

Minutes of the Veneta Planning Commission  
April 2, 2007

Present: Chairman James Eagle-Eye Len Goodwin, and Lily Rees  
Absent: Jim Bruvold, Keith Hartley, and Council Liaison Marion Esty  
Others: Brian Issa, Planner; Margaret Boutell, Community Services Director; Ric Ingham, City Administrator; Sheryl Hackett, City Recorder; and Linda Boothe

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Chairman James Eagle-Eye called the Veneta Planning Commission to order at 7:01 p.m.

I. REVIEW AGENDA

James Eagle-Eye reviewed the agenda and explained each of the requests before the Planning Commission

II. PUBLIC COMMENT:

**Linda Boothe; 25331 Jeans Road; Veneta, Oregon**

Representing the West Lane Chamber of Commerce, Linda Boothe invited the Planning Commission to a meeting the Chamber is holding at Wings Restaurant at noon on Wednesday, April 11, 2007. The purpose of the meeting is to present the branding work which has been done for the Chamber. The work includes a logo and slogan reflecting the unique qualities of the Fern Ridge area.

III. APPROVAL OF MINUTES:

**MOTION: Lily Rees made a motion to approve the March 5, 2007 minutes. Len Goodwin seconded the motion which passed with a vote of 3-0.**

IV. LIMITED LAND USE DECISIONS

A. S-6-06 & SR-6-06 - HEATHER GLEN

Request for a 5 lot subdivision which includes a 27-unit multi-family development on one lot and four single-family residential lots.  
Assessor's Map 17-06-36-41 , tax lot 300

Staff Report (Brian Issa)

Brian presented the Planning Commission with some proposed amendments to conditions of approval in the proposed final orders, specifically to address the timing of tree removal to coincide with approval of the public improvement plans and notice to proceed.

The applicant has requested approval to subdivide a 3.72 acre parcel of land into four single family lots and one large multi-family lot which they proposed to develop with 27 housing units. The property is zoned General Residential and is located at 87962 Territorial Hwy. The property is currently vacant and heavily forested. The Department of Forestry is on the north side of the property, Shalimar Mobile Home Park is located on the west side, thought the entrance to

Shalimar is to the south. Territorial Road, located on the east side of the property, is a minor arterial. A new public cul-de-sac will provide access to the site from Territorial Road. The cul-de-sac will be horizontally aligned with Cottage Court. The development will connect to existing water and sewer lines in Territorial Road. Stormwater will enter the stormwater system in Territorial Road via an existing culvert. An approximate 7000 square foot area of significant wetland is located on the northern portion of the site. There are 283 trees on site, 186 of which are proposed for removal, including two heritage trees, one a dual trunk 40" oak and one a 72" silver maple which shows signs of decay.

Brian said the Agency comments attached as Exhibit B of the staff report have been incorporated as conditions of approval in the proposed final orders. He said one of the public comments, attached as Exhibit C, came from the Neighbors 4 Responsible Growth after a meeting with the applicant at which they did not have all of the information. The new information which resolved the issues stated in their initial comments came in after the public comment period was closed. Neighbors 4 Responsible Growth submitted new comments after the public comment period closed. Brian said their new comments relate to their initial comments; however, because they came in after the comment period ended, entering the new comments into the record is up to the discretion of the Planning Commission. Although it is not general procedure, Brian said it seems better for the Planning Commission to have the new comments which address the issues raised initially.

Brian said he will be asking the Planning Commission to take two separate actions, one for approval of the subdivision and the second for approval of the multi-family housing site plan and tree removal permit.

Tree Removal Code Interpretation was listed in the staff report as an issue for the Planning Commission. Brian said the applicant is proposing to remove a large number of trees, stating that to develop the property for high density multi-family housing they are unable to preserve isolated trees along property lines, dense stands and other trees as required by Veneta Municipal Code chapter 8.10. The arborist feels that leaving isolated trees will create a potential hazard for windthrow given the high density development. The site is already highly constrained due to the wetlands on the north side of the property and the property needs to be altered to handle stormwater.

Veneta Municipal Code Chapter 8.10(2)(d)(vi) states that replanting of new trees or vegetation must be an adequate substitute for trees to be removed. Brian said this seems to imply that mitigation is an option when other criteria are not met. He said precedent has not been set either way. When processing tree removal permits for subdivisions, staff has required tree planting to meet landscaping requirements. In the recent Vloedman decision staff recommended requiring specific mitigation measures as conditions of approval; however, the applicant found the measures unacceptable. The Planning Commission denied the Vloedman application because approving it would require altering the site plan beyond the scope that could be done with a condition of approval. The current

application proposes mitigation by replacing native trees with other native trees on the site. Brian said that by approving the final orders as written, the Planning Commission would be making an interpretation that mitigation is acceptable when the criteria cannot be met, and that the proposed mitigation is an “adequate substitute”. Brian said staff feels that getting too specific with regards to what constitutes an “adequate substitution” could do more harm than good in setting precedent for future applications.

Based on the findings for the site plan review and subdivision Brian recommended approval subject to amending the conditions of approval to change the timing of when trees can be removed. He said the developers propose to do their park dedication on the multi-family site; therefore, he also recommended adding a condition of approval to include a provision in the Development Agreement that the owners of the single family lots have access to the park facilities on the multi-family lot. If not, the developer would have to provide a cash-in-lieu of parks dedication for those four lots.

#### Discussion by the Planning Commission

Len Goodwin asked if the Planning Commission concludes that the tree felling ordinance did not intend for mitigation to be appropriate for not meeting the other criteria in the code, would they need to deny the application.

Brian said in some instances the criteria is very specific and if mitigation is interpreted as not being allowed, the application could not meet the strict interpretation of the other provisions in the code. He explained that this has not been an issue for the Planning Commission in the past because tree removal permits were not submitted concurrently with site plans or subdivisions. In the past, tree removal permits were approved by staff after a development was approved. In this case, the tree code needs to be addressed as part of the site plan review and the criteria has been included in the proposed final order. Staff has made findings that the applicant has not met all of the criteria in VMC 8.10; however, most trees on the site are proposed for removal because of the nature of the development. If the Planning Commission finds that the applicant needs to preserve trees along Territorial the applicant would have to drastically change their site plan. The trees along Territorial are currently planned for removal to accommodate the City’s stormwater retention requirements. If the Planning Commission finds that the applicant needs to retain trees for buffers along the property lines the arborist has stated those trees could present a potential hazard from windthrow. If the applicant retained dense stands of trees the site plan would have to be drastically changed to accommodate that.

Chairman James Eagle Eye called for a decision about entering the additional public comments into the record.

**MOTION: Len Goodwin made a motion to enter the second letter from Neighbors for Responsible Growth into the record. Lily Rees seconded the motion which passed with a vote of 3-0.**

In response to a question from James Eagle Eye about the applicant bringing in an option for saving one of the heritage trees, Brian said they did provide a revised drawing; however, it came in after the public comment period was closed. He said the option would have a significant impact on the site by reducing the number of units and moving the play area closer to Territorial Road. The Neighbors 4 Responsible Growth agreed that the option for saving the heritage tree adversely impacted the site plan.

Brian said staff believes the code allows for mitigation when other criteria in the code cannot be met and that the applicant's very aggressive landscape plan, as detailed in the findings, is adequate.

Len Goodwin said he likes the recommendation to allow mitigation; however, he is concerned that in general it is getting close to changing the code that was written by the Council. He said he enthusiastically supports the type of development being proposed but would be more comfortable with findings that the criteria in the code has been met rather than a finding that mitigation is adequate.

James Eagle Eye said it is difficult to determine what should be considered as adequate and he is concerned that it will set precedent that makes it more difficult for them to protect trees.

Brian agreed that the term "adequate substitute" is difficult to define because it can be subjective. He said it is easier to make findings for the other criteria such as maintaining buffers.

Lily Rees asked what findings the Planning Commission could make in lieu of allowing for mitigation.

Len Goodwin said if there is no room for interpretation it would be hard to conclude that wooded areas are being retained along property lines because they are not. He said the code does not say to the maximum extent possible.

Margaret Boutell said unlike the zoning along Hwy 126, the code does not specify a minimum buffer of 20'. She said, if a small buffer of trees were left along Territorial, staff has made the finding that those trees could be a potential safety hazard due to windthrow. She said the criteria talks about windthrow which is a reason for allowing mitigation rather than preserving trees. She said there are no adopted plans and nothing in the code that states how wide the buffer should be. She also said the code talks about heritage trees but doesn't say they have to be preserved.

Len Goodwin agreed that leaving a small buffer of trees creates a problem and doesn't prevent one. He said he is struggling with the unintended consequence of making part of the tree code more subjective than intended.

Lily Rees said it appears to her that leaving trees along the property lines would

create a safety hazard for both properties because of windthrow and that saving the heritage tree would create a safety concern if it meant the play area would have to be moved closer to Territorial.

Brian said in the past some precedent has been set for allowing mitigation when tree permits were approved after a subdivision. He said staff has been requiring the planting of four trees on lots where trees were being removed. This is actually the minimum required by the landscaping code but Kyle was requiring it as a condition of approval for tree permits.

Len Goodwin said he would prefer the Planning Commission take the approach that they are following the approach already being taken by staff and acknowledge that how staff applied the code in the past was an appropriate interpretation of the ordinance.

James Eagle Eye said recently the Planning Commission made findings that the developer had to protect trees on neighboring property from windthrow. In response, Brian said there are no trees on neighboring properties that are adjacent to the property lines.

In response to a concern about setting precedent for what is considered adequate mitigation, Brian was asked to characterize the type of mitigation plan being proposed. In response he said the landscaping plan is very aggressive and provides for replacing native trees with native trees. Staff has suggested some conditions of approval that would help implement criteria for making sure the plan is an adequate substitute by requiring the maximum density practicable and requiring trees to be a larger caliper than is generally accepted. Trees are to be planted in a way that provides screening of parking areas, along the perimeter, and beautification of the Territorial corridor.

In response to a question from Len Goodwin about setting some consistent mitigation standards, Brian said it will often need to be determined case-by-case. In some cases he said open space may have a higher function and value than trees would have. He said the questions the Planning Commission would need to ask is if the mitigation plan is reasonable in terms of the proposed site plan and if it could be shown that there would be adverse impacts if the site plan had to be changed. He said the plan submitted for this application sets the bar for planting native trees.

Brian said the City should consider changing the tree code to make it clear that if you can't meet the criteria it puts the application on a more subjective track for mitigating the loss of trees.

Margaret said Brian has made findings that the landscaping plan take into account the intrinsic values provided by trees including attractive views on the site, protection against windthrow, natural drainageways, and buffers along the property line and road. She said some of the things cannot be done with preservation.

Len Goodwin asked if the landscape architect could be asked to give an opinion about whether the mitigation plan provides the services the code is designed to protect without inappropriately impairing the development of the site. He said that would make it easier to apply the standard in the future so other applicants will have some understanding of what will be required of them if they do not meet the criteria. Brian said the City can hire a landscape architect to evaluate the landscaping plan submitted by the applicant.

Len said he would like an opinion given on the adequacy of the mitigation plan as a substitute for enhancing or preserving the functions and values of a site.

James Eagle Eye pointed out the applicant proposes to remove trees from the single family lots during the construction phase of those lots. He asked if the mitigation plan applies to those lots as well.

In response, Brian said generally landscape requirements require the planting of a certain number of trees per residential lot with credit for preserved trees. He said they could require the mitigation to include the single family lots or do it on a case-by-case basis when those lots are developed.

Len Goodwin suggested amending the final order to require the landscaping plan to require coordination of the mitigation plan with the multi-family and single family lots to ensure they aren't completely separate.

Brian said that condition would need to be in both sets of findings.

**MOTION: Len Goodwin made a motion to approve the Heather Glen Subdivision with and amendment to the conditions of approval to require tree removal for the single family lots to be coordinated with the tree mitigation plan for the multi-family site plan.**

Discussion: James Eagle Eye asked Len Goodwin to amend his motion to include a condition that the single family homes be granted access to use the park located on the multi-family site.

**MOTION: Len Goodwin amended his motion to include adding a provision to the Development Agreement that would allow the owners, occupants, and guests of the single family residences to have access to the park facilities within the multi-family development. Lily Rees seconded the motion as amended. The motion passed with a vote of 3-0.**

**MOTION: Len Goodwin made a motion to approve the Heather Glen Site Plan and adopt the proposed final order with an amendment to change the timing for tree removal as recommended by staff, to coordinate the tree removal with the subdivision, and to include a provision in the development agreement for use of the park by the owners of the single family lots. Lily Rees**

**seconded the motion which passed with a vote of 3-0.**

**B. S-1-07 - HUNTER'S DRAW**

Request for a 19 lot subdivision of property located at 25273 Hunter Road  
Assessor's Map 17-05-31-20, tax lot 600

Staff Report (Brian Issa)

The applicant is requesting to subdivide a 4.85 acre parcel of land into 19 single family lots ranging in size from 6063 square feet to 8720 square feet. The property is located in the General Residential zone on the north side of Hunter Road. The applicant is also proposing to remove 230 trees. There is an existing home and outbuildings on the property. The property is bordered on the north by the Railroad and Hwy 126, on the west by properties owned by the City and St. Catherine Church, and on the east by a large vacant parcel of land. The lots will take access from Hunter road via a half street. Stormwater flows from the north and south to a drainage way in the center which runs from west to east through the site. The Veneta Comprehensive Plan Wetlands Map does not show wetlands on the site; however, the applicant hired a consultant to do a delineation and found what the City's consultant agreed is a non-significant wetland. Veneta Municipal Code Chapter 18.10 does not apply to non-significant wetlands. None of the trees on site qualify as heritage trees.

Brian made the Planning Commission aware of several issues:

(1) Location of E. Broadway:

E. Broadway is a minor collector that is planned to extend east from the City's water treatment plant. The current plan shows a 140' vertical offset from that dead-end to the section of E. Broadway developed as part to the Forest Grove Subdivision. That alignment requires panhandle lots and a longer block on the west side of the proposed Wapati Street. Both the City and St. Catherine Church, the property owners to the west, have concerns about the effect the proposed alignment has on the development potential of their properties. Staff has recommended a condition that requires the applicant to submit a revised tentative plan that changes the alignment of E. Broadway by moving the west end south and the east end north. The code states that panhandle lots shall be allowed only when there are no other feasible options. The change in alignment eliminates the panhandle lots and would create a partial cul-de-sac which meets fire district requirements. The change in alignment also brings the block lengths closer to conformity.

(2) Development of Wapati as a half-street: The applicant has proposed to develop a half street on the east side of the property. Staff looked at either side locating the street on, and determined the eastside was better. If the street were to be located on the west property line it would most likely never be developed because of the existing land uses. The property to the east is a large vacant parcel of land that is likely to develop as a residential subdivision. Even though Crystal Street will be offset by 150' from the new

street to the north, the benefit of having the street constructed to full standards in the future outweighs the offset to Crystal.

Brian recommend approval subject to the conditions of approval in the proposed final order with amendments to change the timing of when trees can be removed to be after the public improvement plans have been accepted, to install tree protection around all trees to be preserved, and to remove the pedestrian access from the end of the cul-de-sac to the Greenway. Brian explained the reason for recommending removal of the pedestrian path is that there will already be access via adjacent properties within 100'.

In response to a question from Len Goodwin, staff said there is not enough right-of-way to require a future center turn lane on Hunter Road.

In response to a question from Len Goodwin, Brian said trees that may be impacted on the adjacent property would be within the future half street. The owner of the property to the east actively manages the trees and requests tree removal occasionally.

In response to a question from Len Goodwin, Brian said the site is fairly level and it appears the maximum amount of fill will be about 6" which is very minimal.

**MOTION: Len Goodwin made a motion to approve Hunter's Draw Subdivision with the amendments to the conditions of approval recommended by staff to change the timing of the tree removal, require protection measures for trees being preserved, and to change the alignment of E. Broadway, and to delete the pedestrian connection from the end of the cul-de-sac to the Greenway. Lily Rees seconded the motion which passed with a vote of 3-0.**

V. OTHER

- A. Administrative Decisions: None during the month of March 2007.
- B. Code Interpretation for Site Plan Review requirement to bring site up to current code.

Brian said he has been having difficulty interpreting how to apply the requirement to bring existing sites up to code when the City receives a request for a site plan amendment for a site that does not meet current code, especially in regards to stormwater detention. The code was written to specifically address bringing gravel parking lots and landscaping up to compliance with the paving and landscaping requirements but it could be interpreted to require stormwater improvements as well. Brian gave several examples where someone has asked about adding to a site or changing the use of a site that doesn't add any additional impervious surface. If those sites are required to be brought up to the current stormwater standards it would be cost prohibitive because the sites would have to be graded differently. He said staff is asking for an interpretation that retrofitting existing impervious surfaces for stormwater detention not be required and that the

code be applied only to anything new.

In response to a question from Len Goodwin about what constituted a change to an existing development, Brian gave the example of the recent West Lane Center conversion of retail space to a restaurant use. He said a site plan amendment was required because a restaurant has a greater impact on traffic and requires more parking spaces. The findings determined the existing parking met the code but the question would be whether or not they would have to bring the entire site up to current stormwater requirements. The only change was to the interior, no changes to the impervious surface.

He said expanding an existing use would also require a site plan amendment. Len Goodwin said stormwater should be dealt with if someone adds impervious surface; however, when there is no added impervious surface it would not be good policy to require retrofitting existing development because it would stifle or discourage new development or redevelopment. He said if there is a change in use from retail to restaurant and more parking spaces need to be added, those spaces need to be brought up to code.

The Planning Commission agreed that the language in the code needs to be changed. Staff asked for direction in how the code should be interpreted until that change is made.

**MOTION: James Eagle Eye made a motion to interpret Section 6.06 to apply only to those things that will be impacted by the change in use and not require retrofitting existing site improvements. Len Goodwin seconded the motion which passed with a vote of 3-0.**

Brian advised the Planning Commission that staff is currently working on a large number of code changes. He said he will do some research to find out what other cities require for site plan amendments and make a recommendation that will address the issue.

VI. ADJOURN

James Eagle-Eye adjourned the Planning Commission at 8:50 p.m.

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James Eagle-Eye, Chairman

ATTEST:

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Darci Henneman, Assistant City Recorder