

Minutes of the Veneta Planning Commission

August 6, 2007

Present: Chairman James Eagle-Eye, Jim Bruvold, Len Goodwin, Lily Rees and Keith Hartley

Others: Marion Esty, City Councilor, Margaret Boutell, Community Services Director; Brian Issa, Associate Planner; Darci Henneman, Assistant City Recorder; Jerry Elliott, City Engineer; Brad Young, Sharon Jones, Louis Johnson, Joan Mariner, Joe Russell, Mona Linstromberg, Brad Wechner, Cathy Coulson-Keegan, Nannie Baker, Jeneca Jones, West Lane News and Karen McGowan, Register Guard

1. REVIEW AGENDA

Chairman James Eagle Eye reviewed the agenda and called the Veneta Planning Commission to order at 7:03 p.m.

2. PUBLIC COMMENT

Mr. Joe Russell started to speak about the proposed tree permit. Chairman James Eagle Eye said he could speak during the public comment session of the public hearing. There were no public comments.

3. APPROVAL OF MINUTES:

July 2, 2007 Planning Commission and July 9, 2007 Joint Work Session of City Council and Planning Commission.

MOTION: Keith Hartley made a motion to approve the minutes of the July 2, 2007 Planning Commission. Jim Bruvold seconded the motion, which passed with a vote of 5-0.

MOTION: Jim Bruvold made a motion to approve the minutes of the July 9, 2007 Joint Work Session of the Veneta City Council and Planning Commission. Lily Rees seconded the motion which passed with a vote of 5-0.

4. PUBLIC HEARINGS:

A. ASPEN HEIGHTS SUBDIVISION - TREE FELLING PERMIT (S-4-05) (con't).
Assessors map 17-06-36-34, tax lots 600/700

1. At 7:06 p.m. James Eagle Eye called the public hearing on the proposed Aspen Heights Subdivision/Tree Felling Permit to order.
2. Declaration of Conflict of Interest or Ex-Parte Contacts: None
3. Staff Report and Proposed Final Order (Brian Issa)
Since the previous Planning Commission meeting of July 2, 2007, the applicant removed trees according to the approved permit of June 13, 2006. That permit included tree removal for the rights-of-ways, utility easements and smaller building areas shown on the 2006 tree plans only. The Commissioners had requested staff to hire an independent engineering firm (PBS Engineering) to review the applicant's engineer's (K & A Engineering) geo tech report. Commissioners postponed the public hearing until August 6, 2007 to have adequate time to review the report from PBS Engineering before approving the applicant's second tree removal permit.

Substantial Changes to the Subdivision

Brian responded to Mona Linstromberg's public comment from the July 2, 2007 meeting and found little basis for her assertions that the subdivision

plans for this site have changed substantially. The plans dated May, 2005 showed no building pads. Brian said this is common because the subdivider may not be the builder and would not know where the houses will be placed. The drainage designs on tentative plans are usually preliminary and are not intended to show the actual size, exact location or design of the approved system, which is a public improvement requiring approval from the City Engineer. The increase in the size of the proposed storm pipe has no more impact on the approved plans than the relocation of a fire hydrant. These kinds of changes do not alter the lot layout, density of development or otherwise deviate from the tentative plans in any way that would require the applicant to resubmit the tentative plan.

Drainage

Residents adjacent to the development raised concerns of increased runoff and flooding due to the proposed development; specifically water under their homes. City Engineer Jerry Elliot made comments at the July 2, 2007 hearing that the water under some homes may be traveling in a gravel layer on top of bedrock and surfacing when building pads are cut into this layer. The geo tech report indicated this water is at 2 to 6 ft. from the surface. The approved public improvement plans show the utilities within 10th St. buried 5 to 10 ft. deep. It is possible the utility trenches, backfilled with gravel, will intercept the subsurface flow and redirect it. It may be necessary to install a connection between the trench and the piped stormwater system to collect this flow. It is unlikely that any of the proposed improvements will exacerbate subsurface drainage problems for existing homes.

Aquifer Recharge

The City's Source Water Assessment (2000) states the head distribution and direction of groundwater flow indicate much of the recharge to the aquifer supplying Veneta comes from infiltration of precipitation in the immediate Veneta area between Well 9 and Bolton Hill to the west. Recharge may also come from infiltration of runoff from Bolton Hill. Because there is low output of many of the developed wells and test sites within the City, it is in the City's best interest to limit activities which may decrease infiltration in the recharge area. Currently the City has no limit on impervious surfaces and the removal of trees from this subdivision is not likely to have more of an adverse impact on infiltration than many of the other subdivisions in the area.

Air Quality

There will be no measurable effect on the air quality of the area due to the proposed tree removal. However, trees play a significant role in maintaining and improving air quality. It is in the City's best interest to prevent unnecessary tree removal on a City-wide basis in order to prevent needless impacts to air quality. Because smaller building footprints or alternative construction methods available would create the same density and do not involve clear cutting the site (i.e., custom engineered foundations and limited grading on a lot by lot basis) the City finds that the proposal needlessly impacts air quality to an avoidable extent.

Erosion

The review of the geo tech report by PBS Engineering states that established vegetation is the best protection against erosion and requires little to no effort on the part of the contractors, as opposed to using and maintaining Best Management Practices (BMP's).

The applicant acquired a 1200C erosion control permit from DEQ. The

grading and erosion control plans were approved by the City Engineer which cover construction of the public improvements based on the previously approved tree permit which included limited grading on individual lots. Due to the slope of the area, significant erosion is likely to occur after the public improvements have been completed. Because construction would last over a year, preventing erosion from cleared and graded home sites would create an ongoing inspection and enforcement burden to City staff. The City's responsibilities as a Designated Management Agency (DMA) for reducing Total Maximum Daily Loads (TMDL's) of pollutants would require special attention in reducing sedimentation from erosion during and after construction.

The City found that the correct proposal has the potential to create unnecessary erosion and impacts to water quality, including fish bearing streams.

Windthrow

When referring to Veneta Municipal Code (VMC) 8.10.080(2)(a), the applicant stated several trees slated for removal were identified as unhealthy or hazardous due to disease. However, most of the trees are healthy and in good condition.

The windthrow on adjacent properties was a concern of several neighbors, specifically in Sherwood Forest adjacent to lots 2-4. An onsite consultation with a certified arborist confirmed that removal of trees adjacent to these properties would expose neighboring trees, as well as the remaining onsite trees, to increased wind stress. The proposed plan did not protect nearby trees and windbreaks.

Recommendation

City staff recommended the Planning Commission deny the permit based on the Staff Report and Proposed Final Order.

4. Public Comment

Proponents

Brad Young, 1241 Oak St., Eugene, OR;

Mr. Young is the applicant and represents Aspen Investments,. He did not receive the staff report until Thursday, August 2, 2007. He felt because City staff's recommendations came so late, he didn't have time to point out the all the pros of the geo tech report. He wanted to go on record that he objects to the late notice and reserves the right to review the report and reject it at a future time.

Sharon Jones, 24737 Dogwood Lane, Veneta, OR;

Ms. Jones' property adjoins the Aspen Heights subdivision. She has been video taping the tree removal and commended the crew on the professional job they have done. She witnessed the logging and tree removal process daily. She said they have been taking their time and keeping as many trees as possible. She didn't like seeing the trees cut but prior to the tree removal, it was a fire danger. She said prolonging the project will take more time and erosion would be worse. She has been around logging for several years and felt the remaining trees will not survive with the others gone. She felt the Aspen Heights Subdivision will be a beautiful housing project if everyone planted trees.

Opponents

Louis Johnson, 88794 Sherwood, Veneta, OR;

Mr. Johnson said he is concerned about drainage runoff. He said the only trees remaining are on the individual lots and they will be removed when the houses are built. He said if the area floods more than it has in the past, he might sue the

City and developer.

Joan Mariner, 25712 Cochran Ct., Veneta, OR;

Ms. Mariner read the geo tech reports from K & A Engineering, Inc. and PBS Engineering & Environmental. The K & A geo tech report indicated hydro seeding would be used after all the grading is done. She is concerned there isn't enough rain this time of year to germinate the seed and when the rains do come, the seed may be gone. She felt this subdivision project should have been initiated months ago. She is concerned there isn't enough time to complete the grading and infrastructure installation prior to the fall/winter rains. If the rains start before the grading and infrastructure is complete, this could make the ground unstable. She said because Veneta was built on a swamp we have a 10 year flood event every year. She thinks stormwater management should happen soon. She said engineering only takes us so far. She asked the Commissioners and staff to please answer some of the questions the engineering reports don't cover.

Joe Russell, 24718 Forest Ct., Veneta, OR;

Mr. Russell's property backs up to the Aspen Heights Subdivision. He is concerned now that the majority of the trees are removed, the area will flood when the rains come. He felt there isn't enough time to get the stormwater drains installed prior to the winter rains starting.

Mona Linstromberg, 87140 Territorial Rd., Veneta, OR;

Ms. Linstromberg felt the geo tech reports from K & A Engineering, Inc. and PBS Engineering made assumptions that certain protocol will be followed. These assumptions sound like having more extensive grading than what the tentative plan addressed. She is not totally against the development. She felt the subdivision shouldn't be developed unless smaller footprints are used, which would mean less trees would be removed. She commended Brian on his report and findings.

Brad Wechner, 87985 10th St., Veneta, OR;

Mr. Wechner said he was shocked at how many trees were slated for removal. There are so many trees in his subdivision, he just assumed trees would be left on the proposed development. He is concerned with water runoff and wants to make sure the best possible development methods will be used on the Aspen Heights Subdivision.

Nannie Baker, 24715 Forest Ct., Veneta, OR;

Ms. Baker is concerned about water runoff and felt all the trees didn't need to be removed. She said the trees next to her lot are all gone and so are her views from her living room and kitchen. She said they could have left a lot of trees and built homes around them. She said it's not right or fair. She will have to remove all her plants and build [sic] fir trees so she doesn't have to look at the bare land. It looks awful. She said trees were removed slowly 25 years ago when her home was built. Slowly but surely everything is being taken away from them. She said the trees are gone. There's nothing to be done so she's going to have to build [sic] trees in her own yard so she doesn't have to look at it. She said it looks god awful. She is very upset and hurt by it.

Cathy Coulson-Keegan, 25130 E. Broadway, Veneta, OR;

Ms. Coulson-Keegan read an essay written about the environment by a University of Virginia student. The student was murdered two days after she completed her assignment. Ms. Coulson-Keegan provided a "tree tidbits" handout that accompanied the free Douglas Fir saplings the City gave to volunteers on Earth Day. She also submitted a picture of the Oakway Mall heritage trees showing major construction around a stand of oak trees.

5. Chairman James Eagle Eye closed the public hearing at 8:04 p.m..

6. Questions from the Veneta Planning Commission

In response to a question from Len Goodwin, Brian said the applicant is in compliance with the existing tree removal permit.

In response to a question from Lilly Rees, Brian said it is not uncommon for a subdivision development of this size to take one to two years to complete. She was concerned with leaving the subdivision partially barren for that length of time.

In response to a question from Len Goodwin, Margaret said legal counsel felt there was little exposure to liability on the City's behalf if damage were to occur to homes below the proposed development because the subdivision would take over a year to complete. If the City allowed the permit as proposed, there may be some liability but because we're following criteria, weighing the evidence and making findings about that evidence, the contractors and developers would assume the majority of any liability.

Brian said in relation to the storm water, the hillside slopes down toward Sherwood Forest and Forest Meadows. He said because of the applicant's stormwater retention requirements, they're proposing to change the grade, specifically at the corner of Nottingham and 10th St. to bring those two lots forward to the street. He said most of the flow from the hill currently has been incorporated into the proposed stormwater detention plans. He said this addresses the concern of stormwater from the site not being completed in a year or more.

Len Goodwin felt the question of erosion could pose the most serious problems. He doesn't see this subdivision being built out within a year. PBS Engineering's review of K & A Engineering's geo tech report clearly documents the need for extensive, detailed on-site management of this property in order to avoid serious issues of slope instability and erosion. He could not see anything from K & A Engineering's geo tech report that suggested that by using the Best Management Practices on this site, it would make it easily manageable. He felt we would run the risk of creating a situation, that in spite of our best intentions to follow the requirements of City code, we will have created an undue and unnecessary risk both to the downstream property owners and the City. He did not believe there is adequate evidence supporting a finding that this is an appropriate practice for removing trees in this site.

Keith Hartley drove by the site prior to tonight's meeting. He said the extensiveness of the removal of vegetation is dramatic. He was unclear, at the prior Planning Commission meeting, of the extensiveness of the approved tree felling plan. He realized it was for the location of the rights-of-way and roadways only. He learned tonight that it also included the proposed footprints for the smaller homes. He said there were 437 trees originally and currently 223 trees remaining based on the original tree permit. He also noticed the vegetation was cleared.

In response to a question from Keith Hartley, Brian said the City does not regulate the removal of understory vegetation (non trees). He said mowing or removal of anything not considered a tree (six inches in diameter or larger) can be done as management of their own property. In referring to the extensiveness of the initial permit, Brian was functioning on the same assumption that it was for rights-of-way and utilities only. The lots would be dealt with on an individual basis for tree removals. The conditions were worded in a way that the applicant interpreted installation of their protection fencing as it was shown on the plan they submitted. That plan included limited areas of clearing the smaller lots for

smaller building pads along with rights-of-way and utilities. When Kyle wrote the conditions, his intention was tree removal for the individual lots would be separate from the initial permit and would be at a later date. In reading the way the conditions were worded, it was not clear that was Kyle's intention. It was obvious the applicant's tree protection fencing was erected and the permit was pursued in good faith based on the written conditions. According to their permit, staff didn't feel they had legal grounds to stop them from pursuing their tree permit.

Keith Hartley said in order to deny the permit, Commissioners need to document leaving the existing vegetation is a better practice than the normal maintenance of removing the bulk of the vegetation. He said the vegetation slated for removal would absorb water runoff. He is concerned that the completed plan may give a better runoff solution. Commissioners are in a quandary of grading verses trees - which is more fundamental. He is looking for some reassurance the existing vegetation will grow back and leave the area fallow and would be an easier management practice. Or to allow grading of the entire site at this time and see what happens with the proposed water retention system.

Brian said PBS Engineering addressed that issue in their geo tech report about slowing the loss of precipitation in the trees. He said there are still a significant amount of trees on the site but the understory has been cleared and grubbed to an extent that there isn't much left.

Margarets said a 1200C permit is still required on the property.

In response to a question from Jim Bruvold, Brian said a Source Water Assessment was done in 2000. Brian said it didn't go into great detail because there isn't a detailed view of the groundwater hydraulics in the area. He said generally groundwater flows in a northeast direction from the Bolton Hill area. Whether most of the recharge is occurring in that area, it's not specific. It gives a general sense of the head distribution of water and the direction of flow.

Jim Bruvold felt this is an important issue for the City and unfortunately it hasn't been addressed until we have a fairly large area that's slated for clear cut. He said there are erosion control methods to use but there hasn't been any engineering assessment prior to approval. He felt it was unfair on the part of the Commission and staff that we haven't addressed this issue until it's too late and everyone is wondering what to do. He said it's important to get the issues on the table and address them at the right time.

Lily Rees referred to 2C of the VMC and page 5 of the Proposed Final Order, "whether it is necessary to remove trees in order to construct proposed improvements or to otherwise utilize the applicant's property in a reasonable manner". She felt this criteria has not been met. There are other reasonable ways the proposed site could be developed.

7. Deliberations and Decisions

In response to a question from Jim Bruvold, Chairman James Eagle Eye said the applicant has an approved tree permit they're working under, which includes appropriate erosion control methods. They've assumed liability for what they've accomplished so far. They will complete their process in a timely manner.

Louis Johnson

Mr. Johnson told the Commissioners they aren't listening. He said the trees are gone. The Commissioners need to allow the infrastructure in so the property doesn't flood.

Chairman James Eagle Eye reminded the audience that public testimony is closed. He said the Commissioners do understand and know how many trees roughly are gone and how many are still standing.

In response to a question from Mr. Johnson, Chairman James Eagle Eye said he has seen the site.

Nannie Baker asked about the sewer system. She said neighbors were told the first one was not built correctly.

Chairman James Eagle Eye told the audience again that public testimony is closed at this point.

Keith Hartley said the Commissioners are faced with a specific issue and decision to make. The issue is whether to grant or deny an expansion of the tree removal permit. He felt the way the prior permit was interpreted and implemented represents the best compromise.

MOTION: Keith Hartley made a motion to deny the application for a second tree removal permit. Jim Bruvold seconded the motion which passed with a vote of 5-0.

5. OTHER

A. ADMINISTRATIVE DECISIONS

Brian said the only administrative decision was the approval of a coffee kiosk at the Fern Ridge Center, near the Red Barn Realty office. He said one of the conditions for the permit is if there are a certain amount of documented traffic problems with the kiosk, staff would review the permit more intensely. They are actively working to get temporary sewer and water at this time.

B. QUARTERLY REPORT FOR 2ND QUARTER, 2007

Brian reviewed the quarterly report with the Planning Commission for the 2nd quarter of 2007. The Heather Glen subdivision was approved in April. The May, 2007 Planning Commission meeting was cancelled and no decisions were made in June. Brian said building permits are about half of what they were for the 1st quarter of 2007.

Margaret said there is a provision in our ordinance that refers to making developers responsible for infrastructure for their developments (i.e. improvement costs on a street they are cutting into in order to supply city water and waste water to their development). In the past, the City asked developers to sign an irrevocable petition that would require all lots in their specific subdivision be responsible for the upgrade when the City initiates a local improvement district (LID). When the City tried to charge properties on E. Bolton Road for a LID, the City Council ran into problems with the high cost to the property owners of the larger lots. Staff is recommending an engineer's estimate to have the developer pay up front for the estimated cost and also sign an irrevocable petition so if the City doesn't have all the funds when an improvement is proposed, the City could still form an LID and the property owners could pay the difference. The cost of doing it this way wouldn't be nearly as high for the property owners.

In response to a question from Len Goodwin, Margaret said that currently our code requires only the lots that front on the street be charged even though other lots benefit. Because the smaller lots are not allowed to have septic systems, the City allowed property owners to connect to a different sewer line.

Margaret asked the Commissioners if they would like updates prior to upcoming events. She said the Tree Code Amendment open house will be in September

some time. One more stakeholder meeting will be held in August for finalizing the tree code amendments. The Downtown Standards needs a little more research but all of the above referenced projects are in progress. She said in order to get the best pricing for attending the OPI Conference, interested parties should sign up by this Friday, August 10, 2007. Please contact Sheryl or Darci if you are interested. The conference is September 12, through 14, Wednesday, Thursday and Friday, with Planning Commission training on Saturday, September 15, 2007.

Margaret informed the Commissioners that she will be leaving the City of Veneta to take a job in Jefferson County, Oregon. Her last day with the City will be August 30th.

The Planning Commissioners said they were sorry to hear she is leaving.

6. ADJOURN

Chairman, James Eagle-Eye adjourned the Planning Commission at 8:14 p.m.

Len Goodwin, Acting Chairman

ATTEST:

Darci Henneman, Assistant City Recorder
(minutes prepared by dhenneman)