

MINUTES
Warrenton Planning Commission
November 4, 2021
6:00 p.m.
Warrenton City Hall - Commission Chambers
225 S. Main
Warrenton, OR 97146

Chair Mitchell called the meeting to order at 6:01 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Chair Paul Mitchell, Mike Moha, Chris Hayward (via Zoom), Ken Yuill (via Zoom), Kevin Swanson (via Zoom, left at 8:01 p.m.), and Lylla Gaebel (via Zoom)

Absent: Commissioner Christine Bridgens

Staff Present: Planning Director Scott Hazelton, City Manager Linda Engbretson (via Zoom), Building Official Van Wilfinger, and Secretary Rebecca Sprengeler

PUBLIC COMMENT ON NON-AGENDA ITEMS - None

APPROVAL OF MINUTES

A. Planning Commission Meeting Minutes – 9.9.21

Commissioner Yuill made the motion to approve the minutes as written. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Swanson – aye; Gaebel - aye

PUBLIC HEARING

Open Public Hearing: Chair Mitchell opened the public hearing in the matter of a fill violation at 135 SW 1st Street. Formalities followed. Commissioner Yuill noted he visited the site but feels it will not affect his judgement. Chair Mitchell stated the same.

Staff Report: Planning Director Scott Hazelton gave a PowerPoint presentation about the violation. He stated the property owner of record is Kevin Gramson and the permittee is Loren Gramson. The first stop work order was mailed certified on August 18. A second notice was mailed certified on September 2. Loren Gramson was given notice of the meeting by letter on October 28. He stated the first and second notices came from the building official in the absence of a Planning Director. He noted the violation includes lack of requested stormwater plan, lack of erosion control measures and erosion control plans, and work beyond the scope of the submitted application. He outlined options for the planning commission and noted Warrenton Municipal Code (WMC) 15.04.260 regarding violation penalties.

Questions of Staff: None

Applicant Presentation: Mr. Gramson noted he takes issue with the point of work beyond the scope of the permit. He stated he had a permit to fill, remove fill, and grade. He explained that more fill was placed than he thought was needed. He contacted building department for another permit, then received a stop work order. He stated he has not done anything since. He noted during a meeting last week he received notice of this meeting. He was informed the second permit was not approved, but he had already finished the work. He noted the hand drawn map he submitted with the application. He stated the property has become an eyesore that he would like to get rid of. He feels he made the effort to do something positive for the city. He discussed his development work in Warrenton and lack of affordable housing. He stated he did not have the permit he thought he did. He asked the commission to consider his honesty in contacting the city for a second permit. He stated he hired an engineer and they have discussed addressing the issues. He has put in a silt fence, wattles, and bales of hay. He stated no water is impacting anyone. He noted there is a pool in the middle of the property to catch water to drain down. He is hoping to burn the house down with the assistance of the fire department then reduce the height of the fill. He stated all that they need is reasonable time to get the physical work done. He noted a drainage pipe in the city right-of-way and two catch basins that he protected. He stated he wants to get this done right.

Questions of Applicant: Commissioner Yuill asked how much fill the first permit allowed. Mr. Gramson thinks he asked for 250 cubic yards. He noted when he realized there was more, he contacted the building department for an additional permit. He discussed the permit applications. Commissioner Swanson asked for a timeline to comply. Mr. Gramson estimated between 30 and 60 days to get plans from his engineer. He explained he can do work that Public Works Director Collin Stelzig suggested as soon as he can get equipment. Commissioner Yuill noted his research on the area and asked if Mr. Gramson's property is affected by surrounding property's drainage. Mr. Gramson stated yes and discussed drainage from two houses and an apartment building. Commissioner Gaebel asked why the city was not contacted after he received the notices. Mr. Gramson noted he visited the building department while the building official was out of office and a meeting was held last week, but he thought he had the proper permits. Commissioner Gaebel asked why contact was not made in August. Mr. Gramson noted there has been no equipment on the property since receiving the stop work order.

Public Testimony: Van Wilfinger noted the permit was pulled for approximately 250 cubic yards and stated it did not seem like it would be an issue. He drove by the site and witnessed an excessive amount of material. He sent a stop work notice. After discussion with Mr. Wilfinger, Mr. Gramson submitted revised plans to the building department. Mr. Wilfinger then received communication from Mr. Stelzig that the amount of fill would require a stormwater report and civil plan to address stormwater drainage. Mr. Wilfinger instructed Mr. Gramson to hire someone to provide a stormwater report to stabilize the site. He noted a second stop work notice was mailed certified and not signed for. It was returned then resent. He noted a recent meeting with Mr. Gramson to discuss issues and provide notice of the hearing. Commissioner Yuill asked how much fill is on the property. Mr. Wilfinger explained he is new to the city and not as familiar with the residential areas as his work is focused on commercial projects. He relied on other staff for estimated amount of material. Commissioner Yuill made comments about

determining the amount fill material in order to know how much to remove. It was noted the fill material is predominantly sand and other soil. Commissioner Hayward asked if the fill was monitored. Mr. Wilfinger stated there was not somebody monitoring on behalf of Mr. Gramson. Mr. Hazelton clarified that what is being looked at is the erosion and stormwater plans have not been submitted as requested by staff since August. Mr. Hazelton noted there have been negative impacts on adjacent properties reported and further emphasized the need to review a stormwater plan. Chair Mitchell asked what was proposed by Mr. Stelzig. Mr. Hazelton noted Mr. Stelzig has discussed the project with the engineer, but the city still needs the required plans to be submitted. There was brief discussion about removing the excess fill. Brief discussion followed about stormwater plans are required for all fill permits. City Manager Linda Engbretson (via Zoom) clarified an issue in the code between fill and stockpiling. Discussion followed about stockpile versus fill. Commissioner Yuill noted concern that the permits were not in the meeting packet. Ms. Engbretson noted they want people to be in compliance by obtaining erosion control plans; they cannot ignore code requirements. Mr. Hazelton restated the need for erosion control and stormwater plans. Discussion continued. Chair Mitchell would have liked more documentation.

Applicant Rebuttal: Mr. Gramson noted copies of the original permit application for 250 yards. He estimated about 600 yards of actual fill. He stated he contacted staff prior to the first stop work order. He noted the fill material was sand and one load of dirt. He noted discussion with a neighbor about drainage in the area in the past. He discussed the person he believes reported negative drainage impacts and wants to know who reported it. He stated he was told by Mr. Wilfinger to grade as quick as he could. He noted his permit was for grading, removal, and fill; there was nothing about stormwater. He noted the stormwater report will be required before any building, so he might as well do it now. Mr. Gramson is working with his engineer to address the drainage as instructed by Mr. Stelzig. He has talked with a neighbor about draining across his property and he noted a culvert issue he would like the city to address. He explained the extra material could be used for fill once the house is burned. Commissioner Gaebel asked about the delayed response to the first notice requesting erosion and stormwater control. Mr. Gramson explained when he received his permit, nothing was mentioned about it. He briefly discussed his original site map submittal. He stated stormwater was never a part of the permit and he stopped work immediately. He had already notified the city of the excess fill and noted he was unsure of the fill amount. Commissioner Hayward asked how fill was brought to the property. Mr. Gramson stated dump truck. Commissioner Hayward asked about the size. Mr. Gramson stated it varied and they were not worried about how much was on each truck. He explained lack of monitoring at first and noted approximate overage. Brief discussion followed about the excess fill amount. Commissioner Swanson asked what will happen to come into compliance. Mr. Gramson noted hiring an engineer and discussed a swale and water storage. Commissioner Swanson asked about a timeline for the engineer to address the issues and provide a final report. Mr. Gramson estimated 30 to 60 days and noted they will do what the engineer suggested. He also stated when it said stop work, they were already done with the fill, and he was instructed to grade as quickly as possible. He noted they planted grass and the material is pretty packed.

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Commissioner Yuill noted the ditch has not been cleaned out

and noted concern about impact on surrounding properties. He asked about a timeline for the city to clean the ditch. Mr. Hazelton noted public work's rotating ditch maintenance schedule. Brief discussion followed. There was brief discussion about the property address. Mr. Hazelton clarified the person Mr. Gramson alluded to previously did not make the report about negative impacts. He also noted the engineer was retained early this week. Commissioner Swanson asked why the fill amount was guessed and not measured or adhered to. Mr. Hazelton noted staff does not have the capacity to monitor fill. Discussion continued about stormwater reports being required for fill permits. Ms. Engbretson briefly discussed WMC regarding grading. She noted they are updating the stormwater and drainage plans that may be addressed at a joint meeting with the city commission. She feels it has gotten to the point where submitting a stormwater plan should be required with any fill permit. Commissioner Hayward commented on the issuance of a permit without a stormwater plan. Ms. Engbretson restated the need for the stormwater report that has been requested since August. Discussion followed about the stop work order. Mr. Hazelton stated error on staff's part does not absolve Mr. Gramson from following the WMC. Ms. Engbretson discussed communication issues and a shift to written communication. She noted the issue is not the fill amount, it is the requested plans in order to move forward and mitigate impacts. Discussion followed about the meeting notice. Mr. Hazelton confirmed the first stop work notice was signed for on September 20 and sent by email as well. Commission Gaebel noted Mr. Gramson has had the request for stormwater and erosion control since August. Commissioner Swanson feels the stop work order is not clear. Ms. Engbretson clarified it is to stop work on the property and work on submitting plans to the city. Commissioner Yuill discussed his concerns about what can be done in the short term to address negative impacts on the south neighbor. Brief discussion followed. Commissioner Moha noted to be in compliance, a report must be supplied. He noted removing fill and making suggestions to address the issues are not relevant to this decision. Mr. Hazelton noted a stormwater plan will address the negative impacts. Commissioner Gaebel noted Mr. Gramson is not in compliance but has hired an engineer to bring him into compliance. She suggested finding he is not in compliance and a no-fine 45 to 60-day grace period. Discussion followed.

Commissioner Hayward made the motion for 60 days with no fine and impose a fine of \$1,000 if that is not reached within that 60 days. Motion was seconded and failed.

Commissioner Moha believes there was no intentional ill will on either side. He agrees with 60 days and a \$500 fine.

Mitchell – nay; Moha – nay; Hayward – aye; Yuill – nay; Swanson – aye; Gaebel – aye

Discussion followed about the fine and timeframe.

Chair Mitchell made the motion that they allow Mr. Gramson 60 days. If within 60 days, Mr. Gramson does not reach a conclusion satisfactory to the city, then we impose a \$500 a day fine that is retroactive to today's date. Discussion followed.

Commissioner Hayward made a motion to strike the retro active portion of the chairman's motion and make it \$500 per day after a 60-day period to get this work done. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Swanson – aye; Gaebel – aye

Open Public Hearing: Chair Mitchell opened the public hearing in the matter of a fill violation at 115 SW 1st Street. Formalities followed. No conflicts of interest were declared. Commissioner Yuill noted he visited site but feels it will not affect his decision. Chair Mitchell stated the same.

Staff Report: Mr. Hazelton presented his staff report for the fill violation at 115 SW 1st Street owned by Rick Newton. He noted the first stop work order was mailed certified and signed for in August. The second was mailed certified and signed for in September. The hearing notice was mailed in October. He outlined the fill violation noting a request for stormwater plans and erosion control plans. He clarified there was no application submitted; there was communication with staff about stockpile of clean gravel. The material was different than and exceeded what was originally discussed. He noted options for the commission as outlined in the presentation.

Questions of Staff: Commissioner Swanson asked about the material. Mr. Hazelton clarified it was mixed material from underneath a road, not clean gravel as originally discussed with staff. Commissioner Yuill asked if there is runoff going onto other properties. Mr. Hazelton stated he has received no complaints regarding this property about additional runoff at this time.

Applicant Presentation: Mr. Newton noted Patricia Caples is co-owner of the property. He noted his long-term friendship with Commissioner Yuill and stated it does not affect them to disagree. Mr. Newton noted past issues of flooding and a roof collapse. He noted his frustration and explained the situation. Ryan Lampi with Big River requested to place material from under a road on Mr. Newton's property. Mr. Newton discussed this with the building department and was told he did not need a permit. Mr. Newton noted he originally estimated 150-250 yards of fill. When this amount was exceeded, he contacted the building department and was told he was fine. Additional material was placed. Mr. Newton visited the building department again to discuss the issue. He met with Mr. Stelzig to discuss plans provided by Mr. Lampi to address the first stop work notice. Mr. Newton estimated there was 590 yards, while Mr. Lampi estimated about 500. Mr. Newton brought the plans to the building department. He was asked for bigger plans and directed to start with public works. Mr. Newton expressed confusion about what the city wanted to address the stop work order. He noted meetings with Mr. Stelzig to clarify what the city and noted engineered plans were requested. He feels this could have been avoided and noted his frustration. He requested Ms. Caples be added as co-owner. He noted observing decreased runoff from his property. He further noted his frustration with the city. He stated Mark Mead cannot do the engineering until January. Geoff Liljenwall cannot do the engineering until November. Mr. Newton noted he and his engineer do not know what the city wants.

Questions of Applicant: Commissioner Moha asked for clarification if there was no permit. Mr. Newton confirmed. Mr. Hazelton read the fill request email from Mr. Newton dated July 19. Mr. Hazelton stated stockpiling of clean material does not require a permit. Commissioner Swanson asked how long the material will be on the property and if there plans for it. Mr. Newton explained it could be used as surcharge as he plans to build eventually. He stated he intends to put a French drain completely around the property. He is unsure of a timeline. He explained his frustration and noted he thought he was doing the right thing. Ms. Caples explained Big River requested to dump material removed from the street project onto their property, saving the city

money on the project. She noted they were told they did not need a fill permit. They contacted the contractor after the stop work order. Mr. Newton stated he was not running the job, Mr. Lampi was. He restated he does not know what the city wants and noted Big River is a licensed and bonded contractor that he believes can provide the plans. Commissioner Swanson asked why Mr. Lampi is not in attendance to testify. Mr. Newton stated he did not know he needed to bring him. Commissioner Gaebel noted the stop work notices that requested erosion and stormwater plans. Ms. Caples stated it was handed over to Big River; it's their job. Mr. Newton noted plans from Mr. Lampi he understands to be stormwater and erosion control plans. Commissioner Gaebel stated it is the applicant's responsibility to see that work is done. Ms. Caples noted the plans from Mr. Lampi. Commissioner Gaebel asked when the plans were submitted to the city. Mr. Newton noted he is not sure. He did not know he needed an engineer. He thought Big River was qualified. He intends to hire Mark Mead. He stated he tried to do the right thing but received bad direction.

Public Testimony: Ms. Engbretson noted she cannot verify if the plans in question have been received by staff. Commissioner Moha asked if Mr. Hazelton has seen the plans and if they would be acceptable. Mr. Hazelton noted he has seen them; they are not acceptable. Mr. Wilfonger noted an email from Mr. Newton addressed to himself and Mr. Stelzig regarding stockpile of gravel. He noted the WMC does not require a permit for stockpile of clean material. He explained the plans in question are not a stormwater report. Mr. Wilfonger stated he had not reviewed the plans yet because they needed to be reviewed by public works. He noted there was no permit because what was proposed did not require a permit. Mr. Newton did respond to the first stop work notice. He was directed to work with Mr. Lampi to develop acceptable plans to submit to Mr. Stelzig for approval. Mr. Wilfonger noted nothing acceptable was provided so a second notice was sent. Commissioner Yuill asked if there is runoff onto other properties. Ms. Engbretson noted there is not much concern about runoff on this property. The concern is treating everyone the same. The report is still required by WMC. Brief discussion followed. Mr. Hazelton added they are not addressing the contents of the reports, they are addressing the fact the reports were never submitted. Commissioner Swanson asked if Mr. Lampi would have the proper paperwork to support the plans in question. Ms. Engbretson noted as of now her communication with staff is that nothing has been received.

Applicant Rebuttal: Mr. Newton stated he does not believe, in his email, he ever said he was going to stockpile clean gravel on the lot. Commissioner Gaebel asked to have the email read again. Mr. Hazelton read the full email from Mr. Newton and the response from Mr. Wilfonger dated August 12, 2021. There was brief discussion about a possible response from Mr. Stelzig. Chair Mitchell asked how long it will take to get a report. Mr. Newton noted Mr. Liljenwall estimated mid to end of November. Brief discussion followed. Commissioner Yuill asked if the plans prepared by Mr. Lampi were submitted to public works. Mr. Newton stated he has no idea, noting several visits to public works.

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Commissioner Yuill noted a lot of hearsay and would like to hear from Mr. Stelzig. He suggested extending the hearing until next month. Commissioner Swanson agreed and would like to hear from Mr. Lampi. He feels there is not enough

information to make an informed decision. Commissioner Gaebel noted Mr. Wilfinger's email was very specific about what was expected. Commissioner Hayward noted there is no issue getting the engineering and suggested providing reasonable time until January. Commissioner Moha noted they cannot force people to come answer questions. Mr. Hazelton noted additional email communication. Chair Mitchell suggested giving Mr. Newton until January and having the city provide an update at that meeting. Commissioner Gaebel feels they are being inconsistent between the two violations. Mr. Hazelton noted an email from Mr. Stelzig that outlines what is needed.

Commissioner Gaebel moved that we give 60 days grace period from tomorrow's date and on the 61st date, that we levy a fine of \$500 per day if it has not been cured and do it in conjunction with the city's requirements. Motion was seconded and passed with majority in favor.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – nay; Swanson – aye; Gaebel - aye

STAFF ANNOUNCEMENTS & PROJECT UPDATES

Mr. Hazelton noted he is happy to have the first meeting under their belts. He asked for feedback on the presentation. Commissioner Gaebel thought it was helpful. Commissioner Hayward noted there are often documents in the record that are difficult to see. Commissioner Yuill would like a camera to see physical documents while on Zoom. Commissioner Swanson noted he needed to leave the meeting for a work meeting. Mr. Hazelton discussed several recent variance applications to build into the setbacks. He asked for guidance on whether or not to continue allowing variances to extend into the setbacks and if he should research amending the setbacks. He noted this will be discussed further in a joint meeting. He further explained the purpose of a variance is for hardships due to confines of the zoning code and the property, not a desire for a bigger house or garage. Commissioner Yuill asked Mr. Hazelton to send an email with questions that will be discussed at the joint meeting. Mr. Hazelton noted side yard setbacks are for emergency vehicle access. Mr. Hazelton feels variances should be difficult to obtain. He also discussed possible changes to the development review process regarding conditions of approval.

There being no further business, Chair Mitchell adjourned the meeting at 8:07 p.m.

Next Meeting: December 9, 2021

APPROVED:



Paul Mitchell, Chair

ATTEST:



Rebecca Sprengeler, Secretary