edward Myers
180 West Valley Acres
Kalispell, Montana

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a concrete/ashphalt plant

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Marcie <build4u8@gmail.com>
Sent: Sunday, May 3, 2020 8:31 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a concrete/ashphalt plant

Flathead County Planning,
Dated May 3rd,2020

I am writing in objection of the county allowing Schellinger Construction to modify their conditional use permit to allow a concrete/asphalt batch plant.

I am the owner of a lot just south of the Schellinger Gravel pit currently and am in the process of purchasing another. I also live 1 mile down the road off Farm to Market.

The planning and zoning have strived to keep the West Valley area a rural residential farming area and this goes against that.

The amount of increased traffic would adversely effect the safety of the residents in the West Valley area as well as the smell and noise generated by this kind of plant. The smell alone when batching asphalt is toxic and not safe not to mention the extra amount of noise generated. The business is open 7 am to 7 pm Monday through Friday and a half day on Saturday making it hard for the residents in close proximity to have very limited peace with extended noise from adding that kind of facility to a long work week. The amount of trucks coming and going will impact the school bus routes as well as the first responders calls to the residents in the area. We purchased in this beautiful area because of the open enjoyable space that it has been, and appreciate the zonings plans to keep it that way . I understand the growth in Kalispell has changed the way we live but changing this conditional use permit to allow this in a residential area is not wise. This is not a commercial area. The West Valley Neighborhood plan on page 18 states "allow opportunities for gravel extraction: and Industrial uses should not be permitted except those accessory to normal farm operations".

Please DO NOT allow this modification that is expressly prohibited from their conditional use permit.

At the very least, due to the COVID 19, please post pone any decision until the residents of West Valley that will be adversely effected by this decision have the ability to do a face to face meeting sharing their concerns for their safety and well being.

Sincerely,
Marcie Macura

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 8:19 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Rachel Grant
Email:	rachelg7@hotmail.com
Subject:	Asphalt/Cement Plant West Valley
Message:	To the planning and zoning board of Flathead Valley, I am a resident of West Valley. I was raised on the north end of Farm to Market Road, and currently I reside near West Valley Elementary School. As a long time resident of this area, I am submitting my fervent and wholehearted opposition to the proposed asphalt/cement plant seeking approval on Farm to Market Road.This type of industrial operation would not only be a blight on our landscape, it would contradict the residential zoning of the area and create harmful emissions polluting the local environment and water sources. This area of the valley is for family homes and agricultural use. We do not want an industrial plant in our neighborhood. The effects would be devastating to our local environment. Please do not grant the requested permit for this expansion to the existing gravel pit. Thank you. Rachel Grant (406) 471-1613

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: asphalt plant comment

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Robert Nadvornick <nad@purewestmt.com>
Sent: Sunday, May 3, 2020 8:05 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: asphalt plant comment

I have been selling real estate in the Flathead Valley for over 44 years. I can't imagine the negative impacts of another asphalt plant to the residents of West Valley and surrounding areas. The smell of the plant and the environmental impacts to the aquifer will negatively effect many more people than just the properties nearby. When the wind blows, the smell will travel farther than just over the subject property. Is there any guarantee the water quality won't be effected?

While the percentage of traffic may seem minimal, large trucks have more noise, wear and tear than a typical car.

West Valley School will see additional disturbance from truck traffic.

Please do not allow an asphalt plant to ruin our beautiful valley.

Sincerely,

BOB "NAD" NADVORNICK
BROKER

PURE WEST REAL ESTATE
17 1ST AVENUE EAST
KALISPELL, MONTANA 59901

OFFICE: 1-406-751-5644
CELL : 1-406-885-2700
EMAIL: Nad@purewestmt.com

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:57 AM
To: Mark Mussman
Subject: FW: BOA Meeting May 5 2020 Agenda item E5
Attachments: Gravel BOA Letter.docx

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Greg Wilson <gmkwilson90@gmail.com>
Sent: Saturday, May 2, 2020 3:26 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: BOA Meeting May 5 2020 Agenda item E5

Attached please find our letter concerning the modification to the condition of approval for the gravel pit at 3427 Farm to Market Rd. Thank you for your attention.

Mary Kay and Greg Wilson

To: Flathead County Board of Adjustment
Re: FCU 20-04
April 30, 2020

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mary Kay and Greg Wilson
288 Shepherd Trail
Kalispell, MT

We realize due to coronavirus constraints that public input on this decision was abbreviated, and the West Valley Land Use Advisory Committee was unable to provide their recommendation concerning this proposed modification. That being said, it seems like a prudent thing to do would be to postpone any decision regarding this modification until more public comments and questions can be addressed.

Some of the concerns that are not addressed in the application have to do with what size of concrete and asphalt batch plants are being proposed. What is the volume of material anticipated to be processed per day? What type of asphalt plant is being constructed? There are too many unanswered questions for the board to make an informed decision on this modification, and moving from a gravel extraction to concrete and asphalt processing plants is no small change.

In addition, while there is currently an irrigation well on the property, it seems like a concrete batch plant requires a huge jump in water usage, and that is not spelled out in this application.

The increase in traffic from this plant is said to be "relatively short in duration" (Conditional Use Permit Report (#FCU-20-04), page 7, C 6), but nowhere is that stipulated in the application. Could the Board of Adjustment make some time frame, or put some boundaries on what this 'duration' could mean?

In summary, several questions and details are unaddressed at this point, requiring additional time for comment and investigation. We respectfully ask this Board to delay making a decision until further discussions can occur.

Mark Mussman

From: Larry Tahler <larry@tahler.com>
Sent: Saturday, May 2, 2020 7:05 AM
To: Mark Mussman
Cc: Larry Tahler; Randy Odell; Ed Crosby
Subject: Zoning for a concrete and/or asphalt batch plant in West Valley

To Whom It May Concern,

As a long time resident of the West Valley, living at 2860 Farm To Market Road. I ask that the process be temporarily suspended until residents of the area can study this further. Although I can't speak for other residents of the area, I am concerned about the long term prospects of this application being approved.

Please advise.

Sincerely,

Larry Tahler
2860 Farm to Market Road

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Nick Thiel <thielni@gmail.com>
Sent: Saturday, May 2, 2020 12:22 PM
To: Mark Mussman; Planning.Zoning
Subject: Asphalt and Concrete Plant on Farm to Market

I live in West Valley Pines and am vehemently opposed to violating the existing West Valley Neighborhood Plan. I am also opposed to violating the stated purpose of the Flathead County Zoning as stated on its own website.

- The purpose of zoning is to promote the public health, public safety and general welfare of the community;
- To conserve natural resources;
- To provide adequate light and air;
- To facilitate the provisions for public works requirements such as water, sewer, and environmental needs;
- To ensure orderly development according to the Growth Policy adopted for all parts of the County;
- To regulate and restrict the height, number of stories, and buildings and other structures, the percentage of a lot that may be covered by impervious surfaces, the size of yards and other open spaces, the location and use of buildings, structures and land for trade, industry, residences, and/or uses; and
- The protection of the aesthetics resources of the County.

Nothing about the proposal of yet another asphalt batch plant in west valley complies with these objectives.

Furthermore, the stated objectives of the West Valley Neighborhood Plan are in direct objection to this proposal as enumerated below.

With respect to Open Space, page 18:
Open space is a description of land that is either natural or "open" in the sense that it is undeveloped.
The west valley plan exists to preserver open space.

With regard to Agriculture/Forestry Policies, Page 23.
Discourage conversion of prime agricultural soils to non-ag uses.

With regard to Commercial/Industrial Policies, page 24 of the West Valley Neighborhood Plan states the following:
Legally existing commercial or industrial uses shall be "grandfathered'.

This clearly exists to extinguish the expansion of the number of sites as well as expansion of sites.

I could continue to state additional quotes from the instated documents providing guidance and basis for law abiding decisions. These quotes are but a sampling of the principles that demonstrate the violation of these premises contained by the industrial batch plant and multi story cement plant proposal.

Additionally, common sense is aware that the amount of heavy traffic on Farm to Market road with virtually no paved shoulder or safe egress to avoid an accident is a recipe for death. Nor is the road engineered for those kinds of loads, especially in the spring when the water table is high and the soils become less stable.

The additional heavy vehicle traffic adds risk to an already dangerous intersection that includes our children at West Valley school. We have learned from the accident that inspired the creation of the round about at Glacier High school that kids and heavy trucks may likely result in death.

If you have any regard for these community driven and legally adopted rules, or the lives of our children please do the responsible thing and deny this application.

Nicholas Thiel
112 East Bluegrass
Kalispell, MT 59901
775.450.6890

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:57 AM
To: Mark Mussman
Subject: FW: Flathead County Board of Adjustment Public Hearing

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Judy Bennett <judybennett640@gmail.com>
Sent: Saturday, May 2, 2020 2:27 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Flathead County Board of Adjustment Public Hearing

To Whom it may concern:

It has come to our attention that a Zoning Department meeting has been planned for May 5th via WebEx. We are requesting that this meeting be postponed until a time where we can attend in person. We do not know how to do a web/telephone call and feel that we are at a disadvantage because of that fact; therefore we can not be represented, make our opinions known, nor participate in any discussion.

Thank you,

Irwin and Judy Bennett

1565 Church Drive
Kalispell, MT 59901
406-257-3175

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:56 AM
To: Mark Mussman
Subject: FW: Comments for Board of Adjustment meeting on May 5th

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Roger L. Brewer <rbrewer@fvcc.edu>
Sent: Saturday, May 2, 2020 2:23 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Comments for Board of Adjustment meeting on May 5th

The following comments are from Roger and Marty Brewer, 3025 Farm to Market Rd. They regard FCU-20-04, a request for a change in the conditional use permit requirements from FCU-05-07 which was adjudicated and specifically prohibited an asphalt/concrete batch plant at that location.
We would ask two things of the Board of Adjustments
1) That the consideration of FCU-20-04 be tabled until such time as the public has the right to attend and participate in the discussion other than in a virtual format which will make participation by many community members very difficult and in some cases impossible.
2) If the proposal is not tabled, we would ask that the Board deny the request for the following reasons:

a) The area of the proposal is increasingly residential and the existence of a commercial venture of this type conflicts with the nature of the community.

b) The findings of fact refer to the fact that only a 1.5% increase in traffic on Farm to Market Rd. would result however that discounts the fact that the heavy truck traffic which currently exists has caused significant deterioration of the road surface and this use would only exacerbate that problem.

c) There is already a concrete batch plant within approximately 5 miles so there is no community need for an additional plant that close.

d) The findings of fact imply that the effects of the fumes and odor would not be significant because the nearest residence is 1600 feet away from the proposed site. I wonder what makes the evaluator think the fumes and odor wouldn't spread much further than that.

e) The decision of the courts in the previous case specifically prohibited the batch plant for a reason so what justification is there for changing that restriction other than the desire of the property owner and Schellinger to make more money at the expense of the West Valley community members.

Thank you for your consideration.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:56 AM
To: Mark Mussman
Subject: FW: Asphalt and Concrete Plant on Farm to Market

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Nick Thiel <thielni@gmail.com>
Sent: Saturday, May 2, 2020 12:22 PM
To: Mark Mussman <mmussman@flathead.mt.gov>; Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt and Concrete Plant on Farm to Market

I live in West Valley Pines and am vehemently opposed to violating the existing West Valley Neighborhood Plan. I am also opposed to violating the stated purpose of the Flathead County Zoning as stated on its own website.

- The purpose of zoning is to promote the public health, public safety and general welfare of the community;
- To conserve natural resources;
- To provide adequate light and air;
- To facilitate the provisions for public works requirements such as water, sewer, and environmental needs;
- To ensure orderly development according to the Growth Policy adopted for all parts of the County;
- To regulate and restrict the height, number of stories, and buildings and other structures, the percentage of a lot that may be covered by impervious surfaces, the size of yards and other open spaces, the location and use of buildings, structures and land for trade, industry, residences, and/or uses; and
- The protection of the aesthetics resources of the County.

Nothing about the proposal of yet another asphalt batch plant in west valley complies with these objectives.

Furthermore, the stated objectives of the West Valley Neighborhood Plan are in direct objection to this proposal as enumerated below.

With respect to Open Space, page 18:
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This clearly exists to extinguish the expansion of the number of sites as well as expansion of sites.

I could continue to state additional quotes from the instated documents providing guidance and basis for law abiding decisions. These quotes are but a sampling of the principles that demonstrate the violation of these premises contained by the industrial batch plant and multi story cement plant proposal.

Additionally, common sense is aware that the amount of heavy traffic on Farm to Market road with virtually no paved shoulder or safe egress to avoid an accident is a recipe for death. Nor is the road engineered for those kinds of loads, especially in the spring when the water table is high and the soils become less stable.

The additional heavy vehicle traffic adds risk to an already dangerous intersection that includes our children at West Valley school. We have learned from the accident that inspired the creation of the round about at Glacier High school that kids and heavy trucks may likely result in death.

If you have any regard for these community driven and legally adopted rules, or the lives of our children please do the responsible thing and deny this application.

Nicholas Thiel
112 East Bluegrass
Kalispell, MT 59901
775.450.6890

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:55 AM
To: Mark Mussman
Subject: FW: public meeting via conference agenda

Importance: High

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Stephen Hooper <shooper@farmersagent.com>
Sent: Friday, May 1, 2020 4:22 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: public meeting via conference agenda
Importance: High

Variance board, as a past Variance Board Member in Great Falls, I understand the importance of what you do, however, the Asphalt Plant request has not been adequately broadcast. This issue should be tabled until June 2020.

Thanks

Steve Hooper

Stephen Hooper
Farmers Insurance
575 Sunset Blvd Ste 203
Kalispell, MT 59901-3637
406-752-4357 (Office)
406-257-5190 (Fax)
shooper@farmersagent.com
http://www.farmersagent.com/shooper

FARMERS
INSURANCE

Mark Mussman

From: Larry Schreader <lschreader@gmail.com>
Sent: Sunday, May 3, 2020 11:57 PM
To: Mark Mussman
Subject: #FCU-20-04 schellinger Tutvedt pit 3427Farm to market rd Kalispell, MT 59901

Mark, I have been recently been informed that there is a potential danger in West Valley.
FCU-20-04 Schellinger Tutvedt pit.
I am voting that the pit be denied or at least delay the vote until further information can be gathered.
Mark, I am a United states Veteran of the Marine Corps, also a retired fire fighter. I reside in beautiful West Valley Kalispell, MT. 59901
Please understand that as a soldier and a firefighter, I have been exposed to many caustic chemical environments.West Valley has been a blessing for me. clean fresh air, open spaces,
wildlife, wonderful people, let's not forget the beautiful views. This healthy living is detrimental to our children, agriculture, as well as current and future residential growth.
We should all know that Asphalt fumes,and smoke are extremely dangerous as well as Concrete/Cement dust is just as dangerous. Thank you for your attention to this matter.

Larry Schreader
52 Wendt Way
Kalispell, MT 59901
(406) 871-1467

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Family <mtbernts8985@gmail.com>
Sent: Sunday, May 3, 2020 8:51 PM
To: Mark Mussman
Cc: marvin_bernt@amat.com
Subject: Request to delay decision on #FCU-20-04

Dear Mr. Mussman,

We are writing to ask as West Valley residents, that a decision on permit application #FCU-20-04 be denied or delayed for further public comment. The original approval as a gravel extraction only permit was very controversial, and we feel that the requested changes to include post processing of the gravel (asphalt or cement plants) go well beyond the original understanding of the granted use.

Best Regards,
Susan and Marvin Bernt
294 Lone Fox Trail
Kalispell, MT

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Anita Lavin <alavin@centurytel.net>
Sent: Sunday, May 3, 2020 6:10 PM
To: Mark Mussman
Subject: asphalt plant

Dear Mr. Mussman, could you please delay a vote on the Conditional use permit for the West Valley asphalt plant? More time is needed to address various issues and concerns. Thank you. Sincerely, John and Anita Lavin, 111 Drumlin Way, Kalispell, MT

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MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Shirley Giles <Shirley@robgileselectric.com>
Sent: Sunday, May 3, 2020 6:04 PM
To: Mark Mussman
Subject: Gravel pit @ 3427 Farm to Market

Please please please postpone this meeting. This. Meeting to be postponed until June so that the public can be aware of the consequences of having as asphalt plant in our beautiful West Valley

Thank you
Rob and Shirley Giles
Sent from my iPhone

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: W. Leuthe <schatzee2000@gmail.com>
Sent: Sunday, May 3, 2020 3:28 PM
To: Mark Mussman
Subject: Request / Comments for WebEx on 5/5/2020

Due to COVID-19 overwhelming impact to citizens of the Nation, Montana and the Flathead Valley, we respectfully request that you and the Flathead Planning Zoning and Flathead County Board of Adjustment to postpone the request to modify a condition FCU-05-07 for a concrete and/or asphalt batch plant on existing gravel extraction operation located at 3427 Farm to Market Road.

Again, request to table and postpone until June 2020.

Jeff and Wendy Peterman
3625 Farm to Market Rd, Kalispell, MT 59901

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: P.J. Rismon <pjrismon@gmail.com>
Sent: Sunday, May 3, 2020 3:22 PM
To: Mark Mussman
Subject: Cement and asphalt plant on Farm to Market

Hello,
I and my husband were unpleasantly surprised to read in today's paper that the County Board of Adjustment is about to consider a request to allow an asphalt and concrete plant to be added to the gravel pit located on the property owned by the Tutvedt family near the corner of Church Drive and Farm to Market Road. We live just South of the location and are very concerned about the possible negative environmental effects such as air and water pollution. In addition, the increased large truck traffic would mean additional noise, dust, diesel exhaust and safety issues. It's dangerous and annoying to have the current gravel trucks traveling to and from the aforementioned gravel pit; we certainly don't want the additional heavy truck traffic in our residential neighborhood. Please deny the request to allow a concrete and asphalt plant in the above-mentioned location. Thank you.
Peggy Rismon
Paul Beckley

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Jody Stewart <desertjod@msn.com>
Sent: Sunday, May 3, 2020 12:57 PM
To: Mark Mussman
Subject: Gravel pit 3427 Farm to Market Road

I am sending you this email regarding the Expansion for the gravel pit at 3427 Farm to Market Road.

Seems this has just been brought to light to the residents of the immediate area in the past couple of days. I feel strongly that this should not be allowed in a residential part of our town. I haven't seen any impact studies for pollution to our wells, the air quality, noise and the increase in heavy truck traffic for the roads..

We need more information before this proceeds. There has not been adequate time for all of the concerns that the public has regarding this situation. My neighbors and I are in agreement that this needs to be postponed until we have the adequate information to make the right decisions so transparency and public health and safety issues should be the foremost concern.

Sincerely,
Jody Stewart

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Jim and Kathy <jkkola@centurytel.net>
Sent: Sunday, May 3, 2020 11:53 AM
To: Mark Mussman
Subject: Board of Adjustments Meeting on #3FCU-20-04

Director Mark Mussman

We are asking the Board of Adjustments Meeting on March 5th on #3FCU-20-04 be postponed for the following reasons. Since we only found out about the application for an asphalt/concrete plant permit @ 3427 Farm to Markey Road last Friday May 1. The results of any decision will affect us and we feel we need more time to review the details of the proposal. At the present time we feel that this item needs to be openly discussed at an open meeting not via WEB-EX. We personally feel that the applicant picked this time of the of the pandemic to submit the permit so that public participation and thus opposition would minimal. In fairness to all who live in the area and because of the large nature of the project more time should be allotted to get the greatest involvement. We are asking that the meeting be postponed so that true public involvement can take place.

Sincerely,
Jim and Kathy Kola
158 West Valley Acres

Sent from Mail for Windows 10

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: pgonsalves760 <pgonsalves760@gmail.com>
Sent: Sunday, May 3, 2020 11:45 AM
To: Mark Mussman
Subject: Postpone meeting scheduled for May 5th

Please postpone the meeting concerning rezoning the sitr 3427 Farm-to-Market to June. There are many concerns that can't be addressed with a web/telephone format. Thank you for your consideration

Sent from my Verizon, Samsung Galaxy smartphone

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Nancy Ellis <saffronsun108@gmail.com>
Sent: Sunday, May 3, 2020 11:31 AM
To: Planning.Zoning; Mark Mussman
Subject: FCU-20-04

Hi there,
I am strongly opposed to the proposed asphalt batch plant!
I have great concerns about how this plant will affect the health of the community residents, the potential negative influence on our water supply, and the overall harmful environmental impact. I want to know why this permit application did not go before the West Valley Land Advisory Committee? We have the right to have a public meeting, in person, where we are given all facts and information. No decision should be on this permit application until after the covid crisis has diminished and it is safe to hold a public meeting. Again, I am strongly against this proposed asphalt plant.
Kindly,
Nancy Ellis
(resident on Lost Creek Dr.)

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Jessica Lunbeck <jessica_joy_7@yahoo.com>
Sent: Saturday, May 2, 2020 2:53 PM
To: Mark Mussman
Subject: Asphalt Plant

Hello. I got a notice saying that an application has been put in for a plant at 3427 Farm to Market Rd. Please hold off on the vote until June. The public has not been given any information about anything. I just happened to see a notice on a bulletin board at the end of my road. Personally I don't want an asphalt plant in a residential and farming community. I think it would be bad for the environment. I would like to make an informed decision though. Thank you. Jessica Lunbeck

Sent from Yahoo Mail on Android

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Roger Brewer <fishmanbrew@yahoo.com>
Sent: Saturday, May 2, 2020 2:38 PM
To: Mark Mussman
Subject: Comments for the BOA meeting May 5th

The following comments are from Roger and Marty Brewer, 3025 Farm to Market Rd. They regard FCU 20-04, a request for a change in the conditional use permit requirements from FCU-05-07 which was adjudicated and specifically prohibited an asphalt/concrete batch plant at that location.

We would ask two things of the Board of Adjustments

1) That the consideration of FCU-20-04 be tabled until such time as the public has the right to attend and participate in the discussion other than in a virtual format which will make participation by many community members very difficult and in some cases impossible.

2) If the proposal is not tabled, we would ask that the Board deny the request for the following reasons:

a) The area of the proposal is increasingly residential and the existence of a commercial venture of this type conflicts with the nature of the community.

b) The findings of fact refer to the fact that only a 1.5% increase in traffic on Farm to Market Rd. would result however that discounts the fact that the heavy truck traffic which currently exists has caused significant deterioration of the road surface and this use would only exacerbate that problem.

c) There is already a concrete batch plant within approximately 5 miles so there is no community need for an additional plant that close.

d) The findings of fact imply that the effects of the fumes and odor would not be significant because the nearest residence is 1600 feet away from the proposed site. I wonder what makes the evaluator think the fumes and odor wouldn't spread much further than that.

e) The decision of the courts in the previous case specifically prohibited the batch plant for a valid reason so what justification is there for changing that restriction other than the desire of the property owner and Schellinger to make more money at the expense of the West Valley community members.

RECEIVED
MAY 4 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Nathaniel Prince <nate.princemt@gmail.com>
Sent: Friday, May 1, 2020 4:41 PM
To: Mark Mussman

Mr. Mussman, I am writing in to request that that this vote be postponed until June. Many serious issues exist with Conditional Use Permit Report (#FCU-20-04), and the process whereby the public has not been given enough time, and more importantly, SPECIFICS, of this proposed operation that over time could expand to 320 acres. There are too many SPECIFICS that have not been disclosed such as technical details regarding the size of the plant, concrete or asphalt or BOTH. The excessive traffic that would be generated, the number of loads or tonnage, whether the plant would be a mobile operation, etc. The potential of degradation of property values, the traffic flow on Farm To Market Rd, air and water quality, and resident's respiratory health. Lab studies have shown the effects of exposure to asphalt fumes are lung, stomach and skin cancers, throat and eye irritation. Those of us living in the West Valley and some of us within 2 blocks of the proposed area know first hand that the wind direction and strength can be very strong, so it is not just the people living near the proposed area who are at risk. West Valley School is located only 2 miles away! I strongly urge you to postpone until June. Most people are just learning that this is being proposed the last week and we need a efficient amount of time to be prepared to come to our immediate neighborhoods defense. Sincerely, Nathaniel Prince 1881 Old Reserve Dr. Kalispell MT 59901 PH# 406-871-1199

Mark Mussman

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: msrobin333 <msrobin333@gmail.com>
Sent: Friday, May 1, 2020 4:23 PM
To: Mark Mussman
Subject: Event # 281792188

Hello,

I recently found out that there is a meeting May 5th for the approval of a concrete and asphalt plant on farm to market road. There has not been enough time for all the residents to know about and have a say in this matter than may affect their health and future. Please postpone this meeting until June if possible.
Thank you

The Archers

Mark Mussman

From: Robin Koski <robinkoski@yahoo.com>
Sent: Friday, May 1, 2020 12:08 PM
To: Mark Mussman
Subject: Event 281-792-188#

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Concrete/and or Asphalt batch plant

Mr. Mussman,

I am writing in to request that that this vote be postponed until June.
Many serious issues exist with Conditional Use Permit Report (#FCU-20-04), and the process whereby the public has not been given enough time, and more importantly, SPECIFICS, of this proposed operation that over time could expand to 320 acres.
There are too many SPECIFICS that have not been disclosed such as technical details regarding the size of the plant, concrete or asphalt or BOTH. The excessive traffic that would be generated, the number of loads or tonnage, whether the plant would be a mobile operation, etc.
The potential of degradation of property values, the traffic flow on Farm To Market Rd, air and water quality, and resident's respiratory health. Lab studies have shown the effects of exposure to asphalt fumes are lung, stomach and skin cancers, throat and eye irritation.
Those of us living in the West Valley and some of us within 2 blocks of the proposed area such as myself...know first hand that the wind direction and strength can be very strong, so it is not just the people living near the proposed area who are at risk. West Valley School is located only 2 miles away!
I strongly urge you to postpone until June. Most people are just learning that this is being proposed the last week and we need a efficient amount of time to be prepared to come to our immediate neighborhoods defense.

Sincerely,

Robin S Koski
1825 Church Drive
Kalispell MT 59901
PH# 406-260-0165

MEMORANDUM

TO THE FLATHEAD COUNTY PLANNING and ZONING OFFICE

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

FROM: **DON MURRAY**
HASH, O'BRIEN, BIBY & MURRAY PLLP
dmurray@hashlaw.com

TO: MARK MUSSMAN (and Caitlin Overland)
DATE: May 1, 2020
RE: FCU-20-04, Tutvedt Gravel Pit – Batch Plant Amendment

Dear Mark:

I have been asked by a group of residents of the West Valley to assist them with this zoning matter, the Schellinger/Tutvedt application for a conditional use permit FCU-20-04 to do away with the very specific and unambiguous prohibition against asphalt and cement manufacturing (batch plants) ***that Tutvedt and the County agreed to*** in a 2010 court-approved settlement.

While there are numerous issues we see in connection with this application, such as not having the application reviewed by the West Valley Land Use Advisory Committee before it goes to the Board of Adjustment, and whether the application contains sufficient detail to be meaningfully evaluated by your staff or the BOA, there is one issue in particular I would like to focus on preliminarily; an issue I think is foundational to the process and should be addressed and resolved if possible before the matter proceeds any farther. If our view of this issue is correct, and I think it is, it will dispense with the need to address the other issues that are either procedural or go to the merits of the CUP amendment request.

The whole point of settling the years-long litigation over the Tutvedt gravel pit back in November 2010 was to reach an out-of-court settlement and bring to an end over five years of contentious litigation that had centered on whether Tutvedt would be permitted to conduct a gravel crushing operation on its property, and whether Tutvedt would be allowed to operate a batch plant in conjunction with its gravel pit. Flathead Citizens had sued in 2005 to block the crushing operation, and after that case went up to the Montana Supreme Court, Tutvedt sued to secure the right to operate a batch plant in the pit.

As you know, the litigation was protracted, went up on appeal once and seemed to be headed back to the Montana Supreme Court again when in November, 2010, more that five years after Flathead Citizens filed suit initially, the parties hammered out a settlement. That agreement, reduced to lowest terms, provided

that Tutvedts would get the right to operate a gravel pit on their property that included a crushing operation for material mined on-site, and in exchange, Tutvedts agreed there would be no manufacturing of asphalt or cement – no batch plant. That was the deal. Tutvedt gave up its claim that it should be allowed to manufacture asphalt in exchange for being able to mine gravel and operate a crushing facility on its West Valley farm. It was a deal – an agreement – one that was hard fought with concessions made on both sides in order to secure an important permit and to bring an end to years of litigation.

Tutvedt and the County made a very clear agreement and promise to the people of the West Valley – with Tutvedt "saying:" "If you give us a gravel pit with a crushing operation, we will give up our request to manufacture asphalt – for a batch plant." Flathead County entered into that agreement with Tutvedt on behalf of the citizens of the County generally and the residents of the West Valley in particular. The parties asked the District Court to approve and implement their settlement agreement, which the Court did with the *Consent Decree* we are now trying to interpret.

In "non-legal" language, this is Tutvedt, with the support of your office, reneging on the deal it made to get the gravel pit and crushing operation it wanted. With all due respect, I don't think you can do that; nor should you.

I have read your April 4th email to West Valley resident, Molly Schwartz, in which you provide as justification for supporting the request to rescind this bargained-for prohibition against a batch plant paragraph 3C of the Court's *Consent Decree*. You quote it accurately in your email (although I believe it is paragraph 3C, and not 1C as you state). It provides [emphasis added by me]:

> 3. Plaintiff [Tutvedt] has two Conditional Use Permits: FCU-05-07 and FCU-08-07. Plaintiff's Conditional Use Permit ***FCU-08-07 shall be modified*** to include only the following conditions:
>
> > C. Processing of mined materials shall be limited to those sourced from the subject property only. No off-site material shall be imported for processing in any way. The existence of ***this condition*** shall not preclude or prejudice any future application for an amendment to ***the CUP*** made in light of the *new* definition of "gravel extraction" in the Flathead County Zoning Regulations.[1]

The prohibition against asphalt manufacturing (batch plants) is in the other permit, FCU-05-07, and appears in a separate, stand-alone paragraph at the very end of the list of conditions. It is given bold italics in the original document for emphasis. It states:

> 28. ***Asphalt and concrete batch plant operations are prohibited.***

[1] The first two sentences of paragraph 3C, addressing imported materials, are almost identical to recommended condition No. 9 on page 14 of the report of your office on FCU-08-07.

MAY 01 2020

In addition to being the primary objective of the parties' agreement, this prohibition is also consistent with the conclusion of your office in its report on FCU-08-07, which correctly concludes on page 6:

> The West Valley Neighborhood Plan discussion on Commercial/Industrial uses identifies the need to "allow opportunities for gravel extraction" while not permitting industrial activities (including asphalt and concrete plants).

For the reasons I will note below, I think your reliance on paragraph 3C (which modifies FCU-08-07 only, and ***not*** FCU-05-07) to justify seeking the elimination of the prohibition against batch plants in paragraph 28 of FCU-05-07 is misplaced. Here is why I say that:

First, paragraph 3C applies specifically and exclusively to FCU-08-07. If you look at paragraph 3 of the *Consent Decree*, it clearly provides that its subparagraphs A, B, C and D are the "new" conditions to FCU-08-07. Those four conditions modify FCU-08-07. The reference to "the CUP" in paragraph 3C is a reference to FCU-08-07. One cannot logically take 3C out of its context of "this condition" (the limitation on imported material) and apply it in a completely different context, as you have done, to justify seeking the elimination of the batch plant prohibition prominently stated in FCU-05-07.

Second, paragraph 3C deals with one narrow issue – restricting the import of material mined off-site for processing at the pit. It is very specific and limited in that regard. It does ***not*** address the manufacture of asphalt and cement. So in providing as 3C does, "The existence of ***this*** condition shall not preclude or prejudice any future application . . ." for a future amendment, there is clearly intended to be a correlation between the treatment of imported mined material and a future amendment based on the new, expansive definition of "gravel extraction." These two provisions were not placed together as they were by accident or coincidence; specifically connecting them as was done was intentional and purposeful. It constitutes an unwarranted "leap of logic" to conclude as you have that "the future application for an amendment to the CUP . . ." (FCU-08-07) referenced in 3C would include one to eliminate the blanket prohibition against batch plants contained in the other CUP, FCU-05-07.

Moreover, the prohibition against batch plants represents the very essence – the primary objective – the *sine qua non* of the settlement between Tutvedt and the County. It is absurd to believe the parties litigated this issue for over five years to achieve the blanket prohibition against a batch plant, only to put in their settlement agreement (approved by the Court) a provision that says, "Tutvedt, you agree to a prohibition against batch plants, but you can go to the BOA tomorrow and ask them to let you have one." That just is not logical and not supported by the language in the *Consent Decree*, but it is in essence how your office has interpreted it. If your interpretation was correct, Tutvedt could have submitted this application to eliminate the prohibition against batch plants in

FCU-05-07 before the ink was dry on the settlement in which Tutvedt clearly gave up any claim to a right to operate a batch plant. That would be illogical and irrational; clearly at odds with the whole point of the settlement.

It is also important to note that when the parties entered into this settlement agreement, all parties were well aware of the changes that had been made to the definition of "gravel extraction" in the County's *Zoning Regulations*. Had it been the intent of the parties to allow the reversal of the prohibition against batch plants set forth in FCU-05-07, they could have easily so provided. But they did not. Moreover, "condition" 28 isn't really a "condition" that is subject to modification. It is an absolute, unconditional, unambiguous ***prohibition***. While it is contained in the list of items that are "conditions," it is clearly very different from all the other items in the list that address matters such as fencing, hours of operation, approach permits, lighting, signage, noise, complying with applicable regulations, and so forth. These are the conditions and restrictions that govern the permitted conditional use that could be subject to modification. Number 28 is very different. It is an absolute, bargained-for, agreed-upon ***prohibition*** of a separate activity – operating a batch plant. It cannot be modified this way and paragraph 3C of the *Consent Decree* does not authorize the County to go back on the deal it made on behalf of the people of the West Valley, most certainly not without the approval of the Court, which very specifically retained jurisdiction over the matter, including to construe/interpret the parties' agreement. The Court stated:

> 8. This Court shall retain jurisdiction of this case for the purpose of enabling any of the parties to this stipulation to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this stipulation, to modify or terminate any of their provisions, to enforce compliance, and to punish violations fo its provisions. If it shall be made to appear to the Court that there has been a violation of any of the terms of this stipulation, upon motion, this Court may enter an order to show cause why the party in violation should not be found in contempt. Nothing in this document shall bar any party from seeking, or the court from imposing, against any party any other relief available under any other applicable provision of law for violation of this document, in addition to or in lieu of the civil penalties provided for above.

In short, what the Court said in that paragraph is that if, at ***any time***, there is a question about what the Court's *Decree* means – including whether it means what you have asserted it means in your April 4th email to Molly Schwartz – the parties are to "come back" to the Court for guidance and not, on their own, unilaterally, make such a weighty decision as your office has made that Tutvedt is free to seek through a CUP amendment to be relieved of its agreement it would not operate a batch plant.

Mark, I believe your office should, and I hereby request that it does, amend its staff report in this matter to recognize that this prohibition against batch plants is not modifiable through the CUP amendment process, and that pursuant to the *Consent Decree* entered by the District Court any interpretation or modification of that *Consent Decree* on such a weighty issue as we have here must be sought by way of proceedings in the District Court.

If you would like more time to consider our position and this request, we would ask that the matter be tabled by the BOA until, at the soonest, its next (June) meeting and preferably indefinitely until a decision is made by your office about whether the matter should proceed to the BOA at all or is more appropriately addressed in the District Court under the *Consent Decree*.

If you are inclined to let the matter proceed to the BOA for a determination as it is presently scheduled at the Board's May 5th meeting, I think my clients are left with having to present the matter to the District Court with what I think would be a combined request for a show cause hearing to determine it the County should be held in contempt for violating the Court's *Decree* (see Paragraph 8 of the *Consent Decree* quoted above), a motion for a temporary restraining order to stop the process from going forward as a CUP amendment, and an application for a writ of mandamus to compel the County to honor the *Stipulated Consent Decree* as it is clearly written.

Thank you very much, Mark, for considering our position on this matter. And since this matter is coming up so soon before the BOA, and since so many West Valley residents are concerned about it, if you could give us some indication of your inclinations asap, that would be greatly appreciated. Also because of the shortness of the time involved, I will direct a copy of this memo to Caitlin in the County Attorney's office.

Take care, Mark.

[Electronically signed]
Donald R. Murray

MAY 0 1 2020

Mark Mussman

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Judy Bennett <judybennett640@gmail.com>
Sent: Friday, May 1, 2020 11:40 AM
To: Mark Mussman
Subject: Zoning Department meeting May 5

It has come to our attention that a Zoning Department meeting has been planned for May 5th via WebEx. We request that this meeting be postponed until a time where we can attend in person. We do not know how to do a web/telephone call and feel that we are at a disadvantage because of that fact; therefore we can not be represented, make our opinions known, nor participate in any discussion.

Thank you,
Irwin and Judy Bennett
1565 Church Drive
Kalispell, MT 59901
406-257-3175

April 30, 2020

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

TO: Flathead County Board of Adjustment

FROM: Meliss Brown Clark

RE: (#FCU-20-04

REQUEST: I respectfully ask that the Board of Adjustment delay this application until the June meeting.

REASONS:

1. Condition # 28 from FCU-05-07a **expressly prohibits asphalt and concrete batch plants.**
2. The statement on page 9 of Finding #14 is not accurate. . . . "minimal impact on the neighborhood as a result of . . .fumes. QUESTION Who defines minimal? Some people are quite sensitive to the fumes and therefore will lose the use of their outdoor activities during the hours of operation.
3. Instructions on the application permit require special attention to numbers 2 and 3 "*In answering questions 2 & 3 on the application, be specific and complete*." Question 2 Part D. Immediate Neighborhood Impact " # (4) smoke, fumes, gas, or odors " Answer on permit application: "The extraction process will generate **some odors and increased fumes** will result from additional truck traffic." QUESTION: Who defines SOME? Odors and fumes will be the result of processing asphalt. NOTE: By whose definition is the process of manufacturing asphalt an extraction? Manufacturing asphalt is using extracted materials. **Odors and fumes apply to the manufacture of asphalt.**

4. Is there a specific definition of *"a minor modification to a previously approved Conditional Use Permit*"? The following information comes from Section 2.06.050(2) of FCZR: Upon reading the text of the Use Permit Report concerning (#FCU-20-04, *the zoning administrator has the power to declare the asked for change minor.*

In the second paragraph of page 5, "The Zoning Administrator determined that because asphalt and/or concrete batch plants were specifically prohibited with the original request, the condition modification request constitutes a substantial change." *This language is a contradiction of the term* **minor.** The paragraph goes on to list Zoning Administrator's reasons for considering the requested zoning regulation change.

5. It does not seem reasonable for the Board of Adjustment to very narrowly consider the change minor; to disregard other aspects of such an allowance; such as, considerable impacts on the surrounding neighborhood. It is disingenuous to allege that minimal harm will occur, or intimate that the size of the operation will be contained within the perimeters of said operation. **Fumes and odors know no boundaries**.

6. On page 10 of the Conditional Use Report, item VI. CONCLUSION is entirely out of context.

MAY 0 1 2020

7. On page 4 of the Use Permit Report it states: "Moreover, there are other gravel extraction operations in **close proximity** that have been permitted to include batch plants" QUESTION: Who or where is *close proximity* defined? Note: NUPAC had a gravel, asphalt and concrete operation on Stillwater Road, just north of the present day operation by LHC. The pit to the north of LHC no longer has an asphalt or concrete batch plant in operation. The NUPAC operation had an extensive permit issued by the Air Quality Department in 05/04/05; Permit #1125-05. The LHC permit was granted because there was an existing permitted operation (NUPAC)

(The existing LHC plant does produce asphalt-related fumes. The east winds send the fumes to the area 2-21/2 miles away. I cannot work outdoors when the east wind is blowing fumes.) This is my specific problem. I have not surveyed others in my neighborhood.

I SINCERELY REQIEST THAT THE BOARD OF ADJUSTMENT DELAY THE APPLICANT'S REQUEST UNTIL THE JUNE MEETING.

QUESTION: Is there an overwhelming body of evidence that delaying the meeting one month will seriously injure the applicant? *This question should be answered with* SPECIFIC AND TECHNICAL DETAILS.

Respectfully submitted by

Meliss Brown Clark

MAY 0 1 2020

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MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

April 30, 2020

T0: Mark Mussman and The Flathead County Board Of Adjustment

Re: Rob Schellinger's request to allow a concrete and or asphalt batch plant located at 3427 Farm to Market Road where the existing gravel pit is

Dear Mark and Board Members:

My husband and I own a home and 40 acres directly across Church Drive to the north of the gravel pit. We purchased the property in 2002 prior to the creation of the gravel pit and have endured years of beeping and rock crushing noises starting early in the morning (Saturdays included) lasting until early evening , much added traffic, dust, vibration and pollution as a result of the gravel pit.

My husband was one of the very few neighbors who received the letter telling us of this new request as our property is reportedly within 150 feet of the gravel pit. I was told by a woman at the Flathead County Planning and Zoning Office that only neighbors who live within 150 feet of the gravel pit were notified. To think that an antiquated law only requiring neighboring landowners to be notified if their property is within 150 feet of the proposed asphalt plant is not only ridiculous , but it is deceitful. West Valley residents have not been given enough time and specifics of this proposed operation that over time could result in West Valley as an industrial-like area. In the County Staff report there are no technical details regarding size of plant, asphalt OR concrete, the excessive traffic that would be generated, or whether the plant would be a mobile operation. Since the inception of the gravel pit there has been many homes built along Farm to Market Road and Church Drive that surround and are adjacent to the pit, not to mention the numerous new subdivisions also adjacent to the pit which will mean more continued growth, more homes and more traffic. The West Valley zoning regulations define the West Valley as residential, and asphalt and concrete plants are prohibited in residential zones. The Montana District Court Decision of November, 2010 explicitly states that "Asphalt and concrete batch plant operations are prohibited. "

I want each one of you board members who seem to hold our future fate in your hands to ask yourselves, would you want to live next to an asphalt plant? Would you want to have your children and grandchildren playing in the yard only to be exposed to toxic fumes from the asphalt plant that can cause cancer ? These plants can release millions of pounds of chemicals to the air during production each year, including many cancer causing toxic air pollutants such as arsenic, benzene, formaldehyde and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site. The EPA states "asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants. Exposure to these air toxins may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. "

What are our options I ask each one of you. Yes we can stay and hope and pray that our health is not compromised by the toxic fumes as well as having to endure the increased noise , toxic fumes, dust, increased traffic and pollution to our air quality . Or we could try to sell our homes and move to a safer

environment, yet would you want to buy our homes and come and live next to an asphalt plant? Studies show in some areas that property values decrease by 56 per cent if one lives near an asphalt plant.

Please ask yourself what you personally love about the valley and why you moved here. Is clean air important to you? Do you care about the environment where we are raising our children and grandchildren? I personally want to live in a neighborhood where our children and grandchildren can grow up heathy and thrive.

We all need a protected safe community and natural environment to enjoy. I implore you to postpone the vote until June and to vote no on this request .West valley now has multiple subdivisions surrounding the gravel pit and as stated earlier, West Valley is zoned as residential . This is NOT the place for an asphalt plant.

Thank you for your concern about transparency, public process and the safety of our residents.

Sincerely,

Babby McCartney and Klaus Kleinke

MAY 0 1 2020

05/01/2020

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MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mr. Mark Mussman, Director
Flathead County Board of Adjustments

Ref: Proposed construction of a concrete and/or asphalt batch plant at 3427 Farm-To-Market Road, Kalispell, MT.

Dear Mr. Mussman,

This letter is to inform you that my wife and I formally go on record as opposing the granting of the conditional use permit (CUP) application #FCU-20-04 concerning the construction of a concrete and/or asphalt batch plant at the existing gravel mine at 3427 Farm-To-Market Road in West Valley. Additionally, we request a delay of the May 5th meeting to a later date.

I am fourth generation on property directly south of the proposed plants at 1180 Clark Drive. Clark Drive is named for my great-grandfather, who homesteaded there. Not only will a concrete and/or asphalt batch plant degrade the market value of all the surrounding property, it will also certainly negatively impact the residents, wildlife, livestock, water, noise, and air quality in a very scenic part of the valley.

The construction of these plants is not in the interest of the residents of West Valley, nor is it in the best interest of maintaining the integrity of the West Valley Zoning as has been in effect in the area for many decades. While such plants may be permitted in some areas and instances per the Flathead County Zoning Regulations, Resolution No 955A, Revised 03/01/2010, the construction does not comply with the stated land use goals of the residents of West Valley as follows:

> "To respond to changing uses in the West Valley area, the residents formulated four land use goals, and accompanying policies, to guide the development of new zoning regulations. These goals include:
> (1) Planning for wise use of the land in the West Valley;
> (2) Maintaining the rural and scenic quality of the valley;
> (3) Protecting air and water quality;
> (4) Protecting private property rights.

The County Staff report and CUP do not provide technical details regarding the plants, nor does it address the negative impacts to the area quality of life in any effective manner. Clearly, a concrete and/or asphalt batch plant does not fall in line with the accepted definitions and intent of any of the above stated goals.

In view of these numerous open questions and issues surrounding CUP #FCU-20-04, please delay the meeting scheduled for May 5th to a later date in June to allow those affected by this application additional time to research this project. The prevailing Covid19 restraints on personal interactions greatly reduces the effective communications time and reach of the local community. A meeting delay is certainly in the best interests of all involved.

Respectfully,

MSgt. Gerald Nielsen, USAF (Ret)
Diana Nielsen, RDH

Mark Mussman

From: Mary Fisher
Sent: Friday, May 1, 2020 9:56 AM
To: Mark Mussman
Subject: FW: Asphalt batch plant Tutvedt

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

-----Original Message-----
From: Marylane <kuhlpan@cyberport.net>
Sent: Friday, May 1, 2020 9:46 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt batch plant Tutvedt

The comment period should be extended for this proposal. The noise and traffic will definitely affect this beautiful area.

Marylane Pannell
Kuhlpan@cyberport.net

Sent from my iPhone

Mark Mussman

From: jeaolson@cyberport.net
Sent: Friday, May 1, 2020 7:19 AM
To: Mark Mussman
Subject: Extend public comment period on Tutvendt asphalt plant permit

We'd ask that the public comment period be extended on FCU-20-04 and the hearing be postponed for several months. The West Valley public need more information, and more time. This is a major change to a gravel pit in a residential area, and most people aren't even aware of it. Also the proposed method of current meeting is difficult for the general public. We live less than 2 miles from the proposed site, (not far for West Valley dusty winds and noise) and only learned of it today because of an alert friend.

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT 59901

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Thursday, April 30, 2020 7:55 PM
To: Mark Mussman
Subject: West Valley BOA agenda item

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MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Received, thank you

Another issue besides the critical one at hand, is that most of us in the area of concern have weak cell signals. So in order to participate, we must have a land line? And then pay long distance. I think that further limits public input.

I vehemently oppose the plant, and feel that more information and public input is necessary.

Teri Bjornrud

From: Mark Mussman <mmussman@flathead.mt.gov>
Sent: Thursday, April 30, 2020 2:38 PM
To: 'teri@centurytel.net' <teri@centurytel.net>
Subject: Agenda

Attached is the agenda of the May 5 Board of Adjustment meeting with instructions on how to access the meeting by phone.

Mark Mussman, CFM

Director
Flathead County Planning & Zoning
40 11th Street West
Kalispell, MT 59901-5607
Phone: 406.751.8200
Fax: 406.751.8210

Mark Mussman

From: Mary Fisher
Sent: Friday, May 1, 2020 7:44 AM
To: Mark Mussman
Subject: FW: West Valley batch and asphalt plant

RECEIVED
MAY 1 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Engebritson, Vern <Vern.Engebritson@weyerhaeuser.com>
Sent: Friday, May 1, 2020 7:13 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FW: West Valley batch and asphalt plant

From: Engebritson, Vern
Sent: Friday, May 1, 2020 6:37 AM
To: 'mmussman@flathead.mt.gov' <mmussman@flathead.mt.gov>
Subject: West Valley batch and asphalt plant

Hello I am writing in response to the planning board meeting on may 5th that will be held with no people present to voice concerns. This batch plant and asphalt permit will have a strong effect on the surrounding west Valley community and should not be relegated to a closed door meeting in which there will be no way that everyone who has an opinion on the subject can be heard. Our government has put many things on hold because of the pandemic, peoples jobs and lives are in limbo right now. The fact that you have decided to push this project through at this time is troubling at best. In the past there has been a large push back by the community against this type of activity. While I acknowledge the right of property owners to use their land to the best of their abilities, I find that giving a 2 week notice of the meeting that will be held closed door via electronics is unacceptable. The fact that in the past property on the west side of Farm to market road was deemed unacceptable for gravel pit use because of environmental reasons is also raising some alarms. This property is right across the road from where they want to put the plant. I would like to know how only 20 to 30 feet of road makes the difference between acceptable and not acceptable. What harm would be done by delaying the meeting for a month or two in order to allow the people who will be affected by this to give their input. The owners of the plant are not living next to the plant and will not smell the asphalt or hear the sounds of the industry. They also will not experience the loss of property value due to this loud and odorous process. Also we need to address the fact that the surrounding roads are not really designed to handle the large truck traffic. They are narrow and in failing repair thanks to local and state governments. There are so many more questions that need to answered on this and being done under this pandemic lockdown is not acceptable. Many people in the West valley community are older and do not have the technology or the proper instructions to log onto your online meeting. From personal experience the technology is spotty at best and hard to get recognition if it does go off without a glitch. I will look forward to hearing back from you on the reasoning for the rush to approve. Also please realize that if you continue to proceed with these actions politicians and media will be contacted and we will bring light on the subject that may not be favorable to your committee and its proceedings. Thank you for your time.

Vern Engebritson
Hydraulic Technician
Medium Density Fiberboard
105 Mills Drive
Columbia Falls MT
406-250-9738

Mark Mussman

From: kallie woods <kalliewoods@hotmail.com>
Sent: Thursday, April 30, 2020 4:14 PM
To: Mark Mussman
Subject: Farm to Market and Church Rd. proposed asphalt plant

Mr. Mussman, my name is Kallie Woods and my family lives off of Lost Creek by the Kalispell Kreamery. We are just recently learning of voting for an asphalt plant close to our home. We are asking you to please deny or postpone the voting for the proposed asphalt plant (#FCU-20-04) by Farm to Market and Church Road until further information can be gathered.

Sincerely,
The Woods Family

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Sent from my Verizon, Samsung Galaxy smartphone

Mark Mussman

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From: Pat Jaquith <pjaquith07@gmail.com>
Sent: Thursday, April 30, 2020 3:18 PM
To: Mark Mussman
Cc: Patricia Jaquith
Subject: Item #FCU-20-04. Asphalt batch plant proposal

I am writing to request denial or delay in hearing the issues and concerns of the greater community on #FCU-20-04. The proposed development represents a major change of use and could have significant impact on the area. Because of the unusual circumstances of not holding an open hearing, it is my concern that a greater amount of time must be allowed before action can be considered. Holding a hearing remotely is a method with which local people are unaccustomed, and many voices may not be heard because of it.

At the very least, I request that the Board extend the time to enable concerned parties to seek information and to communicate their opinions.

Thank you for taking the time to make sure everything possible is done to allow democratic debate as nearly as we are accustomed.

Patricia Jaquith
Sheepherder Hill Road
Kalispell, MT

Sent from my iPad

Mark Mussman

From: Jessica J. <jjacobson512@gmail.com>
Sent: Thursday, April 30, 2020 1:28 PM
To: Mark Mussman
Subject: FCU-20-04

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PLANNING & ZONING OFFICE

To Mr. Mark Mussman and to the Flathead Planning board,

I am requesting that (#FCU-20-04) be denied or delayed because this change in the gravel extraction permit is substantial and public comment period should be extended before a final decision is made.

The permit application and staff report did not go before the West Valley Land Advisory Committee and contains little information regarding the details and environmental impacts of the plant.

Asphalt plants are known to produce **toxic** air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.

This part of the Valley is important to us. One of the reasons we live here is the cleanliness of the area. Please consider the impact that this plant will have on our well-being.

Thank you for your consideration.

Jessica Jacobson
601 Sawmill Lane, Kalispell, MT 59901
PO BOX 10492, Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 1:36 PM
To: Mark Mussman
Subject: FW: Event # 281 792 188

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Robin Koski <robinkoski@yahoo.com>
Sent: Thursday, April 30, 2020 1:32 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Event # 281 792 188

To Whom It May Concern,

My name is Robin Susanne Koski. I am the owner of 1825 Church Drive Kalispell MT 59901. My residence on Church Drive and Farm to Market Rd is located approximately 2 blocks from the gravel pit on the West side of Church Drive.
I am highly opposed to the concrete/and or asphalt batch plant going in at 3427 Farm to Market Rd Kalispell MT 59901.
This will adversely effect the immediate neighborhood!****** It will cause our property value to go down for one.....and probably the most important reason to NOT allow this to happen.
Some of the people who live out here will be effected whom have health issues such as my self. A lot of us have worked very hard and have taken much pride in the upkeep and renovations of our homes and property in order to raise the value of it. Not to mention the thousands of dollars it took to do so.
It would truly be a very sad day to see a plant like that going in out here!
I appreciate your time in reading this concern.

Sincerely

Robin S. Koski

Phone# 406-260-0165

Mark Mussman

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Beverly Dillon <bevdill@centurytel.net>
Sent: Thursday, April 30, 2020 11:15 AM
To: Mark Mussman
Subject: Schellinger/Tutvedt Pit

Dear Mr. Mussman,

This letter concerns the proposed asphalt and concrete batch plant to be located at the Schillinger/Tutvedt Gravel Pit on Farm to Market Road (#FCU-20-04)

We are asking that action be either denied or delayed until there has been sufficient time to study the facts concerning this case, many of which appear to have not been considered at all.

* There appears to be a current ban in effect on asphalt and concrete batch plants on this site
* This plant appears to be in an area considered to be zoned residential
* This proposed plant would cause extra harmful dust, excessive heavy load traffic, dangerous fumes, and a generally industrialized appearance to this rural residential/agricultural area
* Due to the strong winds in this area, dwellings quite far away would be subjected to dangerous air contaminates
* The residents living in this area have not been given time to research this proposal fully and to respond. Due to coronavirus restraints at this time, it is not possible to hold a meeting where all those concerned could be present to discuss pros and cons of this proposal.

For the above reasons, we are joining with many others living in the West Valley to ask that this proposal be either denied or delayed until there has been given time for all the facts to be properly researched and a time for residents to respond.

Richard and Beverly Dillon
83 Wendt Way
Kalispell, Montana 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 1:19 PM
To: Mark Mussman
Subject: FW: asphalt batch plant in west valley

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: kathy ross <mtkat67@gmail.com>
Sent: Thursday, April 30, 2020 1:18 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: asphalt batch plant in west valley

To whom it may concern,
I just read about this proposal and was horrified that you would consider, especially since there has not been an appropriate review. Really?? Stop and think about it. I hope if you let this pass, you live close to it so you can have the disgusting experience.
Sincerely,
Kathy Ross

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 7:50 AM
To: Mark Mussman
Subject: FW: Public Comments For Reading May 5 - Schellinger / Section 16

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: John Lobbie <jplobbie@gmail.com>
Sent: Wednesday, April 29, 2020 11:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Public Comments For Reading May 5 - Schellinger / Section 16

To Whom It May Concern -
Please confirm receipt of this email.
Pursuant to the statement on the document titled "Notice of Public Hearing Flathead County Board of Adjustment," which reads, "Individuals who wish to make public comments are encouraged to send in comments via email prior to the meeting....and they will be read into the public record," I request the following comments be entered into the public record as it pertains to item number FCU-20-04 Rob Koezler, Schellinger Construction Company Section 16 Family Limited Partnership:

- My name is John Lobbestael and I reside at and own the property at 107 Canola Road immediately South of the subject property. My North boundary is entirely common to the South boundary of the subject property.
- This commentary is not a statement of support or resistance to the proposed operation but criticism of the efforts of the Zoning Administration in processing, analyzing and presenting the Staff Report and Findings of Fact as several areas are seemingly unclear, require additional supporting information and verification or are in gross error. In the spirit of the pursuit of all applicable factual information for all interested parties in order that confidence be established in the public process, I request that the Board of Adjustment refer the application back to the Planning Director and Administrative Staff to evaluate and clarify the following information:
    - Staff Report
        - III Comments -> B. Public Comments -> 1 states that notification was mailed to property owners within 150 feet of the subject property. I do not recall having received such mailing. May it please the board to request on behalf of the public, that the Planning Director and Staff provide a list of parties to whom the mailing was directed and evaluate it's completeness.
        - IV Criteria Required For Consideration -> Paragraph 2 cites regulations under which a minor modification may be made. The Zoning Administrator concedes that the request constitutes a "**substantial change**," and proceeds to rationalize support by citing evolution of staff rendering original Findings of Fact as not applicable or missing adequate information. May it please the board to request on behalf of the public further discussion and clarification of how the administrative body has evolved, what findings of fact are not applicable and what information is missing such that it justifies the administrative support for granting the "substantial change."
            - May it further please the board on behalf of the public to seek the legal opinion of it's counsel as to what differentiates mining / extraction from manufacturing as

materials will have to be imported to and stored upon the site whereas typical mining / extraction processes are export only.

- IV -> A. Site Suitability -> 1. Adequate Usable Space states, "**The addition of an asphalt and/or concrete batch plant should not alter the current or future activities on site**." May it please the board to request on behalf of the public that this statement be reconsidered by the administrative body as it would seem that addition of a plant patently alters site activities. Perhaps the author(s) of the document need more familiarity with the intense manufacturing processes, petroleum / chemical import stocking and reaction processes involved in generation of concrete and asphalt as the entire document is seemingly quiet on the apparent necessity of alteration of activities from mining /extraction to supporting such manufacturing, import, storage and reaction processes associated with the proposed use.
- IV -> A. Site Suitability -> 3. Absences of Environmental Constraints. May it please the board to point out on behalf of the public that the National Wetland Inventory does appear to depict habitat classified as PABFx upon the subject property. The board might request assurance that this is not constitute an environmental constraint and is not regulated. (Source: https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/)
- IV -> C. Availability of Public Services and Facilities -> Fire Protection. May it please the board to inquire on behalf of the public upon the basis of the statement that "Impacts to the fire district appear to be minimal," in light of the fact that a manufacturing facility reliant upon the storage, processing and mixing of petroleum and/or petro-chemicals may be a fire risk for which the rural fire district is unable to respond to.
- IV -> D Immediate Neighborhood Impact -> Smoke, Fumes, Gas or Odors. May it please the board to inquire on behalf of the public that the actual distance and direction to the closest residence be verified, re-evaluated and re-stated as my residence is considerably less than 1600 feet from the subject property due South / Southeasterly.
- VI -> Conclusion. May it please the board to inquire on behalf of the public, what specific "Recreational Facility," is being proposed?

- Application
  - B. Appropriateness of Design (3). May it please the board to suggest on behalf of the public, that the administrative body investigate the applicant's statement that the fence is installed to prevent livestock and wildlife from entering the site, as it is clear that several whitetail deer and coyotes frequently visit the site.
- Site Map
  - (As posted with the application) May it please the board to suggest on behalf of the public, that the site map reflect more specific representation of the proposed location and physical extents of the plant.

Thank you for reading and entering my comments into the record.

John Lobbestael

APR 30 2020

APR 29 2020

Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Wednesday, April 29, 2020 10:01 PM
To: Mark Mussman
Subject: West Valley Attn Planning/zoning & BOA

Hello, I just learned of the gravel pit application tonight @ the Tutvedt/Shellinger pit for asphalt or concrete batch plant. I live in West Valley (a little south of the existing pit) and I strongly feel the public needs to be more informed about the plan and given an opportunity to voice concerns or have those concerns assuaged. This is a serious issue and please delay the process and publicize additional details. If you arranged an information meeting, I would attend.

Please Postpone The Vote until we can be better informed

Teri Bjornrud
540 Grande Vista Dr
Kalispell MT 59901

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PLANNING & ZONING OFFICE

Mark Mussman

From: Craig Montgomery <csmont@centurytel.net>
Sent: Wednesday, April 29, 2020 8:40 PM
To: Mark Mussman
Subject: Asphalt pit

Mr. Mussman,
I hope you adhere to the condition that an asphalt plant is prohibited at the location mentioned. This is residential and not commercial.
Do not allow this to happen to us that enjoy our homes out here in the West Valley. I would appreciate a phone call from you to discuss this
matter further. Craig Montgomery / 253-8631..

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PLANNING & ZONING OFFICE

Mark Mussman

From: JAMES WEBER <jwdisciple@msn.com>
Sent: Wednesday, April 29, 2020 8:17 PM
To: Mark Mussman
Subject: Please postpone vote on Concrete/Asphalt Plant on Farm-To-Market Road

Dear Planning Office/BOA,
I am a West Valley resident just finding out about the proposed plant and have three major concerns:

1) There does not appear to be enough adequate information regarding the proposed plant to make any kind of decision regarding it's acceptability, such as: it's overall intended size, intended specific uses or outputs, projected amount of extra traffic, size and weight of trucks or vehicles that will be used, environmental impact studies, mitigations that will be put in place to insure good air quality is maintained... In short, from the information I have, there appears to be very little planning or forethought put into this proposal at all.

2) Farm-To-Market Road is already in disrepair with sections of the road beginning to sluff and settle causing dips and cracking in the asphalt. Additional traffic, especially from large heavy rigs will only exacerbate this already existing problem.

3) This is an issue that deserves to be fully and openly discussed in a public forum allowing citizen interaction with elected an appointed officials to insure everything is done above board with complete transparency. To try and hold such an important hearing via telephone conferencing is imprudent and lacking in open communication.

RESPECTFULLY, I REQUEST THAT THIS HEARING BE POSTPONED UNTIL IT CAN BE HELD IN AN OPEN PUBLIC SETTING.

Thank you!
Jim Weber
227 Rhodes Draw
720-301-4723

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Mark Mussman

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Sandy Montgomery <csmont128@outlook.com>
Sent: Wednesday, April 29, 2020 4:52 PM
To: Mark Mussman
Subject: Please Decline or deny Meeting/Hearing on Proposed Asphalt Concrete Plant at 3427 Farm to Market

As a 20 year resident 1 mile north of this proposed operation.... THIS IS THE 1st we have heard of said proposal.
With the current situation of Covid-19. It appears to be opportunistic for this operation to be pushed through.
As a long time resident of this beautiful valley, it is becoming apparent that there are folks in office that are thinking only of their own financial gain, NOT what is best for our lifestyle here in Montana.
WE urge you to delay further action on this venue along with requesting an environmental impact study!
Respectfully, Craig and Sandy Montgomery

Sent from Mail for Windows 10

Mark Mussman

From: MT Sky Nikki <firstfruits77@montanasky.com>
Sent: Wednesday, April 29, 2020 12:29 PM
To: Mark Mussman
Cc: Nicola Tomlin
Subject: West Valley proposed asphalt plant

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

Mr. Mussman,

It has just come to my attention that an application has been made to construct a concrete/asphalt plant at or near the corner of Farm to Market Road and Church Drive and that this discussion and vote will occur on May 5, 2020. My concerns are two-fold:

1. Most of the neighbors in this area have had little to no notification of this plan except for those living within 100 feet of the planned expansion. Given the size, scope, and potentential serious neighborhood impact of this plant, ALL residents up and down Church Drive and Farm to Market Road need to be notified and given the chance to speak their concerns IN PERSON. I understand that you plan to have the May 5th discussion held over the telephone. This is inappropriate. Many people do not know how to do conference calling over the phone or computer. Additionally, the internet connection in West Valley is sporadic depending on what internet service provider is used. Also, some residents may want to provide visual displays about their concerns which cannot happen over the telephone. My suggestion is that this important meeting be postponed indefinitely until an in-person meeting can be held.

2. West Valley is a RESIDENTIAL community and people here do not want their community turned into an industrial complex of heavy equipment, heavy trucking, noise, and pollution. I do not see on the requestor's application any details about the size and scope of the operation or even why it is needed given that there already is a concrete/asphalt plant right on Stillwater Road just north of Reserve. Have you ever sat out in front of that plant and counted the trucks that go back and forth? I did and it is significant - constant heavy truck traffic back and forth all the time. I am already very concerned about the increased heavy truck traffic on Farm to Market Road just from the existing gravel pit operations and adding the new plant would make it even worse. Church Drive is already riddled with heavy trucks throughout the day and I don't want this happening to Farm to Market Road. Let me also state that there is SIGNIFICANT pungent and noxious odors that come from these types of plants that produce health hazards. As you know, there is a new residential area just to the south of the gravel pit and another planned 20-acre per home development site directly west of the gravel pit. So, as you can see, more and more homes are slated to be built into this particular area of West Valley and I'm sure these people, along with the existing residents of West Valley, do not want to smell that residual asphalt stench every day. Per the West Valley Neighborhood Plan, it is a RESIDENTIAL community, not a community that is to be co-mingled with heavy industry. In my view, permitting this concrete/asphalt plant would be in direct opposition to the Neighborhood Plan and, in essence, just become a pandora's box for intrusion of other industrial/commercial activity in this area. Property values and peace of mind would plummet.

Please reconsider your thinking about approving this issue and having this vote occur May 5. Give the residents of West Valley who will be the most impacted by the asphalt/concrete plant to make their concerns heard in person. Thank-you.

Sincerely,
Nicola Tomlin
3010 Farm to Market Road

Mark Mussman

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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: Charlene Iannucci <ciannucci1963@gmail.com>
Sent: Tuesday, April 28, 2020 11:06 AM
To: Mark Mussman
Subject: postpone BOA meeting

Mr. Mussman and Board of Adjustment members,
I am respectfully requesting that the May 5 meeting regarding the Schellinger/Tutvedt CUP change be delayed or postponed until June 7 at the earliest. This would allow more time for residents to learn how to phone conference (if necessary) and for the applicants to provide further details on the batch plant operations.

Thank you,
Charlene Iannucci
597 Clark Homestead Ln.
Kalispell, MT 59901

Angela Phillips

From: Mike <mike7@centurylink.net>
Sent: Tuesday, April 28, 2020 11:53 AM
To: Planning.Zoning
Subject: Schellinger/Tutvedt Asphalt Plant Application

Mark:

We went through this gravel pit/asphalt plant issue years ago and he won on the gravel pit but lost on the asphalt plant. Please look at the old notes as to why and just deny this application this time and save us all a lot of time and trouble. Radio tower fight was a pain, you did not even ask for a real site plan they submitting one from another state??, very frustrating. Seems like there was something to do with a MT Supreme Court case that tipped the scales, cannot remember for sure?

Please do a more thorough review and have more stringent permit requirements that make sense this time and kill it before it starts.

Thank you,

Mike Beale

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Mark Mussman

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APR 29 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: maklein@protonmail.com
Sent: Tuesday, April 28, 2020 11:45 PM
To: Mark Mussman
Subject: FCU-20-04: Request for Denial or Delay on Decision

Mark,

Due to COVID-19 restrictions, I am writing to request that the County's decision regarding FCU-20-04 be postponed until an in-person public hearing can be arranged, or denial until the following concerns are addressed:

1. Regarding the decision on Conditional Use Permit FCU-05-07, why are the reasons that led to the condition "Asphalt and concrete batch plant operations are prohibited." no longer legitimate? Were adjacent property owners notified of this? Can the County set aside this precedent without adjacent property owner recourse?

2. Where would the operation be located on the 320 acres outlined?

3. What is the landscaping plan? Will irrigation be installed since screen plantings will not survive the droughty soil or reach an appropriate size without supplemental irrigation? Do the plantings need to reach a minimum height and density before they are considered an effective screen?

4. What is the remediation plan for the land when operations cease?

5. Gravel extraction, screening, and stockpiling (the present uses of the quarry) are not chemical processes. Making asphalt and concrete are chemical processes. Are these chemical processes approved for the site?

6. Would Portland cement and/or bitumen be imported to the site? What is the plan for managing these materials? Is the site going to be lined to protect groundwater?

7. Will the agricultural fields to the east have portland cement dust falling on them and on the soil? Are these fields going to be retired?

Thank you for your time,
Matt Klein

Sent with ProtonMail Secure Email.

Mark Mussman

From: Mary Fisher
Sent: Monday, April 27, 2020 7:37 AM
To: Mark Mussman
Subject: FW: Contact Message

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APR 2 7 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, April 26, 2020 6:02 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Julie Patz
Email:	ovenbirdwi@yahoo.com
Subject:	Schellinger Construction condition approval
Message:	I oppose the modification of approval of FCU-05-07 allowing the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. This would be detrimental to many families (voters). We value our air and water quality. The increased noise and dust would also harm many families. It's time to support the many residents in the area and not two companies.

Mark Mussman

From: Mary Fisher
Sent: Monday, April 27, 2020 7:36 AM
To: Mark Mussman
Subject: FW: Contact Message

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APR 27 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, April 26, 2020 5:53 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Terry Zink
Email:	zinksbigskyarcherytargets@gmail.com
Subject:	Gravel pit
Message:	I support the proposed concrete and asphalt batch plant on farm to market. There is no housing on either side of the road and the gravel pit has already been there for a number of years and it is promoting more jobs to employ the Flathead Valley from a long standing construction company that has been in business for years.

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 23, 2020 8:58 AM
To: Mark Mussman
Subject: FW: Contact Message

RECEIVED
APR 2 2 2020
FLATHEAD COUNTY
PLANNING & ZONING OFFICE

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Thursday, April 23, 2020 8:57 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Janine Rubinfier
Email:	janine@j9ranch.com
Subject:	NO TO ASPHALT AND CONCRETE BATCH PLANTS
Message:	Absolutely NO TO ASPHALT AND CONCRETE BATCH PLANTS IN WEST VALLEY!!! 327 FARM TO MARKET RD Sec 16 T29N R22 W P.M.M. Flathead Co. MT