




Department of Planning & Community & Economic Development

Building Inspection Division

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DATE: February 9 2015

TO: Plan Commission

FROM: Matt Tucker, Zoning Administrator 

SUBJECT: Conditional Use Complaint, Pellitteri Recycling Facility, 4002 Kipp Street

On October 16 and 17, 2104, City staff received complaints from a citizen, Ms. Debra Glynn, regarding the approved Conditional Use at the subject property. Copies of the complaints are included with this letter (Attachment #1 and #2). The complaint alleges a violation of specific condition No. 45 from the September 21 2009 approval, which follows:

45. That trucks shall not travel on Voges Road or Marsh Road (south of Kipp Street). The applicant/operator shall utilize Kipp Street (north of development site), Marsh Road (north of Kipp Street), Agricultural Drive, and Femrite Drive as the truck route serving this facility. This condition does not preclude the applicant/operator for using these streets when serving properties on or accessed-only from these streets.

This condition is hereafter referred to as the *northern route* condition. This condition applies to vehicles that are the responsibility of the applicant or its subcontractors only.

Zoning Ordinance Continuing Jurisdiction Review Summary

The Plan Commission maintains continuing jurisdiction over approved Conditional Uses. Per Section Sec. 28.183(9)(c), of the Zoning Ordinance, upon written complaint from a citizen, the Plan Commission shall review the request and determine if a reasonable probability exists that the property is in violation of one or more of the conditions of approval. The complaint review and necessary finding that the Plan Commission must make follows:

The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.

A copy of Sec. 28.183(9)(c), *Conditional Use, Continuing Jurisdiction*, is attached (Attachment #3).

History and Background, Conditional Use Review and Building Permit Issuance

The Conditional Use request for the project was approved by the Plan Commission on September 21, 2009, with alterations approved May 17, 2011 and October 8, 2014. Upon completion of final site plan review for this Conditional Use, the facility was issued building permits in accordance with the *Conditional Use* and *Site Plan Review* approval.

The condition limiting traffic from Voges Road was put in place in an attempt to restrict trip generation of heavy truck traffic on Voges Road (a road with a mix of residential and employment uses), to direct heavy truck traffic north on the route Kipp-Marsh-Agriculture-Femrite-Dutch Mill. This condition applies to all owned and contracted truck traffic of the Pellitteri Company, both deliveries of unsorted recyclables by collections trucks and the shipping of sorted materials by semi-tractor and trailer rigs.

Complaint Review, Inspection Reports, and Additional Information

The complaints allege the operators are allowing truck traffic to use Voges Road when exiting the facility. These appear to be semi-tractor and trailer haulers, generally carrying sorted materials or empty trailers to the site. The complaints identify two dates, October 16 and 17, 2014, when vehicles were observed during daytime hours, using Voges Road for general access to Stoughton Road and associated highway network.

During a telephone conversation in late October 2014 with Ms. Glynn, she indicated that the haulers were using Voges Road, "once or twice a month, generally between the hours of midnight and 2AM." I suggested that it was virtually impossible for Staff to inspect for this condition, and if she sees any truck traffic she should contact Madison Police, so an incident report could possibly be documented. I am not aware of any MPD report related to this complaint.

Due to the infrequency of the alleged violation occurring and the late hours of such activity allegedly taking place, Staff is unable to determine with any certainty if the violation is occurring. Yes, any instance where truck traffic is not using the required route would be considered a violation, but it is simply not possible or reasonable to have Zoning Staff patrol the site at the hours when the violation is allegedly occurring, given the infrequency of occurrence alleged by the complainant.

Facility Manger David Pellitteri was also interviewed. He explained some operational characteristics of the facility relative to this issue:

- The facility averages about 100 truck trips per day, 50 entering with loads, 50 leaving empty,
- Semi-tractor and trailer trips average 14 per day (7 full loads leaving, 7 empty loads arriving),
- The facility gates are only open between the hours of 6:30am and 4:30pm. Trucks may only enter or exit the site between these hours.
- The incidents in October that generated the complaints were the result of a hauler having key access to the facility, which was immediately resolved by revoking key access to this hauling company per the attached letter. See Attachment #4.
- Since the Company became aware of three incidences haulers taking the incorrect route, they have taken steps to inform haulers of the route, including the attached route map. Attachment #5.

In anticipation of the Conditional Use alteration request that was approved on October 6, 2014, City Planner Kevin Firchow and I visited the site during the afternoon of October 1, 2014, to observe operations at the site. We were at the site for about 1.5 hours. We took noise readings from various points around the site, walked the perimeter for the site and observe vehicles entering, off-loading, and exiting the site. We did not observe any vehicle idling on Kipp Street or using Voges Road to access the facility. After the Plan Commission meeting of October 6, 2014, and in response to allegations made during the public hearing by the complainant, Staff contacted Streets Superintendent Chris Kelly, to remind him to have his operators only use the northern route for deliveries if possible, except for when collecting materials on Voges Road and the vicinity.

Zoning Inspector Jacob Moskowitz and Planner Kevin Firchow visited the site on October 24, 2014. Attached is a report of their observations (Attachment #6). In summary, one City trash collection vehicle was observed taking the Voges Road route towards the facility. No (apparent) Pellitteri or apparent subcontractor vehicle was observed using the Voges Road route. The report notes a number of minor noncompliance issues at that site that will need to be resolved, as a separate matter.

Findings and Recommendation

The condition requiring truck traffic access to/from the northern route is intended to reduce truck traffic on Voges Road. The trucks operated by the facility and its subcontractors can have their routes reasonably be managed to ensure the *northern route* is used, but it becomes more difficult when other users access the facility. The spirit of this condition appears to be met. Other vehicles that access the facility, and the routes they choose to take, are not necessarily the responsibility of Pellitteri or its subcontractors.

The relative infrequency of the alleged violation leads one to believe the instances are rare, and it appears as though Pellitteri is requiring its vehicle operators and subcontractor to comply with the *northern route* condition. If that were not the case, there should be many more complaints or staff would have observed vehicles using Voges Road, given the frequency of deliveries to and from the site. Staff can continue to respond to any complaints relative to violation, and approach Pellitteri when complaints are received. Pellitteri has offered to work with Staff to investigate any and all of these complaints in the future, to ensure a positive and cohesive relationship with the neighborhood in which this facility is located. Information such as GPS location information, scale reports, and delivery/shipping registries can assist in investigating future complaints.

In consideration of the information above, Staff is of the opinion that this property is operating in compliance with the standards and conditions of approval associated with this approved Conditional Use at this time, and recommends the Plan Commission find that the complaint does not reflect reasonable probability that the subject Conditional Use is operating in violation of the standards for Conditional Use or the conditions of approval for this Conditional Use.

Attachments

Attachment #1

Tucker, Matthew

From: Debra Glynn [debraglynn@gmail.com]
Sent: Thursday, October 16, 2014 3:18 PM
To: Tucker, Matthew
Subject: Mr Tucker,

Former complaint . Gordon King witnessed a semi this afternoon on Voges rd coming from Pelliterris. Company is called Stallmans trucking out of ILL. had a C container . This happened today around half hour ago.

Gordon H King
4005 Marsh rd
Madison Wisc
53718
608 235 2685

Conditional use complaint, continuing jurisdiction.

Mr Tucker

Attachment # 2

Tucker, Matthew

From: Debra Glynn [debraglynn@gmail.com]
Sent: Friday, October 17, 2014 10:55 AM
To: Firchow, Kevin; Tucker, Matthew
Subject: Formal complaint ← additional complaint

This morning at 10 :15 Gordon H King witnessed a Semi ,Westside Transport coming down Voges Rd going to Pelliterris waste transfer station, This is the second one in two days . David Pelliterri was to confront this issue with all transport company's .

Gordon H King
4005 Marsh rd
Madison Wi
53718
608 235 2685

Attachment #3

City of Madison Zoning Ordinance
Conditional Use, Continuing Jurisdiction

Sec. 28.183(9)(d), Conditional Uses, Scope of Approval, Continuing Jurisdiction

(d) Continuing Jurisdiction.

1. The Plan Commission retains continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. This authority is in addition to the Zoning Administrator's authority under Sec. 28.202.
2. Any citizen, the Zoning Administrator, or other official may file a written complaint with the Plan Commission that one or more conditions of a conditional use permit have not been completed, or are being violated.
3. The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.
4. The Plan Commission may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the Plan Commission, modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards in Subsection (6), above, the Plan Commission may revoke the conditional use permit and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use.
5. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by Subsection (5)(b), above.

Effective August 30, 1979

Attachment #4

Hilst Transportation
3565 CTH H
Ridgeway, WI 53582

October 6, 2014

Attn: William Hilst

It has been brought to our attention that a Hilst Transportation vehicle operated outside the hours of operation at Pellitteri Waste Systems Kipp Street location on September 28th 2014.

When awarded the contract to haul waste and specific recycling out of our facility you were notified of the restrictions PWS has to operate in this location. On September 24th 2013 we gave you notice in writing of the operating rules for this location and the consequences that may occur if there is a breach.

Since your actions are detrimental to our operating permit and relationship with our neighbors our permission to allow you to have a gate key and access our facility after the gate is closed, but still within the operating hours, will be revoked. Please turn in all PWS gate keys in your company's possession.

Thank you for your prompt attention to this matter.

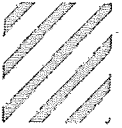
David Pellitteri
Vice President
Pellitteri Waste Systems

Attachment #5



7035 RAYWOOD ROAD
P.O. BOX 259426
MADISON, WI 53725
P: 608.257.4285 | F: 608.257.1179

PELLITTERI.COM



Attention: Suppliers & Vendors – Truck Route Restrictions

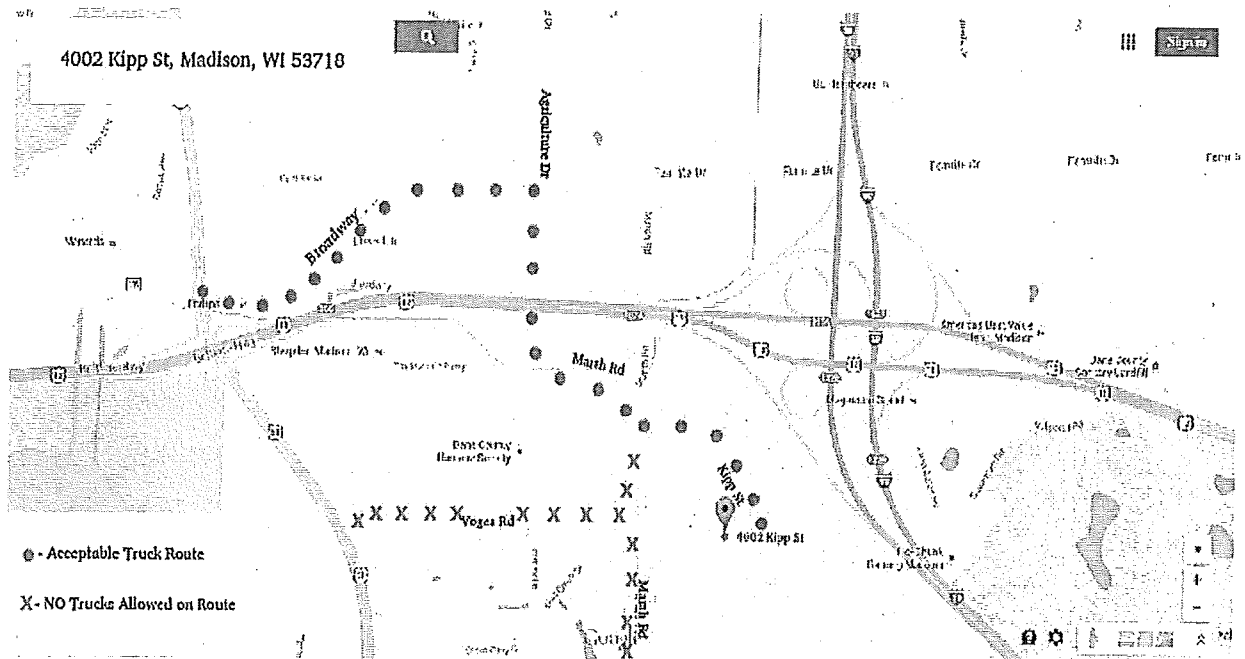
No truck coming or going to Kipp Street Station shall use Voges Rd per the City of Madison ordinance. Trucks using this route will be turned away at the scale.

X X X X - Unacceptable truck routes shown on map below.

Acceptable Truck Route:

From US-Hwy 51 N → turn right onto Broadway → turn right onto Agriculture Dr. → Turn left onto Kipp St.

•••• - Acceptable truck route shown on map below.



Any permit # 6

Tucker, Matthew

From: Moskowitz, Jacob
Sent: Monday, October 27, 2014 1:59 PM
To: Tucker, Matthew
Cc: Firchow, Kevin
Subject: 4002 Kipp St
Attachments: Kipp 4002 10-24-14.pdf; 4002 Kipp Annotated Landscape Plan.pdf

Hi Matt,

On Friday 10/24/14, Kevin Firchow and I inspected the property at 4002 Kipp Street. The following is a summary of our observations, which are also shown on the attached landscape plan:

- There was an area of the site that we could not see from the exterior because of the grade change. We were not able to see the site elements in the parking lot.
- It was difficult to tell the health of the deciduous landscaping due to the lateness of the season, but the vast majority of deciduous trees appeared to be healthy and installed correctly. The deciduous plants that we could see were dead or not installed were the 11 bittersweet vine plants that were supposed to climb the chain-link fence surrounding the storage area and one of the swamp white oaks at the eastern edge of the property. The vines were present, but dead, while the oak was not present.
- There were several evergreen plants that were dead or not installed. There were 4 dead arbor vitae behind the building, in the southwest corner of the property. There were also 3 eastern white pines and 1 Austrian pine missing from the area between the retention pond and the parking area on the eastern side of the property.
- There were two unauthorized trailers on the property. One appeared to be a job site trailer that they used for hiring and the other was a "trailer used for over-the-road hauling" in the storage area, which is prohibited in any district by the Zoning Code.
- We did not observe any trucks idling in the public right-of-way. We did observe 3 Conway Freight semi-trailers, one with a cab, parked in the public right-of-way on Kipp Court. We doubt this had anything to do with the operations at Pelliterri, however.
- After inspecting the landscaping on the site, we sat in the truck for about 15 minutes on Voges Road to see if any garbage or recycling trucks were taking that route instead of the one required by the Plan Commission. We counted 14 total trucks, but only one city recycling truck, which drove past us in both directions while we were sitting there. The truck's number was 4424. From where we were sitting, we were able to see some other city trucks exiting Pelliterri and taking the required route.
- Overall, the site was relatively close to compliance. There were a few dead or missing landscape elements, which is not unusual for a site this large. Additionally, the trailers will need to be removed.

Jacob Moskowitz
Zoning Code Officer

608-266-4560
jmoskowitz@cityofmadison.com

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Building Inspection Unit