



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Scott Hazelton, Planning Director
DATE: October 26, 2021
SUBJ: Nuisance Hearing

SUMMARY

On November 8th, 2021 Mr. Mark Simonsen by email submitted the attached appeal to the City Commissions decision to declare the activity on Tax Lot, 81005DC02500, 81005DC02400, and 81005DC02300, as nuisances. As Mr. Simonsen is one of the listed property owners he has the right to appeal the commissions decision based on WMC 8.16.170:

8.16.170 Abatement by the person responsible.

- A. Within 10 days after the posting and mailing of notice as provided in Section 8.16.160, the person responsible shall remove the nuisance or file a protest, as described in subsection B of this section.
- B. A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Auditor.
- C. The statement shall be referred to the Commission as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Commission. The Commission shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the Commission. Commission determination shall be required only in cases where a written statement has been filed as provided.
- D. If the Commission determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the Commission determination. (Ord. 848-A § 33, 1989)

CONCLUSION AND RECOMMENDATION

Staff is unable to respond to Mr. Simonsen's appeal as it is unclear to staff what is meant in the appeal. Staff will present the same facts as in the original staff report if necessary. Staff is asking for a determination on fine amount if it is declared that a nuisance still exists at Tax Lots 81005DC02500, 81005DC02400, and 81005DC02300 pursuant to WMC 8.16.220:

8.16.220 Penalties.

- A violation of a provision of this chapter is punishable by a fine not to exceed \$1,000.00. (Ord. 848-A § 38, 1989)

FINDINGS

1. **WMC Section 16.16.020** Violation of Code Prohibited states that, “No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto.”
2. A violation has occurred in that the Simonsen property has allowed the occupation of a recreation vehicles on their property at 876 5th Ave. Hammond, OR 97121 in violation of **WMC 12.28.030.A** for more than 48 hours:

“No recreational vehicle or trailer shall be used for sleeping or lodging purposes outside of designated camping areas except by special permit from the City, said permit to be limited to one vehicle only at any one time. Permits may be obtained from City Hall for a period of up to 48 hours for parking of recreational vehicles on private residential property that is not designated as a camping area. Permits must be obtained in advance of parking the recreational vehicle or trailer in residential areas.”

3. A violation has occurred in that junk has began to accumulate on the property extending onto the public right of way. This is a violation of **WMC 8.16.120**.
 - A. *No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.*
 - B. *The term “junk,” as used in this section, means and includes all old motor, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances, parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.*
 - C. *The term “abandoned automobiles”, as used in this section, means inoperable and/or unregistered vehicles on private property. (Ord. 1229 § 1, 2019; Ord. 848-A § 22, 1989)*
4. If the violation is not abated, it is necessary and appropriate to proceed to the penalty phase and apply fines per **WMC 8.16.220 Penalties**:
 - A. *A violation of a provision of this chapter is punishable by a fine not to exceed \$1,000.00. (Ord. 848-A § 38, 1989).*

Suggested Motion:

I motion to adopt the findings in the staff report and direct staff to provide notice to the violator of the findings and to consult with the City Manager and the City Attorney to identify the proper procedure to levy and accrue fines of \$ _____ per violation per day if the issue has not been abated within 10 days. [The Commission will determine the fine amount.]

ATTACHMENTS

- Appeal

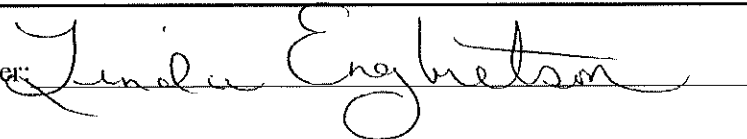
ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

N/A

Approved by City Manager:

A handwritten signature in cursive script, reading "Linda Engbretson", written over a horizontal line.

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

From: [Mark Simonsen](#)
To: [Scott Hazelton](#)
Subject: Re: appeal of commissioner's finding on 874 5th property
Date: Monday, November 8, 2021 2:50:37 PM
Attachments: [image001.png](#)
[image001.png](#)

I don't believe city parliamentary process was followed and information was shared with commissioners in a public setting. The city has shown bias toward the complaint with definition of "junk". City not complying with CMU zoning definition with grandfather rights and forcefully causing the removal of vehicles from property

On Mon, Nov 8, 2021, 2:00 PM Scott Hazelton <shazelton@ci.warrenton.or.us> wrote:

Mr. Simonsen,

Can you explain your basis for the appeal please? There needs to be a specific reason for your appeal:

[8.16.170 Abatement by the person responsible.](#)

A. Within 10 days after the posting and mailing of notice as provided in Section 8.16.160, the person responsible shall remove the nuisance or file a protest, as described in subsection B of this section.

B. A person responsible, protesting that no nuisance exists, shall file a written statement that **specifies the basis for the protest** with the City Auditor.

C. The statement shall be referred to the Commission as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Commission. The Commission shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the Commission. Commission determination shall be required only in cases where a written statement has been filed as provided.

D. If the Commission determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the Commission determination. (Ord. 848-A § 33, 1989)

If you have any questions on what “specifies the basis for the protest” you are welcome to reach out to me.

Thanks,

Scott Hazelton

Planning Director | City of Warrenton

Office : 503-861-0920

Mobile : 503-440-4082

Fax : 503-861-2351

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Warrenton, OR 97146

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From: Mark Simonsen <mark.simonsen1958@gmail.com>
Sent: Monday, November 8, 2021 1:04 PM
To: Scott Hazelton <shazelton@ci.warrenton.or.us>
Subject: RE: appeal of commissioner's finding on 874 5th property

Thank you Scott

Sent from [Mail](#) for Windows

From: [Scott Hazelton](#)

Sent: Monday, November 8, 2021 12:55 PM
To: [Mark Simonsen](#); [Dawne Shaw](#)
Subject: RE: appeal of commissioner's finding on 874 5th property

Hi Mark,

Dawne is out of the office so unable to check if the initial one went through either. You are agenda'ed for the meeting. Unsure of the order but I will let you know as soon as I can.

Thanks,

Scott Hazelton

Planning Director | City of Warrenton

Office : 503-861-0920

Mobile : 503-440-4082

Fax : 503-861-2351

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From: Mark Simonsen <mark.simonsen1958@gmail.com>
Sent: Monday, November 8, 2021 12:53 PM
To: Dawne Shaw <dshaw@ci.warrenton.or.us>; Scott Hazelton <shazelton@ci.warrenton.or.us>
Subject: appeal of commissioner's finding on 874 5th property

Sent from [Mail](#) for Windows

Scott, Dawne,

Could not find my sent email asking for an appeal and time to present at the up coming commissioner's meeting on the 9th. Please add me to the agenda and also will one of you reply back to verify this was delivered, only because I can not find that the other one sent a few days back went through.

Thanks,

Mark Simonsen



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