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October 9, 2023

Honorable Marcia Moermond
Legislative Hearing Officer
City of St. Paul
15 West Kellogg Blvd
Suite 310 City Hall
St. Paul, MN 55102-1615

RE: Ref. # 30086, 236 Grand Avenue; Correction Notice dated 09/12/2023

Dear Honorable Ms. Moermond,

I am writing in support of the appeal filed September 22 relating to the above-referenced Correction Notice (the "Notice"), attached as Exhibit A, to request that the Corrective Order relating to the conveyor belt system (the "Conveyer Belt") referenced under Item No. 1 of the Correction Notice be overturned. This inspection arose from a complaint that had nothing to do with the conveyor belt.

The conveyor belt, a trade fixture affixed to the building, is a legal nonconforming use/structure allowed under Nonconforming Use Permit No. ZF 13-207-336, and further, because it currently poses a low risk to life safety but if removed, would create a significant risk of employee injury due to their having to carry boxes in excess of 50 pounds up twenty-two steps to the 2nd floor storage area.

The remaining items in No. 1 and 2-5 have been resolved as shown in the attached photos to be presented at the hearing. Also attached is the material Safety Data Sheet for the windshield washer fluid that was requested in Item No. 4.

Background: legal nonconforming use status. This parcel, operating as a Mobil gas station, convenience store, service station and car wash since being built in 1971, together with the adjoining parcel improved as a former Burger King, were rezoned in 2012 from a B3 General Business district to a T1 District. Shortly thereafter, the owner of the Mobil station went into bankruptcy. Due to the length of the proceedings, the parcel lost its legal nonconforming status.

Minn. Stat. § 462.357 subd. 1e deals with Nonconformities whereby a nonconforming use or structure may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless 1) the nonconformity or occupancy is discontinued for a period of more than one year; or 2) is destroyed by fire or other peril to an extent greater than 50% of its estimated market value.

The City of St. Paul also recognizes and allows for the continuance of nonconforming structures and uses as found in Chapter 62 of Title VIII – Zoning Code. Specifically, Section 62.109 provides for the planning commission to approve nonconforming use permits, which as stated above, granted the Owner a nonconforming use permit to continue this current use on August 9, 2013 under Zoning File No. 13-207-336. See attached Exhibit B.

Code Compliance Inspection. In addition to losing its legal nonconforming status as a result of the former owner's bankruptcy, the building was ultimately registered as a Category II Vacant Building in 2012. In order for the current Owner to purchase the property in 2013, City Ordinances relating to the sale of Vacant Buildings required that Seller or Buyer must 1) register the property, 2) Pay outstanding fees, 3) Obtain a code compliance report, 4) submit a cost estimate for completing code compliance and schedule for completion of all code compliance work in order to resolve all code compliance issues and remove the building from the registry.

The owner also participated in a Team Code Compliance Inspection on June 27, 2013 which included a general, building, and fire safety inspection in order to obtain a Certificate of Occupancy and Fire Certificate of Occupancy. Attached is the report of the results of the Code Compliance Team Inspection as Exhibit C. A Certificate of Code Compliance dated September 9, 2013 was mailed to the Owner certifying that all deficiencies found during the team inspection were corrected, see attached Exhibit D.

Code Section cited in the Notice: MSFC 1031.3 relating to "Obstructions":

"A means of egress shall be free from obstructions that would prevent its use, including the accumulation of snow and ice. Means of egress shall remain free of any material or matter where its presence would obstruct or render the means of egress hazardous. No combustible storage is allowed in corridors or exit stairs."

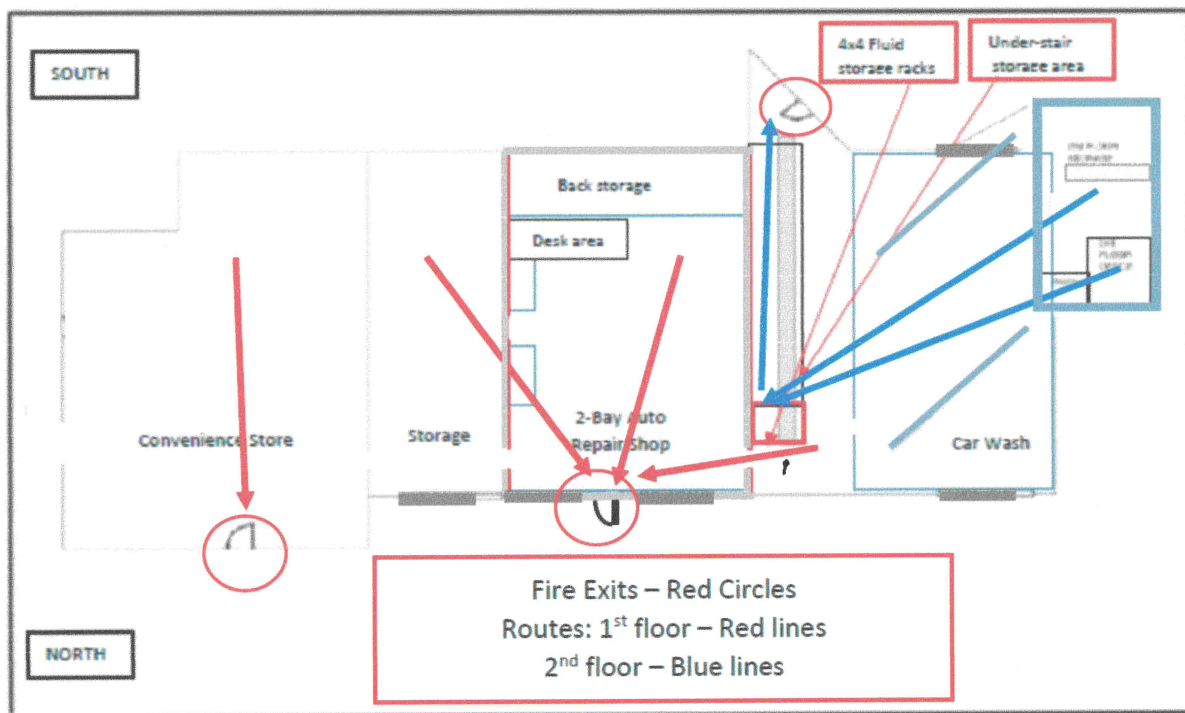
Past inspection reports have called out materials that were stored in the corridor and around the bottom of the Conveyor Belt to be removed, but they did not call out the Conveyor Belt itself.

This conveyor belt has been in use for the past 30-40 years. Since the current use was reinstated in 2013, ongoing inspections relating to their certificate of occupancy have been required and performed on an ongoing basis every two to three years. Of these, none of them have ever described the Conveyor Belt as an "obstruction" or called for the removal of the Conveyor Belt.

Life Safety Risk. The building has low risk to life safety. In addition to the three exit doors (two in front and 1 in back), there are four overhead garage doors that could be used for access. There is generally no more than 3-4 employees in the building during business hours, and only 1-2 after the repair shop closes. The upstairs "office area" is only used for record storage by the Owner. The door to the Office has a deadbolt lock and is kept locked. There is not nor has there ever been anyone sleeping or living in that area.



SKETCH OF BUILDING LAYOUT / FLOORPLAN



Facts relating to the Building:

- Purchased by Mobil Oil and the building was constructed in 1971.
- Gross building area: 4,098 SF
- Foundation: concrete slab/footings.
- Frame: Concrete block with exterior brick/masonry
- Floor: poured concrete
- Floor cover: ceramic tile; concrete
- Roof: Steel with rubber membrane and rock cover
- Ceiling: C-store – acoustical ceiling tile
 - Auto-service – open metal trusses
 - Car wash – open metal trusses
 - Storeroom/Office – sheetrock

Current use of conveyor belt. The conveyor belt is used on a regular basis every week to manage deliveries in and out of the 2nd floor storage area. As pointed out in the Notice, there is no storage allowed under the stairs or in the hallway so all storage must occur in the 2nd floor storage room.

Life/Safety risks associated with the removal of the Conveyor Belt. These risks would include an increased risk of employees falling on the stairs while carrying boxes of more than fifty pounds up twenty-two stairs. During the winter, this risk is increased due to snow and moisture getting onto the stairs during the delivery. In addition, there is an increased risk of crime occurring during the delivery if staff has to leave the door unattended to carry boxes upstairs.

Summary. In conclusion, this Conveyor Belt has been in use for the past 30-40 years and has never been cited for removal until a non-related complaint triggered the inspection to which the Notice applies.

The Owner respectfully requests that the order for the Conveyor Belt to be removed as stated in the Notice be vacated and the Owner instead allowed to continue its use under its current nonconforming use permit.

Very truly yours,

/s/ Lisa McCormick

Lisa McCormick
Attorney for Owner

Enc./Attachments