

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING
COMMITTEE SPECIAL MEETING/HEARING MINUTES
Tuesday, November 19, 2013**

CALL TO ORDER

Committee Chair Starshak called the meeting of the Land Use Planning and Zoning Committee to order at 5:00 p.m. in the Green Lake County Government Center, County Board Room #0902, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: **Eugene Henke, Ben Moderow, Don Peters, Harley Reabe, Michael Starshak**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director

Dan Hurst, Corporation Counsel

Matt Kirkman, Code Enforcement Officer

Missy Sorenson, Code Enforcement Officer

Carole DeCramer, Committee Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Motion by Reabe/Henke, unanimously carried, to approve the agenda.

HEARING RELATED TO LANDMARK SERVICES COOPERATIVE CONDITIONAL USE PERMIT AND COMPLAINTS OF UNCONTROLLED DUST AND EXCESSIVE NOISE LEVELS

Elmer Bock – Discuss Landmark Services Cooperative activities

Elmer Bock, W1618 County Road S – Landmark agreed, according to the original conditional use permit, to take care of the dust and the noise still exceeds the agreed upon decibel level. They have not been watering as promised. Landmark has similar decibel readings to what I have taken; some are over 70 decibels.

Mike Elder, Landmark Services Cooperative – Summarized what has been going on since the original conditional use permit was approved on May 3, 2012. Presented copies of the watering log. Assured the committee that the company has been watering. A picture of the paved area was shown. Ambient noise levels are 30-40 decibels. When drying is added, it's approximately 60 decibels at the edge of the property. At the railroad tracks, the readings were closer to 78 decibels.

Committee Chair Michael Starshak read the Rules of Public Hearing.

Diann M. Pollesch, W1598 County Road S – Stated that the dust and noise are excessive. After spending the night at the Pollesch residence, family members have inquired as to how they get any sleep with the constant noise.

Kurtis Ness appearing with his wife – W1690 County Road S – Reported that the trucks were driving in and out of the facility at 11:00 p.m. on Sunday evening. Clothes can't be hung out to dry because of the dust and there is constant noise from the dryer.

Robert Bock, W1830 E. Manchester Street – Explained that his residence is located across the river so the noise is not an issue; however, the corn dust is a problem. The Bock children play in their yard and the trampoline is covered in corn dust.

Closed hearing comments at 5:27 p.m.

a. Deliberation/Discussion

Shute summarized Elmer Bock’s written complaint. The complaint alleged that Landmark Services Cooperative is in violation of their May 3, 2012 conditional use permit.

After hearing testimony from both Landmark Services Cooperative and the neighboring property owners, the committee discussed the conditions listed in the May 3, 2012 conditional use permit. Portions of that meeting’s audio tape were played for the purpose of hearing the original testimony and what was agreed upon by Landmark Services in regard to noise and dust abatement.

Corporation Counsel advised the committee that, if they find Landmark Services Cooperative to be in violation of the conditional use permit, there are provisions in the ordinance to fine the company, the conditional use permit can be modified or revoked, and it can be reviewed at any time in the future.

Conditions #2 and #6 of the May 3, 2012 conditional use permit were discussed at length.

Corporation Counsel Hurst advised the committee that, according to the ordinance, they must report findings as a result of the hearing which will be reduced to a written decision.

The committee did find, unanimously carried on roll call (5-eyes, 0-nays), that Landmark Services Cooperative is in violation of #2 of the May 3, 2012 conditional use permit which states: 2) *Adequate dust control measures be taken, due to vehicular traffic to and from this site as well as during unloading and loading of dry materials. Ingress (entrance) to and egress (exit) from the subject site shall be paved between County Road S to the mainline of the railroad.*

The committee discussed possible solutions for this issue that included Landmark Services Cooperative to immediately provide adequate dust control measures to bring the facility into compliance. This is in reference to ground/gravel dust that is caused by ingress and egress of vehicles. The discussion included giving the company five business days to implement a longer-term dust abatement solution. In the interim, watering would have to be done twice daily, more if required, and a log of the watering days and times would have to be kept. If measures wouldn’t occur within the five business days, fines could be implemented as well as the possibility of revoking the conditional use permit. The dust caused by the dry materials, will be addressed at the January 2, 2014 committee meeting.

b. Determination

The committee did find, carried on a 3-2 vote (Henke–aye, Moderow–nay, Peters–nay, Reabe–aye, Starshak–aye), that Landmark Services Cooperative is in violation of #6 of the

May 3, 2012 conditional use permit which states: #6 *The noise produced by the grain drying operation shall not exceed 40dB when measured outside and adjacent to the nearest single-family dwelling.*

The committee discussed modifying condition 6 of the conditional use permit by limiting the noise level to not exceed 50dB from 10:00 p.m. to 6:00 a.m. The committee further discussed limiting the noise level from 6:00 a.m. to 10:00 p.m. to not exceed 65dB. This would be measured at or adjacent to the closest residence.

Motion by Reabe/Henke, effective 11/20/13, to limit the noise level during the hours of 6:00 a.m. to 10:00 p.m., to not exceed 65dB; during the hours of 10:00 p.m. to 6:00 a.m., the noise level will not exceed 50dB.

Diann Pollesch voiced concerns about 10:00 p.m. being too late and that, when grandchildren visit, they have earlier bed times.

**Motion by Reabe/Henke to modify the motion to 9:00 p.m. instead of 10:00 p.m.
Carried on a voice vote – 4-ayes, 1-nay (Moderow).**

Motion by Reabe/Henke, unanimously carried on roll call (5-ayes, 0-nays), to limit the noise level, effective 11/20/13, during the operating hours of 6:00 a.m. to 9:00 p.m., to not exceed 65dB; during the non-operating hours of 9:00 p.m. to 6:00 a.m., the noise level will not exceed 50dB.

After discussing the dust issue, Corporation Counsel Hurst advised the committee about a motion for condition #2, dust abatement. Rather than go into detail about what kind of product or solution they should be using, the committee should state that adequate dust abatement must be provided immediately.

Motion by Peters/Moderow, unanimously carried on roll call (5-ayes, 0-nays), that Landmark Services Cooperative is in violation of #2 of the May 3, 2012 conditional use permit by not providing adequate dust abatement. The company must implement adequate abatement immediately.

The committee assured the neighbors that, if the company is found to not be in compliance, measures will be taken that may include fines and the revocation of the conditional use permit.

Motion by Peters/Reabe, unanimously carried on roll call (5-ayes, 0-nays), to set up a public hearing for the review of Landmark Services Cooperative's conditional use permit. This will be a public hearing item for the February 6, 2014 meeting. The applicant will be responsible for the \$375 fee and will need to apply on or before December 2, 2013.

FUTURE COMMITTEE ACTIVITIES

a. Meeting dates

December 5, 2013

Business Meeting 4:30 p.m.

Public Hearing 6:00 p.m.

ADJOURN

The committee adjourned at 6:57 p.m.

RECORDED BY

Carole DeCramer
Committee Secretary

APPROVED ON:

12/6/13