

Community Compliance Subcommittee Meeting Minutes

July 18, 2022

Present: Doug Loots, Council Member
Greg Hudson, Council Member
Bret Hodne, Public Service Director
Joe Cory, Public Services Deputy Director
Jessica Grove, Assistant City Attorney
Rod VanGenderen, Chief Building Official, Development Services

The meeting was called to order at 4:32 PM. Councilman Doug Loots facilitated the meeting.

1. Review and approval of Minutes from April 18, 2022

Approval of minutes – Moved by Councilman Loots, seconded by Councilman Hudson.

2. Walnut Creek Bible Camp Updates – 2251 Fuller Rd

Councilman Loots brought up concerns about several compliance issues at this property. There is a pile of tires that is visible from Grand Avenue, several buildings are not secure with windows broken out, and there have been several police reports of drug use, homelessness, and vandalism on the property. There is an active compliance case open on the property for the tires with a due date of July 19, 2022, to have them cleaned up. There was discussion on conversations Councilman Loots had with the CFO of the pastors for the property. Some of the buildings are on Historical Society property as well.

Chief Building Official Rod VanGenderen drove through the property and confirmed that none of the buildings are secure, and therefore are considered an unsafe place.

Direction: Staff will identify which buildings are considered not secure so that notification of the issues can be provided to each correct property owner. A Community Compliance Specialist will review the property on July 19, 2022, to determine if the pile of tires has been properly disposed of.

July 20, 2022, Update: Staff has confirmed that the tire pile has been disposed of.

3. 3524 Stonebridge Rd Update

Public Services Deputy Director provided an update on this property that has been out of compliance on several different issues for a long time. All the compliance issues, except the siding of the house, have been brought into compliance. Development Services is communicating with the property owner on siding and roofing options.

Direction: Information only.

4. Burch Auto Update – 1021 Railroad Ave

Assistant City Attorney Jessica Grove provided a copy of a letter that was sent to the property owner (Attachment A), Joe Burch, of 1021 Railroad Avenue. Mr. Burch has a trailer for tire storage ready to go, he is just waiting for an Agreement from Legal to be finalized first. Jessica reported that the neighbors are appreciative of the steps he has taken to clean up the property and bring it into compliance.

Direction: Information only.

5. Other Matters

A. Public Service Deputy Director Cory reported that in the month of June there were 111 dead trees identified, with the majority being ash trees. Properties with those dead trees were given notice to remove them. Public Services Director Bret Hodne mentioned that there have been numerous educational articles and information shared over the last several years in City communications informing residents about the Emerald Ash Borer infestation and steps that are required to be taken on private property.

Direction: Information Only.

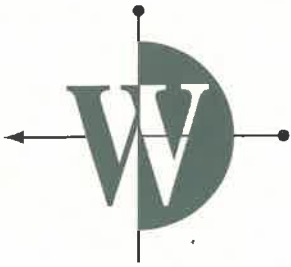
B. Assistance City Attorney Grove mentioned that with the dissolution of WestPet, Animal Control Officers are now Neighborhood Services Specialists, reporting to Bret Hodne, Director, under Public Services. Public Services Director Hodne stated that a new job description was created in order to allow these employees to assist with the vegetation management portion of Community Compliance.

Staff will be working directly with Furry Friends for the next year, under an approved 28E Agreement.

Direction: Information Only.

6. Citizen's Forum – None.

The meeting adjourned at 5:08 PM. Respectfully submitted by Kim Pinegar, Administrative Secretary.



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ATTACHMENT A

Office of the City Attorney
Phone: (515) 222-3613
Email: richard.scieszinski@wdm.iowa.gov

July 12, 2022

VIA REGULAR AND ELECTRONIC MAIL

Burch Auto
Attn: Joe Burch
1021 Railroad Avenue
West Des Moines, IA 50265

Re: Property at 1021 Railroad Avenue;
Legally described as Lot 9, Block 35, VALLEY JUNCTION
Addendum to correspondence of March 31, 2022

Dear Mr. Burch,

This correspondence is an addendum to the correspondence from this office to you dated March 31, 2022 regarding use of the property at 1021 Railroad Avenue, currently being operated as Burch Auto Repair. A copy of the March 31 correspondence is enclosed and incorporated into this addendum. Its purpose is to memorialize the terms and conditions as agreed by the City of West Des Moines and Burch Auto Repair in addressing the issues raised in the March 31 correspondence. With your signature at the conclusion of this correspondence, the parties agree that the provisions contained in the correspondence of March 31 and the provisions contained in this addendum pertain to the use of the property and the operation of Burch Auto Repair.

Use as General Automotive Repair:

Use of the property may continue as General Automotive Repair as defined by City Code, the correspondence of March 31, 2022, and the following additional conditions:

Use for Outdoor Storage:

- As agreed at the mediation between Joe Burch, Rochelle Long and adjacent neighbors conducted by Polk County on or about March 21, 2022, all items currently located on the west side of the property will be moved to the east side of the property. This includes, but is not limited to, the dumpster, two waste oil tanks, waste oil drums, ladders, scrap metal and any vehicles stored for business use (such as the plow truck).
- Parking of vehicles, but not storage of vehicles, will be allowed on the west side of the property. All parked vehicles, other than those vehicles used in the

operation of the business, must be vehicles awaiting repair, repair authorization, parts or pickup.

- The storage of junk or inoperable vehicles is prohibited anywhere on the property. The parking of inoperable vehicles awaiting repair will be allowed so long as the repair is completed within a reasonable timeframe or a showing of delay in obtaining necessary parts for the repair can be made.
- While it may be necessary to temporarily park such vehicle(s) on the property, Burch Auto Repair will give priority to repairing or removing vehicle(s) in a timely manner. Storage of tires will be allowed in the manner described below.

Fencing/Trailer/Tires:

- All outdoor storage will be located on the east side of the building, including the enclosed trailer, dumpster, waste oil tanks, waste oil drums, ladders, scrap metal, and any vehicle(s) which are related to use of the business (i.e., plow truck).
- All tires will be stored in the steel trailer not to exceed 6' x 12' in size. The trailer will be entirely enclosed and parked a reasonable distance, as determined by the West Des Moines Fire Marshal, from the building. The trailer must be in good condition and remain locked when not in use. A fire extinguisher shall be located in or in close proximity to the trailer. A sign shall be located on all sides of the trailer clearly indicating "No Smoking".
- All outdoor storage, including the dumpster, will be screened by a code-compliant privacy fence or other code-compliant screening. The specific location and dimension of the fence/screening to be located on the east side of the building shall be approved by the Development Services Department as part of a Minor Modification Application. Any increase in the fenced/screened area will be done in compliance with existing City code.
- The specific location of the dumpster, which shall be determined by Burch Auto Repair, may be near the alley lying adjacent to the east side of the property, but shall comply with all City code regulations.
- The fence or screening material shall be opaque in nature and consist of materials as allowed in the fence ordinance (WDM City Code Title 9, Chapter 14). Any materials that will be subjected to the emptying of the trash dumpster shall be of sufficient structural capacity and durability to withstand those activities.

Miscellaneous:

- The West Des Moines Fire Marshal inspected the oil/fuel tanks in April, 2022. At the time of inspection each tank was found to be in compliance with all code regulations.
- Review of the hazard waste disposal plans for the property was conducted by the Iowa Department of Natural Resources in April, 2022. No current or future action is required (see attached).
- As determined by and at the sole discretion of Burch Auto Repair, security and fire safety issues may be minimized through the use of a security and fire safety alert system.

Please contact this office at (515) 222-3523 if you have questions or if you would like to discuss this matter in greater detail.

Sincerely,

Richard J. Scieszinski

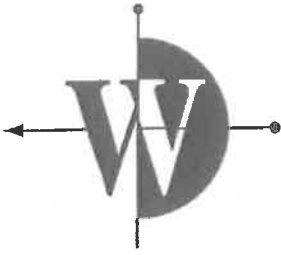
Jessica D. Spoden

Richard J. Scieszinski
City Attorney

Jessica D. Spoden
Assistant City Attorney

Enc.

cc: Kevin Trevillyan, 1st Ward Councilmember
Mike Whitsell, WDM Fire Marshall
Adam Coyle, WDM Community Compliance Officer



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March 31, 2022

VIA REGULAR AND ELECTRONIC MAIL

Burch Auto
Attn: Joe Burch
1021 Railroad Avenue
West Des Moines, IA 50265

Re: Property at 1021 Railroad Avenue;
Legally described as Lot 9, Block 35, VALLEY JUNCTION

Dear Mr. Burch,

This correspondence is a follow up to the meetings that have been held between you and City representatives regarding the use of the property at 1021 Railroad Avenue, currently being operated as Burch Auto Repair. The property is currently zoned SF-VJ, *Single Family Residential Valley Junction*. Although it is currently being used for general automotive repair, this is not a permitted use in this zoning district. However, because the previous zoning was M-1, *Industrial*, in which this use was permitted, the property is designated as legal nonconforming. As a nonconforming property the uses for which it can be currently used are those uses that were previously permitted under Industrial zoning and which have not subsequently been discontinued for one year or more.

As you may know, it was the intent of the City of West Des Moines to purchase this property at the time the zoning changed from Industrial to Single Family Residential. However, because the purchase did not occur, use of the property as an automotive repair business continued as a nonconforming use. Unfortunately, at the time of the zoning change the specific activities occurring on the property were not documented, and since that time other uses such as towing have been abandoned. In its current state, the property is a permitted legal nonconforming general automotive repair business and can maintain that status as long as the use is not discontinued for a period of one year or more. Therefore, based on the property's status, the following conditions apply to the property today:

Use as General Automotive Repair:

Operation as a general automotive repair business continues to be a legal nonconforming use and the property may continue to operate as such. As defined by code, general automotive repair limits all repairs to automotive and truck (except industrial trucks) engine and motor repair, with all work to be conducted

and completed within the enclosed structure. Operation as a general automotive repair business specifically excludes the following:

- No auto/truck body work or repair, including painting of vehicles is allowed. No painting of engine blocks and related parts is allowed either inside or outside unless approved by the appropriate state and/or local agency and done within the proper paint enclosure.
- The property cannot be used as a towing business. Although permitted in an Industrial zoning district, this use is not allowed as part of general automotive repair. This use, therefore, lost its legal nonconforming status when it was abandoned for a period of one year. However, towing vehicles to the property as an ancillary use of general automotive repair is allowed.

Use for Outdoor Storage:

- No outside long-term automobile and truck storage is allowed, and automobile and truck parking shall be limited to those vehicles awaiting repair and pickup. Vehicles used for the operation of the business may be stored outside on the property.
- The zoning code in effect at the time of the zoning change permitted outdoor storage with proper screening. Therefore, outdoor storage of materials will be allowed on the property as long as the materials are properly screened from public view, and as long as storage of the materials meet all other city regulations (i.e., fire code). The items currently stored on the property are not in compliance with either the zoning provisions in effect at the time of the zoning change or the current zoning regulations. To bring the property into compliance, the items stored outside should be removed or a fence should be installed to properly screen the items.

Fencing:

- The following current regulations apply to fences installed on the property:
 - West side: Maximum 4' high fence along the property line adjacent to 11th Street as this is considered a front yard, with a maximum 6' high fence allowed if the fence is setback at least 15' from the property line. The zoning regulations in effect at the time of the zoning change indicate the maximum height of any fence on the west side of the building would have been 4 feet, with no allowance for a fence six feet in height. Therefore, the current fence regulations allow a taller fence to be installed on the west side if the proper setback is met.
 - East side: Maximum 6' high fence with no setback requirement. The fence would need to be installed in a manner that does not impede the view of traffic using the alley.

Tires:

- The International Fire Code ("IFC") regulates the outdoor storage of tires based on safety concerns. The following conditions apply to tire storage under IFC Section 3405 (a copy of which is included for reference):
 - Individual tire piles shall not exceed 5,000 sq feet of continuous area.
 - Individual tire piles shall not exceed 10' in height.
 - Individual tire piles must be separated from other piles by a clear space of not less than 40 feet.
 - Tire storage piles shall be separated by a clear space of not less than 40 feet from piles of other stored materials.
 - Tire storage piles shall be located not less than 50 feet from any lot line and any building.

- To continue to store tires outside your building, you will need to provide the City with a diagram showing the location of the tire storage piles meeting the IFC regulations. The IFC regulations are based on fire safety concerns and are unrelated to the status as a nonconforming use. If the tire storage piles cannot meet the necessary distance requirements the tires must be removed from the property.

Oil/Fuel Tanks:

- Due to the potential safety issues created by the oil/fuel tanks currently located on the west side of the building, an inspection by the Fire Marshal will be necessary. As this is a fire safety issue, it is unrelated to the property's status as a nonconforming use. Based upon the requirements of the Fire Code, the inspection will determine if the tanks are properly placed. The Fire Marshal will be contacting you in order to conduct this inspection.

Miscellaneous:

- As a legal nonconforming use, use of the property as general automotive repair may not be expanded nor can the structure be rebuilt if damage to the structure is greater than 50% of its assessed value.

- Storage of junk vehicles or the accumulation of junk and debris is not allowed on the property as it would be considered a nuisance under City Code Section 4-4-2. An inoperable vehicle awaiting repair will not be considered an inoperable vehicle as long as it is moved inside for repair within a reasonable period of time.

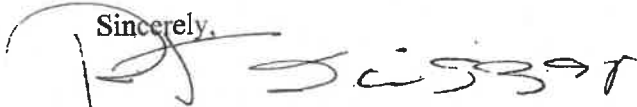
Use of the property as an automotive repair business may continue as a legal nonconforming use. However, you may not store items outside without

proper screening, including but not limited to auto parts, paint, etc. The property currently has items stored outside on the west side of the building in violation of City Code. In addition, all existing tires stored on the property must be removed or a diagram submitted showing compliance with the IFC storage regulations. The City is willing to work with you to address these issues. However, unless other arrangements between you and the City are made, all items currently stored outside must be removed or properly screened by June 1, 2022.

Failure to correct this violation may result in legal action resulting in a civil penalty of up to \$750.00 per violation per day. The City may also seek the authority to abate the violation by removing the items stored outside. Any costs of abatement or legal action may be assessed against you as a judgment and against the property in the same manner as property taxes.

Please contact this office at (515) 222-3523 if you have questions or if you would like to discuss this matter in greater detail.

Sincerely,



Richard J. Scieszinski
City Attorney

cc: Kevin Treillyan, 1st Ward Councilmember
Stephen Miller, 1125 28th Street, West Des Moines, IA 50266
Mike Whitsell, WDM Fire Marshall
Adam Coyle, WDM Community Compliance Officer

CHAPTER 34

TIRE REBUILDING AND TIRE STORAGE

User note:

About this chapter: Chapter 34 provides requirements that are intended to prevent or control fires and explosions associated with the remanufacture and storage of tires and tire by-products. Additionally, the requirements are intended to minimize the impact of indoor and outdoor tire storage fires by regulating pile volume and location, segregating the various operations, providing for fire department access and a water supply, and controlling ignition sources.

SECTION 3401 GENERAL

3401.1 Scope. Tire rebuilding plants, tire storage and tire byproduct facilities shall comply with this chapter, other applicable requirements of this code and NFPA 13. Tire storage in buildings shall also comply with Chapter 32.

3401.2 Permit required. Permits shall be required as set forth in Section 105.6.

SECTION 3402 DEFINITIONS

3402.1 Terms defined in Chapter 2. Words and terms used in this chapter and defined in Chapter 2 shall have the meanings ascribed to them as defined therein.

SECTION 3403 TIRE REBUILDING

3403.1 Construction. Tire rebuilding plants shall comply with the requirements of the *International Building Code*, as to construction, separation from other buildings or other portions of the same building, and protection.

3403.2 Location. Buffing operations shall be located in a room separated from the remainder of the building housing the tire rebuilding or tire recapping operations by a 1-hour fire barrier.

Exception: Buffing operations are not required to be separated where all of the following conditions are met:

1. Buffing operations are equipped with an *approved* continuous automatic water-spray system directed at the point of cutting action.
2. Buffing machines are connected to particle-collecting systems providing a minimum air movement of 1,500 cubic feet per minute (cfm) (0.71 m³/s) in volume and 4,500 feet per minute (fpm) (23 m/s) in-line velocity.
3. The collecting system shall discharge the rubber particles to an *approved* outdoor noncombustible or fire-resistant container that is emptied at frequent intervals to prevent overflow.

3403.3 Cleaning. The buffing area shall be cleaned at frequent intervals to prevent the accumulation of rubber particles.

3403.4 Spray rooms and booths. Each *spray room* or *spray booth* where flammable or combustible solvents are applied, shall comply with Chapter 24.

SECTION 3404 PRECAUTIONS AGAINST FIRE

3404.1 Open burning. *Open burning* is prohibited in tire storage yards.

3404.2 Sources of heat. Cutting, welding or heating devices shall not be operated in tire storage yards.

3404.3 Smoking prohibited. Smoking is prohibited in tire storage yards, except in designated areas.

3404.4 Power lines. Tire storage piles shall not be located beneath electrical power lines having a voltage in excess of 750 volts or that supply power to fire emergency systems.

3404.5 Fire safety plan. The *owner* or individual in charge of the tire storage yard shall be required to prepare and submit to the *fire code official* a fire safety plan for review and approval. The fire safety plan shall include provisions for fire department vehicle access. Not less than one copy of the fire safety plan shall be prominently posted and maintained at the storage yard.

3404.6 Telephone number. The telephone number of the fire department and location of the nearest telephone shall be posted conspicuously in attended locations.

SECTION 3405 OUTDOOR STORAGE

3405.1 Individual piles. Tire storage shall be restricted to individual piles not exceeding 5,000 square feet (464.5 m²) of continuous area. Piles shall not exceed 50,000 cubic feet (1416 m³) in volume or 10 feet (3048 mm) in height.

3405.2 Separation of piles. Individual tire storage piles shall be separated from other piles by a clear space of not less than 40 feet (12192 mm).

3405.3 Distance between piles of other stored products. Tire storage piles shall be separated by a clear space of not

TIRE REBUILDING AND TIRE STORAGE

less than 40 feet (12 192 mm) from piles of other stored product.

3405.4 Distance from lot lines and buildings. Tire storage piles shall be located not less than 50 feet (15 240 mm) from lot lines and buildings.

3405.5 Fire breaks. Storage yards shall be maintained free from combustible ground vegetation for a distance of 40 feet (12 192 mm) from the stored material to grass and weeds; and for a distance of 100 feet (30 480 mm) from the stored product to brush and forested areas.

3405.6 Volume more than 150,000 cubic feet. Where the bulk volume of stored product is more than 150,000 cubic feet (4248 m³), storage arrangement shall be in accordance with the following:

1. Individual storage piles shall comply with size and separation requirements in Sections 3405.1 through 3405.5.
2. Adjacent storage piles shall be considered to be a group, and the aggregate volume of storage piles in a group shall not exceed 150,000 cubic feet (4248 m³).

Separation between groups shall be not less than 75 feet (22 860 mm) wide.

3405.7 Location of storage. Outdoor waste tire storage shall not be located under bridges, elevated trestles, elevated roadways or elevated railroads.

SECTION 3406 FIRE DEPARTMENT ACCESS

3406.1 Required access. New tire storage yards shall be provided with fire apparatus access roads in accordance with Section 503 and Section 3406.2. Existing tire storage yards shall be provided with fire apparatus access roads where required in Chapter 11.

3406.2 Location. Fire apparatus access roads shall be located within all pile clearances identified in Section 3405.4 and within all fire breaks required in Section 3405.5. Access roadways shall be within 150 feet (45 720 mm) of any point in the storage yard where storage piles are located, not less than 20 feet (6096 mm) from any storage pile.

SECTION 3407 FENCING

3407.1 Where required. Where the bulk volume of stored material is more than 20,000 cubic feet (566 m³), a firmly anchored fence or other approved method of security that controls unauthorized access to the storage yard shall surround the storage yard.

3407.2 Construction. The fence shall be constructed of approved materials and shall be not less than 6 feet (1829 mm) high and provided with gates not less than 20 feet (6096 mm) wide.

3407.3 Locking. Gates to the storage yard shall be locked when the storage yard is not staffed.

3407.4 Unobstructed. Gateways shall be kept clear of obstructions and be fully openable at all times.

SECTION 3408 FIRE PROTECTION

3408.1 Water supply. A public or private fire protection water supply shall be provided in accordance with Section 508. The water supply shall be arranged such that any part of the storage yard can be reached by using not more than 500 feet (152 m) of hose.

3408.2 Fire extinguishers. Buildings or structures shall be provided with portable fire extinguishers in accordance with Section 906. Fuel-fired vehicles operating in the storage yard shall be equipped with a minimum 2-A:20-B:C-rated portable fire extinguisher.

SECTION 3409 INDOOR STORAGE ARRANGEMENT

3409.1 Pile dimensions. Where tires are stored on-tread, the dimension of the pile in the direction of the wheel hole shall be not more than 50 feet (15 240 mm). Tires stored adjacent to or along one wall shall not extend more than 25 feet (7620 mm) from that wall. Other piles shall be not more than 50 feet (15 240 mm) in width.