



To: Mayor Massingill and the City Council

From: City Administrator Ashley Wayman

Date: July 20, 2022

Re: Building Code and Code Compliance Issues Discussed at the June 16, 2022 City Council Meeting

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Below are the original concerns stated in the June 13, 2022 Memo drafted by Council Member Brown. Staff responses and additional information is included in **blue** and city engineer responses are included in **red**.

Building Permit Issues: (as of June 10)

1. Sixteen active builds and demolitions with no posted permit.
  - a. ~~305~~-205 Ashworth- no posted permit – **Permit has been posted.**
  - b. 2801 Hubbard - no permit posted– **Permit has been posted.**
  - c. 304 Almarion - no posted permit– **Permit has been posted.**
  - d. 303 Bettis- no posted permit (3 ad signs) – **Address not found.**
  - e. **303 Inwood – no posted permit – Permit has been posted.**
  - f. 302 Bettis- no posted permit but construction fence up – **Address not found.**
  - g. **302 Inwood – no posted permit – Permit has been posted.**
  - h. 2500 Bettis (**Now 400 Farley Trail**)- at corner with Farley- cleared- no posted permit – **Removed from list because building permit has not yet been issued.**
  - i. 104 Riley- cleared, but no posted permit – **Does not have an active permit.**
  - j. 102 Riley- no posted permit – **Permit has been posted.**
  - k. 200 Vale- no posted permit – **Permit has been posted.**
  - l. 301 Vale - no posted permit – **Does not have an active permit.**
  - m. **401 Vale – no posted permit – Permit has been posted.**
  - n. 5015 Timberline - no posted permit – **Permit has been posted.**
  - o. 4917 Timberline - no posted permit – **No permit has been issued. All work that is being done is internal and does not require permits.**
  - p. 4815 Timberline- permit posted but RW Building Services Official's signature is blacked out – **Corrected permit has been posted.**
  - q. 1003 Ewing Circle - no posted permit – **Permit has been posted.**
  - r. 104 Laura Lane - no posted permit – **Permit has been posted.**
  - s. 3018 Hatley - no posted permit – **Does not have an active permit.**
  - t. **3020 Hatley – no posted permit – Permit has been posted**

**Ordinance Requirement to post notice of demolition permit and construction permit - Sec. 101-253(c):** "At least 24 hours prior to commencement of any properly permitted demolition and new construction or [remodel that increases roof or footprint], the permit holder shall post a notice of permit, in a form prescribed by the city, in a location five feet behind the curb on the subject property. Such notice of permit shall remain in place until completion of the permitted

demolition or construction." In addition to this ordinance, the Rollingwood permit itself states in all caps at the bottom: "DISPLAY PERMIT ON SITE DURING CONSTRUCTION"

**Council Member Brown's Recommendation:** Send letter to each permit holder stating that posting must be made by x-date and that a citation or notice of violation may be issued if not posed after this date. Ask that City staff update the Council at the July council meeting as to compliance on this requirement.

2. **Staff Response: City Attorney Zech will be bringing back an ordinance to amend our code to be consistent with state law. Current 365-day permit expiration is not consistent with state law or enforceable.**
3. **Staff Response: City Attorney Zech will be bringing back an ordinance to amend our code to be consistent with state law. Current 365-day permit expiration is not consistent with state law or enforceable.**
4. Five properties where construction and other materials have been left on street on a recurring basis and/or material stacked in drip line of existing trees:
  - substantially complete but included as example of repeated violations:
    - 3200 Park Hills - landscaping/materials on street on several dates - **The reported violations regarding materials in the street were enforced at the time of the violation and there has been no record of additional reported incidents.**
    - 4701 Timberline - several piles of dirt, gravel, rock in street from Thursday, Apr. 28, May 2, and May 3. (Officer was there when I drove by on May 3), and building materials left within drip line of trees. **The reported violations regarding materials in the street were enforced at the time of the violation and there has been no record of additional reported incidents.**
  - in the middle of construction:
    - 3207 Park Hills - landscaping materials in street on several days (causing vehicles to move to opposite lane into head-on traffic on a blind hill)
    - 2801- Hubbard - dumpster partially in street on a continuous basis/ building lumber left in street from time to time for several days - see photo of status as of 6/8/2022
    - 301 Nixon - materials in tree drip line
    - 301 Vale - building materials within drip line of tree

**Ordinance requirement Sec. 101-253(a):** "All construction sites must be kept clean. Trash and debris associated with any construction may not be allowed to migrate to other lots, properties, or rights-of-way. Each construction site or lot must have a solid-sided trash container of sufficient size to contain the trash and debris generated on the site. The trash container must be located on the site, unless otherwise allowed in writing by the city. The trash in the container must be removed and properly disposed of without allowing the container to be overfilled. All trash or debris that drifts or spills onto the site, other lots, properties or rights-of-way must be picked up and securely placed in the trash container or otherwise properly disposed of on a daily basis."

**Sec. 101-253(b):** "All building materials, equipment and fill must be stored and accessed from staging areas that are clearly marked on the site plan. These areas shall be designated in places on the lot that are outside the canopy and drip zone of existing trees that are six inches in diameter and greater. If compliance with this requirement is not possible due to the location or size of trees on the property or the size or configuration of the property, the building official will designate the staging areas on the property."

**Council Member Brown's Recommendation:** Send a notice to all new building and remodeling permit holders that RW will begin enforcement of Section 101-253(a) and (b), and for existing permits, that all materials, equipment and fill must be stored on site and not in streets. Any exceptions must be approved in advance of placing materials in streets. For new permits, require compliance with requirement that the site plan "clearly mark" the staging areas for all materials, equipment and fill.

**Staff Response:** A notice to all active builders/contractors will be sent reminding of requirements under 101-253(a) and 101-253(b). Staff will investigate and work with properties noted to have ongoing violations to have necessary materials relocated and brought into compliance.

5. One property where a construction fence has been erected at curb on corner lot, blocking views or traffic on intersecting street:
  - ~~2500~~ 400 Farley Trail - see photo – **Construction fence was obstructing view. Contractor has been notified and fence will be moved.**

**Ordinance Requirement - Section 107-32(d):** "On a corner lot, no structure, fence, retaining wall, or berm with a height greater than 36 inches above the top of the curb may be constructed, placed, planted, maintained or allowed to grow within 15 feet of the intersection of the right-of-way lines of the two streets bordering the lot."

**Council Member Brown's Recommendation:** Contact contractor to move construction fence back from the curb to allow sufficient visual clearance at the corner.

6. One property where salvage materials have been left within public view after lot was demolished -
  - 3204 Gentry- see photo (status has existed for more than 5 months)

**Ordinance Requirement - Sec. 107-69(a) (1):** "(a) All uses not expressly permitted or authorized in the residential district by this article are prohibited. By way of example, but not in limitation, the following are prohibited: (1) Storage or accumulation within the public view of any salvage materials, discarded material, compost piles, lumber, waste products or scrap material, debris or junk."

**Council Member Brown's Recommendation:** Address this issue with the property owner.

**Staff Response:** The owner has been notified and is arranging for materials to be removed from the public view.

7. One commercial property where construction debris has been dumped in the back of the property and has spilled over the silt fence and onto adjacent property
  - 2802 Bee Caves Road - some improvement since initial complaint was filed but debris still remains over the silt fence.

**Ordinance Requirement: Sec. 101-253.** - Construction sites to be kept clean.

(a)All construction sites must be kept clean. Trash and debris associated with any construction may not be allowed to migrate to other lots, properties, or rights-of-way. Each construction site or lot must have a solid-sided trash container of sufficient size to contain the trash and debris generated on the site.

**Ordinance Requirement: Sec. 101-250.** - Storage of dirt, gravel and other pervious materials. The holder of a building permit, or the owner of a property for projects where permit is not required, shall enclose with a silt fence or securely cover with a water-resistant tarp or other material any dirt, fill, gravel or other pervious material stored on the site for a period in excess of eight hours. All landscaping by which soil disruption may, in the building official's discretion, result in unreasonable silt discharge off the subject property is required to be enclosed by silt fencing or similar protection for the project duration and until sod, turf, or other site stabilizing material has been installed.

**Council Member Brown's Recommendation:** Ask that City staff address this issue with the property owner with required date for compliance.

**Staff Response:** This situation was enforced on and improved. We believe that Austin Energy may have caused additional issues during tree removal. We will follow up with them again.

8. One property on the edge of a drainage channel with no silt fence:
  - 3225 Park Hills Drive

**Ordinance Requirement: Sec. 28-23(d):** "Erosion control measures (e.g., silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins."

**Ordinance Requirement: Sec. 28-23 (g):** "Permittees are responsible for stormwater management erosion control that complies with city, state and federal guidelines. Requirements include, but are not limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire-backed silt fencing. Upon request, the permittee may be required to furnish documentation submitted or received from federal or state government regarding stormwater management."

**Ordinance Requirement: Sec. 101-250:** "The holder of a building permit, or the owner of a property for projects where permit is not required, shall enclose with a silt fence or securely cover with a water-resistant tarp or other material any dirt, fill, gravel or other pervious material

stored on the site for a period in excess of eight hours. All landscaping by which soil disruption may, in the building official's discretion, result in unreasonable silt discharge off the subject property is required to be enclosed by silt fencing or similar protection for the project duration and until sod, turf, or other site stabilizing material has been installed."

**Ordinance Requirement: 101-236(b):** "Sediment and soil erosion control plan. The sedimentation and soil erosion control plan shall include the following:

1. Provide a general/sequence of construction for the life of the project as well as a sequence of construction specifically related to the time between when soil erosion control measures are in place, the roof or slab are completed and the permanent stormwater controls are provided. The sequence must clearly identify the following:

- (i) Install all BMP controls such as silt fence, stabilized construction entrance, sediment ponds, and drainage channels prior to any other site disturbances.
- (ii) Sequencing for all construction activities that require soil erosion control such as site clearing, grubbing, topsoil stripping, stockpiling, soil stabilization, and vegetation."

**Council Member Brown's Recommendation:** Issue warning that compliance is required within 24-hours and that non-compliance will result in a citation and possible fine of up to \$\_\_\_ per day.

**City Engineer Response:** The erosion control measures should be maintained to prevent silt, sediment, etc. from leaving the site in compliance with code Sections including, but not limited to, Section 22-123 and Section 103-234. The approved erosion control plans show continual silt fence along the northern property line, where the picture submitted by the Council member was taken showing a gap in the silt fence. The City may take action on the violation per Section 22-131.

**Staff Response:** The contractor was contacted about the lack of erosion control measures on 07/19/2022. He was issued a warning and has brought the erosion control measures into compliance.

