EXHIBIT: 12

CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING
70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

COPY

May 15, 2015

Don Bunch
1195 S. US Hwy 31
Franklin, IN 46131

Sent via Certified Mail: Article No. 7013 0600 0000 8082 3015 and First Class Mail

NOTICE OF VIOLATION

Re: Commitments agreed to with approval of ZB 2013-11 (ZON 2015-020)

Dear Mr. Bunch:

An inspection of the property located at **1195 S. US 31** was conducted on May 12, 2015, regarding the commitments that were agreed to with the approval of ZB 2013-11 (UV & V). The following commitments (a. through m.), the results of the inspection, and the action required are listed below:

a. **All parking areas and interior drives will be paved/concrete.**
Inspection Results:
All parking areas, as indicated on the approved site plan, appear to be paved/concrete; however, at least six vehicles were parked/displayed in the grass in several areas of the property.

Action Required:
All vehicles parked in the grass shall be removed and/or relocated no later than **Monday, May 25, 2015.**

b. **The vehicle display parking spaces and additional parking spaces shall be identified by the appropriate pavement markings consistent with the attached site plan.**
Inspection Results:
All pavement markings present; however, numerous vehicles were parked outside of the delineated spaces, across parking lines, parked in the drive aisles, and in the grass.

Action Required:
All vehicles, up to a maximum of 13 vehicles on display, shall be parked within a delineated parking space no later than **Monday, May 25, 2015.** It is imperative that you display no more than 13 vehicles at all times.

c. **A maximum of 13 vehicles shall be on display at one time and shall be parked within the delineated parking spaces.**
Inspection Results:
Approximately 28 vehicles were on display on the date of the inspection, including vehicles parked in the grass in multiple locations, and a semi-tractor and trailer were parked on the lot.

Action Required:
Reduce and maintain the number of vehicles on display to **13 or less at all times**, and park all vehicles within the delineated parking spaces no later than **Monday, May 25, 2015.**

d. **The interior drives shall be marked with appropriate pavement markings indicating one-way traffic.**

Inspection Results:

Pavement markings were present.

Action Required:

None.

e. **The operation of the produce market would cease.**

Inspection Results:

Completed.

Action Required:

None.

f. **No additional outdoor lighting would be provided.**

Inspection Results:

A complaint was received by staff, that new exterior lighting was recently installed; staff believes a fluorescent light fixture may have been install underneath the overhang of the roof, on the north/northwest side of the building. Since the inspection was conducted during day-light hours, staff was unable to fully confirm or deny the complaint. A follow-up investigation will be completed, if necessary.

Action Required:

Remove all additional exterior lighting, leaving only the existing light fixture on the front façade at the top of the gable, no later than **Monday, May 25, 2015**.

g. **No additional signage would be provided:**

Inspection Results:

Staff witnessed a new wall sign located on the front façade of the building.

Action Required:

The wall sign on building shall be removed no later than **Monday, May 25, 2015.** The freestanding sign currently located on the property, as it exists, is the only signage allowed; any additional signage is prohibited. Additions to or enlargement of the freestanding sign are also prohibited.

h. **Three (3) trees consistent with the site development plan will be provided.**

Inspection Results:

No trees have been planted.

Action Required:

Plant three (3) trees, a minimum of 2 ½ inch caliper, consistent with the attached site plan, no later than **Monday, May 25, 2015.**

i. **Property will be paved in areas not already paved.**

Inspection Results:

All parking areas, as indicated on the approved site plan, appear to be paved/concrete.

Action Required:

None.

j. **The legal non-conforming use of the produce stand would be relinquished.**
Inspection Results:
Completed.

Action Required:
None.

k. **There will be no auto repair on the property.**
Inspection Results:
No auto repair visible to staff.

Action Required:
None.

l. **There will be no sales of any other type on the property.**
Inspection Results:
A complaint was received by staff that lawn mowers were being sold from the property. On the day of the inspection, no other type of sales were apparent to staff.

Action Required:
All sales from the property shall be auto sales only.

m. **The existing sign face would be changed but the structure will remain in its current location with no additional lighting added.**
Inspection Results:
Freestanding sign exists with new sign face. A complaint was received by staff that new exterior lighting was recently installed; staff believes a fluorescent light fixture may have been install underneath the overhang of the roof, on the north/northwest side of the building. Since the inspection was conducted during day-light hours, staff was unable to fully confirm or deny the complaint. A follow-up investigation will be completed, if necessary.

Action Required:
The existing freestanding sign shall not be altered, enlarged, or relocated on the property, except to change the sign face of equal or lesser size. Additionally, the sign shall not be illuminated in any way. If additional exterior lighting has been installed, that exterior lighting shall be removed, leaving only the existing light fixture on the front façade at the top of the gable, no later than **Monday, May 25, 2015**.

In summation, commitments a., b., c., f., g., h., l. and m. need to be addressed, in order to bring the use of the property into compliance with the use variance approval and the zoning ordinance. Failure to comply with the commitments agreed to with a use variance constitutes a violation of the zoning ordinance. Please bring the property into compliance with the above commitments **no later than Monday, May 25, 2015**. Failure to comply with the commitments could result in further enforcement actions, including possible termination of the variance approval.

ZB 2013-11, a use variance for auto sales and a developmental standards variance for outdoor display of merchandise, was approved by the Board of Zoning Appeals on October 2, 2013, with the commitments agreed to and listed above. Since the date of the original approval, staff has notified you and reminded you of the commitments associated with the approval on three different occasions (March 11, 2014; May 2, 2014; and July 14, 2014).

According to Article 2, Chapter 5 of the City of Franklin Zoning Ordinance, the Board of Zoning Appeals has the authority to revoke a variance or special exception, under the following situations:

L. Termination: A variance or special exception may be terminated by the Board of Zoning Appeals under the following procedure:

1. Public Hearing: Upon determination by the Planning Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Planning Director shall notify the applicant of the hearing via Certified Mail a minimum of 10 days prior to the hearing.
2. Grounds for Termination: At the public hearing the variance or special exception shall be revoked if a finding is made by the Board that one or more of the following is true:
   a. The execution of the approval is not consistent with any requirement of this Ordinance,
   b. The execution of the approval is not consistent with any condition of approval,
   c. The execution of the approval is not consistent with any written commitment, or
   d. The approved was the result of fraud or the misrepresentation of facts.

Due to the length of time since the approval, the number of conversations and letters from staff reminding you of the commitments associated with the approval, and the numerous commitments that still remain unfulfilled, staff believes the execution of the approval has not been consistent with several written commitments. Therefore, any failure to meet the commitments associated with ZB 2013-11 after May 25, 2015, will result in the variances being brought before the Board of Zoning Appeals for termination.

If you have any questions or concerns regarding this matter, please feel free to contact me at agetchell@franklin.in.gov or at (317) 736-3631.

Sincerely,

Alex Getchell
Associate Planner

CC: File (ZON 2015-020 & ZB 2013-11)

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DON BUNCH
1195 S. US HWY 31
FRANKLIN, IN 46131

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City, State, ZIP+4: FRANKLIN, IN 46131

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