



WILDWOOD

March 19, 2019

The Honorable City Council
City of Wildwood, Missouri
16860 Main Street
Wildwood, Missouri 63040

Re: **Work Plan for Review of Previous Changes to the Zoning Ordinance and Noise Code for Constant Emitters of Noise (Wards – All)**

Council Members:

Background >>>

In 2012, a property owner received permission from the Department of Public Works, via a Grading Permit, to install a lake on his property, which is located on Wild Horse Creek Road, north of State Route 100. The application that was filed for the development of this lake did not mention any use, other than for future aesthetics in association with the construction of a new dwelling on the property. The concept was to develop the lake, have it established, and then construct the dwelling at the best location to take advantage of the views of it. Shortly thereafter, the property owner began installing improvements to launch an aquaculture operation at this location, minus any improvements relative to a new dwelling or any storage buildings for the materials and equipment for the aquaculture operation.

With the installation of these improvements, the matter relating to the noise began almost immediately. The noise was created by the aerators that were installed to address the number of fish in the water on a per pen basis. The aerators must operate on a twenty-four (24) hours per day, seven (7) days per week basis, fifty-two (52) weeks each year. This constant emittance of sound led a group of neighbors to contact the City about it and the loss of their quiet environment by this operation. These contacts have continued for the past six (6) years.

The City, in response to these complaints, initiated two (2) different sound studies to determine if the operation of the aquaculture facility was in violation of existing requirements relating to its adopted Noise Code. These sound studies determined the facility was operating within its perimeters and was not in violation of the Noise Code. This outcome led to on-going discussions with all parties on how best to address the concerns of the neighbors, while allowing the property owner and operator of the aquaculture operation to continue with it and have a successful farm operation under the City's allowable land use codes.

Many ideas were offered during this period of time, including the installation of berms, fences, and landscaping or their combination to address the constant emittance of sound. Additionally, consideration was given to creating a system of muffler boxes and placing them over the aerators to address the sound at its collective sources. Concerns were expressed with this approach by the operator, given the heat created by the aerators in their operation and how placing them inside enclosures could damage the equipment due to heat build-up. The operator did contact, and received from the manufacturer of the aerators, a new type

of muffler, which was installed on all of the units and reduced the decibel level by three (3), according to the operator. Since that time, no other steps have been initiated or completed by the operator relative to the on-going sound of the operation.

Thereafter, the City began exploring legislative changes to address this situation, given no progress had been made in addressing the sound of this operation on the residential properties that are in the vicinity of it. These legislative actions were intended to set into place protections relative to any future aquaculture operation, while also ensuring the current situation could not be replicated elsewhere in Wildwood in terms of another constant emitter of sound, without appropriate protections being in place at the time of its start and on-going operation. With this legislative approach, and support of the Planning and Zoning Commission, and action by the City Council, aquaculture uses were to be more regulated, while the current operation would become grandfathered, until such time a change in its operation or the property occurred. The specifics of these changes are provided at the end of this Memorandum.

The Planning and Parks Committee was asked by the operator of this facility to consider changes to the recently passed legislation, given his opinion about its unfairness and that, now, he could not construct a single family dwelling on the property without triggering the loss of grandfathering of the aquaculture operation and the need for it to obtain a Conditional Use Permit (CUP). In 2018, the members of the Planning and Parks Committee held a very detailed discussion about the legislative changes that had been made to the Zoning Ordinance and Noise Code in 2017 to address aquaculture operations and constant emitters of sound in the City of Wildwood. However, the Committee did not recommend any changes at that time.

Thereafter, when the Planning and Parks Committee's recommendation was presented to the City Council for receipt and filing, some of the members of it thought the underlying premise of these changes to the City's land use regulations and Noise Code were suspect given they were only applicable to one (1) operation and property owner, thereby needing another review, despite the recent conclusion of the property owner initiated discussion during 2018. The City Council concurred and referred the matter back to Committee at the end of 2018 for further review, discussion, and tangible actions relative to the noise and related neighbors' concerns.

Current Status >>>

As mentioned, the Planning and Parks Committee again was asked to review this matter and determine if any solutions might exist that have not been identified in the past. This request came from City Council, after it had received a report from the Committee on this same matter at the end of 2018. This referral came with the direction noted above.

The Planning and Parks Committee, at its February 2019 meeting, discussed this matter in great detail and reached a conclusion that, despite the new legislation and its attempts to address the sound issues and the neighbors' concerns, nothing had changed, and the problems and issues remained. This situation has frustrated all involved. The members concluded that a Work Plan needed to be developed by the City that would identify possible solutions that are available and then explore each of them for effectiveness and the costs associated with the same.