

Minutes of the Veneta Planning Commission
December 3, 2007

Present: Chairman James Eagle Eye, Len Goodwin, Jim Bruvold and Linda Boothe

Absent: Lily Rees

Others: Brian Issa, Community Services Director; Darci Henneman, Assistant City Recorder; Tami Sakany, Devon Trottier, Perry Burdon, Mona Linstromberg, Anna Morrison, Bill Kloos, Herb Vloedman, Craig Harbison, Jim Welch and Joan Mariner

1. REVIEW AGENDA

Chairman James Eagle Eye reviewed the agenda and called the Veneta Planning Commission to order at 7:02 p.m.

2. PUBLIC COMMENT

Tami Sakany, Fern Ridge Chamber of Commerce, 24949 Highway 126, Veneta, OR

Ms. Sakany said she participated in the stakeholder meetings for updating the tree code. Chairman James Eagle Eye asked her to hold her comments until the public hearing. He reminded everyone in the audience the public comment session of the Planning Commission meetings are for public comments on subjects not on the agenda.

Devon Trottier, 24733 Dogwood Lane, Veneta, OR

Ms. Trottier said she has spent over 30 hours reviewing the land use applications on tonight's agenda. She asked the Commissioners to read her letters and other public comments and hoped the Commissioners will give all public comments the same consideration as they do staff recommendations. She didn't know she could submit written comments prior to the public hearing. She said City Hall hours are not convenient for everyone for reviewing documents. She said the staff report should state "no written public comment" rather than "no public comments". She asked if information could be provided to view electronically.

Perry Burdon, 24733 Dogwood Lane, Veneta, OR

Mr. Burdon commended staff and the Commissioners for their efforts. He asked if he could comment on item 4. of the agenda. James Eagle Eye asked the Commissioners if they were open to discussing the hillside development code. James Eagle Eye reminded Mr. Burdon of the three minute public comment limit. Mr. Burdon said it is his constitutional right to speak as long as he wishes. He said every item in his letter should be raised and discussed but three minutes doesn't allow for dialogue. He said because City Councilors are the only elected City officials, they alone should decide on the code changes. He came to City Hall to review huge amounts of paper and he agreed with Devon Trottier that City Hall's hours of operation are not convenient for everyone. He said the library doesn't have complete copies of everything. He acknowledged City staff is working on getting documents on the City's website but it doesn't address the fact that some residents don't have access to a computer.

James Eagle Eye said Mr. Burdon would need to wrap up his comments because he is running over his three minutes and we have a lot to cover tonight.

3. APPROVAL OF MINUTES:

October 1, 2007 Planning Commission.

MOTION: James Bruvold made a motion to approve the October 1, 2007 Planning Commission minutes. Len Goodwin seconded the motion, which passed with a vote of 4-0.

4. LAND USE ACTIONS

A. **LIMITED LAND USE APPLICATION (S-3-07)**

Request for a 106 lot subdivision on Bolton Hill Road

Brian said because they did not have all the materials, the Planning Commission will not make a decision on this matter tonight. Brian said there was a glitch in the public comment process. He said staff received incomplete information from the applicant so the public comment period needed to remain open for an additional amount of time. It closed on November 30, 2007. Staff is waiting for recommendations from Kyle Schauer and Jerry Elliott. He would like to hold a meeting on December 17, 2007. He said all documents should be in by that time. Brian said although a public hearing was requested by someone, a limited land use action does not require a public hearing. Staff recommended not holding a public hearing because it could extend the process beyond the 120 days period, which expires on March 5, 2008. Brian said the Commissioners have options: 1). Continue with the procedures currently in use; or 2). Wait for legal counsel to review the current process to determine if the Planning Commission should conduct a public hearing.

In response to a question from Len Goodwin, Brian clarified one packet of documents provided tonight is for Phase I which is on tonight's agenda and the other packet is for Phase II of the proposed subdivision which is not yet complete.

In response to a question from Len Goodwin, Brian said the application was submitted on October 10, 2007 and staff notified the applicant of its completeness on November 6, 2007.

Len Goodwin felt the application was not complete because of the incorrectly copied documents in the packet.

Brian said the narrative that was copied incorrectly was additional information and not required for completeness. Brian said the code requires a map showing areas of wetlands but wetland determination is not required. Brian said staff felt the application was complete at the time. He said supplemental information may be required to assist in evaluating the request.

Brian said converting to a public hearing may not be within the authority of the Planning Commission. He said the entire process needs to be completed, including an appeal by the applicant, within 120 days from the date of completeness. He said if the application is appealed, it would go before the City Council and a public hearing would be conducted there.

In response to a question from Linda Boothe, Brian said he hoped to have enough time to review all the written public testimony received and include his recommendation in the staff report to the Planning Commission by December 10, 2007 for the December 17, 2007 Planning Commission meeting.

In response to a question from Len Goodwin, Brian said the applicant has not requested waiving 120 days process period.

Brian confirmed attendance from tonight's Planning Commissioners for the December 17, 2007 meeting beginning at 6:00 p.m.

Len Goodwin and James Eagle Eye agreed a public hearing should be held only if the Planning Commission has the authority to do so.

By consensus, the Veneta Planning Commission agreed to direct staff to request the City's legal counsel research whether or not the Planning commission has the authority to conduct a public hearing on a land use action.

Brian confirmed the Commissioners did not receive the narrative for Phase I of the Bolton Hill Ranch. All Commissioners agreed.

B. PUBLIC HEARING (ZC-2-07)

Request to re-zone 24.1 acres south of Bolton Hill Road from Rural Residential (RR) to Single Family Residential (SFR8000) minimum

1. Chairman James Eagle Eye opened the public hearing at 7:42 p.m.
2. Declaration of Conflict of Interest or Ex-Parte Contacts: None
3. Staff Report

Brian handed out a public comment received today from Mona Linstromberg. She requested the record be held open for an additional seven days. Brian said the Commissioners could keep the public hearing open or keep the record open by accepting written testimony. He said either way the Commissioners cannot make a final decision on this matter tonight. Brian continued with the staff report but this matter will be decided at the December 17, 2007 Special Planning Commission meeting.

Brian gave the particulars on this rezone request. Brian said Bolton Hill Road is County owned and designated as a collector in the Veneta Transportation System Plan.

The proposed area is located on the south side of Bolton Hill Road, near the southwest corner of the City. He said it is 24 acres and has a plan designation in the Comprehensive Plan of low density residential and is zoned rural residential. Brian said the applicant is requesting a zone change from rural residential to single family residential, 8000. He referred to two maps; one is the Comprehensive Plan designation map which describes the general categories for land uses within the city limits. The other is the zoning map. He is not sure why this parcel was zoned as rural residential but having a Comprehensive Plan designation of low density residential. He said changes in a periodic review in 1999 and 2000 may have caused the confusion. He suggested possibly because it is an uphill parcel that can only be served by a sewer requiring it to go through downhill neighboring parcels. He said when the current zoning map was drafted; sewer service was not available in the area. As a result, the property was zoned rural.

He said the applicant is proposing three options for providing the property with waste water service. Option 1 would be to gravity wastewater through the Southwest Area Plan (SWAP). There is no sewer there now but there are specific development plans for the SWAP. This option would depend on the timing of the two developments. Brian said ideally, these two developments should coincide in terms of their development timing with the sewer line being connected and traveling to 8th Street. Option 2 would be install private pumps with a pressure line or a City pump station, similar to the City's other sewer lift stations that

collect wastewater from a specific area and pump it to where gravity falls back to the City's sewer system. Brian said water service is currently provided to the parcel from the SWAP as well as on Bolton Hill Road.

There are no stormwater facilities on the site. He said stormwater lines would be located to the east and flow through the SWAP. Brian said the SWAP accounted for the storm drainage for pre and post-development flow in the sizing of their facilities in their Stormwater Master Plan for the entire Southwest Area Plan. Brian said there are no wetlands, greenway overlays or significant resources on the site. He said the site has been logged and is currently forested by small, six foot Douglas fir trees.

Brian said the applicant submitted the required information for the requested zone change. Brian said the City Engineer and Public Works Superintendent preferred City services for the area but a pump system was acceptable provided it was not a City facility. This would require a private facility on private property and would be abandoned upon gravity sewer becoming available from the SWAP. Brian said this would be at the applicant's expense. Brian said in the past a temporary pump station isn't really temporary. However, he felt Hayden Homes is moving well with the SWAP.

Brian stated that the City does not have discreet standards for approval of rezones, and therefore is relying on the Comprehensive Plan Policy No. 6 from the Growth Management element, which requires that the following findings be made: 1. The City water supply and distribution system are adequate to provide service to the property for conversion to urban densities. 2. The City sewage treatment and collection system is adequate to provide service to the property for conversion to urban densities; and 3. The street and drainage systems can handle additional traffic and storm drainage.

In response to a question from Jim Bruvold, Brian said it is the opinion of the Public Works Superintendent and the City Engineer that the sewer collection treatment systems are adequate to handle the proposed site.

Brian said water services will be adequate to serve this subdivision. Brian said there are no drainage issues with the proposed site and the storm drainage system has been accounted for. He said they will be required to detain their stormwater so their post development flow cannot exceed the pre-development flow for a 10 year storm. He said the SWAP has been designed to handle pre and post development drainage. He said a transportation impact study was completed and increased traffic was not shown to have an adverse effect on the area. Brian said Lane County is in the process of improving Bolton Hill Road from Territorial Highway to Dogwood Lane. He said the City is working with Lane County on timing their improvements with the County's.

Brian said the applicant will need to acquire an easement as part of their subdivision. Brian said the water criteria stated that the "City's water supply and distribution system is adequate to provide service to the property proposed for the conversion to urban density". Brian said the City is in the process of developing two production wells. He said the City is hopeful Well 11 at the Jeans Road Treatment Plant Facility and Well 12 at the Public Works Yard will have the production capacity of Well 10, which is approximately 185 to 200 gpm. He said

this is a conservative estimate. Brian said the City's wells are currently producing approximately 1.33 million gallons per day. He said with Wells 11 and 12, that production should be 1.8 million gallons per day. These figures are based on the average daily consumption rate of 200 gallons per day. He said this is a conservative estimate. He said by adding Wells 11 and 12 the City will have adequate water levels for the projected population numbers for 2017. Brian said this figure was calculating using a 7% average growth rate. He said we are still waiting for new coordinated population numbers from Lane County through LCOG. He said this process has been put on hold.

Brian said it's not likely homes on this site will be occupied prior to 2009. He said it's likely the City will have Wells 11 and 12 on line by that time. He said the City has been retaining full reservoirs during times of peak summer usage. He said the City is continuing to search for new water sources, including EWEB.

4. Questions from the Veneta Planning Commission

In response to a question from Linda Boothe regarding required reserves in the City's water tanks, Brian said Kyle Schauer would be the person to ask that question. However, he felt there are guidelines somewhere requiring a certain level redundancy.

Len Goodwin felt it probably isn't written into City code.

Brian said there are probably state guidelines for water reservoir levels.

Linda Boothe said staff should be able to monitor and be responsible for these levels rather than an ordinance or state law.

Brian said Mona Linstromberg requested the record remain open for seven days for continued public comment. This matter is postponed until December 17, 2007.

5. Chairman James Eagle Eye opened the public hearing at 8:00 p.m.

Proponents:

Bill Kloos, 375 West 4th St., Eugene, OR

Mr. Kloos thanked staff for a positive staff report which he supported. He said the applicant's engineer is in the audience to receive questions from the Commissioners. He said Mona Linstromberg requested the record stay open an additional seven days. He assumed there will be more public comments and requested the applicant be given three days after the additional seven days in order to respond to any additional public comments. He asked the matter be brought back for the Commissioners' recommendation on December 17, 2007.

Brian confirmed with Mr. Kloos that the applicants three days to respond to public comments was not subject to the 120 day time line.

Opponents:

Mona Linstromberg, 87140 Territorial Rd., Veneta, OR

She requested the rural residential zoning to single family residential be denied. She said both zones allow for the same density. She felt City resources are not available for this rezoning. She felt the property should sustain its own growth. She said the land development ordinance doesn't allow for this development. She

asked for a definition of the two zones. She felt the applicant has not provided adequate proof as to why this subdivision should be allowed.

Devon Trottier 24733 Dogwood Lane, Veneta, OR

Ms. Trottier didn't know she could turn in her written comments prior to a public hearing. She said at the last periodic review of the Comprehensive Plan the majority of the attendees were in favor of retaining rural residential zoning within the City limits. She said both the Council and the Commission stated the property currently being considered for rezoning should remain as rural residential. She said that decision should be upheld and the Planning Commission should honor the public trust when they decide zoning issues. She said the current designation of rural residential will not prevent development but will allow reasonable, responsible development based on adequate water and sewage disposal. She said retaining rural residential zoning follows the Comprehensive Plan of low density residential. She said three options for waste disposal are provided. She said the SWAP is not even scheduled for development until after the proposed site is developed. She said pumping waste water uphill to the Bolton Hill pipe would increase the potential for overloading the existing system. She said it is also assumed that the gravity sewer will be available before the pump facility is developed. If we do allow this, all installation and maintenance costs should be solely at the applicant's expense and not by the City and future homeowners. She said there is also no guarantee that easements sought by the applicant for the adjacent property would even be granted. She said Option 3 may not even exist. She said the City's current wastewater/stormwater treatment system will not support the already approved development, let alone future construction. She said the City needs adequate water and sewer available prior to approving increased development within the City. She said the applicant has not shown compliance with the Veneta Comprehensive Plan in section 3A, 62. She said the applicant hasn't addressed stormwater management other than stating it will be dealt with at a later date. She said a zone change will allow increased development density, necessitating filling in a significant amount of drainage ways and adjacent wetlands. She said this will increase the potential for flooding and mud slides down hill which would affect public health and safety. She said the City should require management plans prior to considering this zone change. She asked how City staff reported there are no wetlands or natural resources on this site. She asked if and by whom it was surveyed and at what time of year. She said the City's water supply and distribution systems are not adequate to provide services to the property proposed for conversion to single family residential zoning. She is concerned that staff is basing this development on the potential of locating future water sources. She said this not only is putting the cart before the horse, but purchasing the horse before providing food and shelter for him. She said staff has admitted having difficulty providing water (including Well 10) to existing residents during summer months.

James Eagle Eye asked Ms. Trottier to finalize her comments.

Perry Burdon, 24733 Dogwood Lane, Veneta, OR

Mr. Burdon said the Commissioners watch the clock too much. He said there is not enough time to say what's on residents' minds. He felt if public comments are not read aloud, they will not be heard. He said the Commissioners will probably not read the public testimony. He said the rezoning should not be granted. He said the rezoning is money based. He asked who will buy and pay for the cheap houses

that will be built. He asked why the City isn't taking care of its existing residents instead of encouraging more to come. He is concerned about wildlife. He asked who and where the scientific proof is that there will be no adverse effect to the adjacent areas. He is concerned the Fern Ridge Aquifer will be adversely affected by all development in and around the urban growth boundary. He said it's interesting that Commissioner Goodwin refers to the code being designed to make people afraid of being sued at the expense of the City. He said the map is tentative and the drawings are incorrect. He is concerned any drawings having errors will not be corrected.

James Eagle Eye said all drawings will be reviewed during the process and staff will have plenty of opportunity to review all documents and go over any questions that comes up. James Eagle Eye said if changes are needed or something is inaccurate, they will be corrected.

Mr. Burdon said an adjacent property is slated for earth work to be done next month.

Brian said it's in the applicant's best interest to ensure their project is on their property. He said prior to the plat, a license surveyor will be required to plat, draw and record the property lines. He said all of this will be completed before any earth is disturbed.

Mr. Burdon thanked Brian for assisting him and Ms. Trottier with getting information off the City's website.

6. Chairman James Eagle Eye closed the public hearing at 8:19 p.m. but reminded everyone the record will remain open for an additional seven days for continued public comment.

MOTION: Len Goodwin made a motion to keep the record open to received additional public testimony on rezoning 24.1 acres south of Bolton Hill Road from RR to SFR an additional seven days and an additional three days to allow the applicant to respond. Linda Boothe seconded the motion which passed with a vote of 4-0.

Len Goodwin suggested amending the third paragraph on page four to read "applicant will be required to abandon pressurized sewer systems at their expense" He asked Brian to confirm if the three day response time for applicant is subject to the 120 day rule.

C. PUBLIC HEARING (A-2-07)

Amendment to Veneta Municipal Code 8.10 and Veneta Land Development Ordinance No. 461, Section 5.12 regarding Tree Removal and Landscaping

1. James Eagle Eye opened the Public Hearing at 8:21 p.m.
2. Declaration of Conflict of Interest or Ex-Parte Contacts: None
3. Staff Report

Brian handed out the amendments to the VMC regarding landscaping and street trees. He reviewed the public comments and included those in handouts. Brian reviewed his changes and amendments with the Planning Commissioners. He said the Planning Commissioners will review and possibly recommend these changes and amendments to the City Council for adoption. Brian said the current tree

cutting ordinance was adopted in 1998 and has never been amended. He said the implementation of that code has been difficult to manage. He said staff is proposing amendments to make the process more clear and objective. He said Philip Carroll, an arborist and a member of the Eugene Planning Commission, guided staff in creating a more thorough tree code. Several stakeholder meetings were held along with two open house sessions at the Veneta Library. Brian said legal counsel's comments have been incorporated in the draft he provided to the Commissioners.

In response to a question from Len Goodwin if the City has reason to be concerned about any changes or amendments to the code that would not allow a neighbor to seek civil damages from his neighbor removing his own tree(s).

Jim Bruvold asked if there is any case law on the subject.

Brian said on the initial inquiry, Carrie Connelly, legal counsel, said a homeowner can prune a tree on his side of the fence as long as he doesn't kill the tree. Brian said case law supports civil action by a neighbor for the loss of their tree (if it dies from a neighbor pruning their side of the tree).

Linda Boothe said some of the changes and amendments Brian provided tonight are not consistent with what was talked about at the stakeholder meetings.

In response to a question from Jim Bruvold, Brian said the code doesn't specify tree canopy retention. He said it's possible, but it is very explicit and far more restrictive. He said Portland uses this method.

In response to a question from Linda Boothe, Brian said staff could hire an arborist at the applicant's expense, just like we do for a geotechnical report. He said there have been different opinions between arborists because it's not a hard science. He said if a neighbor disagrees with the applicant's arborist, they would need to hire their own arborist at their expense.

4. Public Testimony
Opponents

Mona Linstromberg, 87140 Territorial Rd., Veneta, OR

Ms. Linstromberg said tonight's proposed changes made to the tree code are not at all what was discussed at the stakeholder meetings. She said she was going to support the tree ordinance but not now. She said it has been subverted and at this point, she does not support staff's recommendation. She felt this ordinance is in favor of huge developments. She said it's a waste of staff time because the Veneta housing argument is always brought up by Mr. Kloos. She felt the tree ordinance will not limit reasonable development and she strongly protested the omission of damaging neighboring trees. She questioned if these code changes outline the goals of the Comprehensive Plan.

Devon Trottier, 24733 Dogwood Lane, Veneta, OR

Ms. Trottier said she is disgusted that some of the items from the previous code amendments were removed based on comments from an attorney who represents a developer. She asked what the recourse is if a neighbor kills her tree and she can't afford to go to court. She requested the record be kept open because this revised

tree code is too involved to respond to in three minutes. She said it's reasonable to save neighbor's trees. She felt the City should retain the ground disturbing activities clauses. She said a neighbor used a brush hog to cut foliage and trees. She said it was done without a permit because it was considered "brush cutting" and on private property because a subdivision plan had not been filed. She said this has happened more than once. She said also ground disturbing activities can damage the systems of adjacent trees. She asked what good is it to sue her neighbor for the cost of a dead tree. She the intermittent drainage ways on the proposed property do have riparian habitat. She said frogs live in the area and come back yearly. She referred to page eight, number three, 8.10.080; she said if this section is removed, who decides how many more trees would be allowed to be removed? Twenty, 40, how many, she felt there should be some oversight under these circumstances. She asked the record be kept open to give residents time to review the most recent revised draft to the tree code tonight.

Perry Burdon, 24733 Dogwood Lane, Veneta, OR

Mr. Burdon said Commissioner Bruvold is the only Planning Commissioner who has been pushing for a tree canopy. He suggested the city spend the time and money to produce a tree canopy map of the Veneta area. He said the stakeholder meetings should have been attended by an environmentalist or city residents that don't have a vested interest in the tree code. He said certain trees make beautiful finished wood other than oak. He said dogwoods, chinquapin and madrone should be included in heritage trees category but they don't get very large. He said the City should design and build around trees to fit in with nature. He said replacement trees should be the size of the removed trees.

Herb Vloedman, 25105 Luther Lane, Veneta, OR

He thanked Brian for the heart and soul he put into the proposed code changes and amendments. He felt there are some huge flaws in the current code and it should be updated so it works for all. He said his overall emphasis would be to address what's "clear and predictable". He said it's important to know some of these things before a project are started. He said if there are too many unknowns it creates a lot of negativity. He felt the impact of someone's tree on neighboring trees is a difficult subject. He said if a tree has a huge critical root zone, it can really eat up someone else's property. He felt there will be instances where a critical root zones cannot be protected. He would like to see tree funds dedicated for planting new trees on City property. He also felt planning documents should go to the building department prior to applying for a building permit. He said one size does not fit all.

Anna Morrison 25166 E. Broadway St., 13b, Veneta, OR,

Ms. Morrison said on page 4, Section 8.10.030, there is an exception for nuisance abatement but there's no definition for "nuisance". She said on page 10, section 8.10, and the proposed code states "the D permit application must be reviewed for compliance with the Oregon Forest Practices Act." She said the first sentence on page one, says "Veneta Code is in place of the Oregon Forest Practices Act". She said this sounded contradictory. She said type D Permits are only on lands within the City limits that are zoned F1 or F2. She said a clear distinction is needed whether it will comply with the State Forest Practices Act or not. She said on page five, Section 8.15.0502C, she asked who will pay for recording fees? She didn't understand why it was rewritten and what direction it's going. She said it needs to be clarified as to who has the ability to file an appeal. She would like to see a better

clarification on how the tree fund is to be used and what penalties will go into that fund. She found in the City's budget where (on the revenue side) the budget showed last year's tree fund had a balance of \$1,600 and the same amount would be budgeted for 2007-08. She said she couldn't find the tree fund in the expense side of the City's budget and felt this needs to be cleaned up as far as dedicated and non-dedicated funds. She felt the process is good but the changes need to be made.

Bill Kloos, 375 West 4th Street, Eugene, OR

Mr. Kloos said Eugene has a very stringent tree code but not as stringent as what was proposed tonight. He agreed with Mona Linstromberg not to direct the Planning Commissioners to recommend the code to the City Council. He said there are good changes as well as bad ones. He felt it should be cleaned up and submitted again. He appreciated Brian reviewing his letter. He said he questioned "Type C Permits". He said when referring to subdivisions, some standards have been taken out but one was left in and beefed up. He said the applicant has demonstrated no feasible or reasonable location alternatives and/or design options which would better preserve significant trees on the site while providing the same overall level of design function.

Tami Sakany, Fern Ridge Chamber of Commerce, 24949 Highway 126, Veneta, OR

Ms. Sakany said she served on the stakeholder committee. She commended everyone for doing a great job at those meetings. She felt she provided her best at those meetings but said she is not an attorney and doesn't know the law when it comes to creating tree codes. She said a fine of \$250 per tree seems extreme. She said this is a big change from the stakeholder meeting. She asked why the waiver comes after the appeal. She felt embarrassed to even admit she was on the stakeholder committee. She felt it has gone too far and wishes the right people would have been brought to the table (stakeholder group) to get this right the first time.

Craig Harbison, 87140 Territorial Rd., Veneta, OR

Mr. Harbison referred to City Councilman Carmen's comment "that a developer should create a development to suit a site" is a better approach. He said the developer is planning to "provide the same overall level of design" for the entire development. He said obviously, this does not utilize the "create a development to suite a site" philosophy. He felt it would be more reasonable to require a developer to design specifically for the site.

Jim Welsh, 90050 Killian Lane, Elmira, OR

Mr. Welsh said the code changes this year have mostly involved tree code amendments or changes. He agreed with Bill Kloos this is very restrictive. He had a problem with any government jurisdiction telling him what he can do with his property. He said there are many safety issues to consider with certain trees. He said some of the storms we've had create public safety issues surrounding some trees. He felt the tree code would reduce choices and increases the cost for affordable home ownership. He felt we could get compliance with mitigation but the tree code would create unaffordable home sites. He said many realtors are concerned about affordable homes in our area. He appreciated how important trees are but there are a number of ways to address the issue. He felt the draft is not ready.

Joan Mariner, 25712 Cochran Ct., Veneta, OR

Ms. Mariner said she was a stakeholder and has been involved with the tree code from the beginning. She appreciated Mr. Kloos' time in attending the meetings and she volunteered to represent members of the community during the stakeholder meetings as well as at the Planning Commission meetings. But she said something broke down. She said when input was made to stakeholders the changes were made for specific reasons. She said that stopped somewhere. She asked what happened to the things the stakeholders talked about and the developer agreed to? She said if Mr. Kloos is qualified to dictate changes to the code, then the entire code should be reviewed by the City's legal counsel. She appreciated the tremendous amount of work Brian has put into this but wondered what happened to their initial process?

5. Chairman James Eagle Eye closed the public hearing at 9:48 p.m.

Brian said he realized he never made a recommendation to the Commissioners. He agreed with the majority of the audience and recommended a new draft of the code be presented at the next Planning Commission meeting of December 17, 2007. He said this is not a time sensitive matter.

5. Questions from the Veneta Planning Commission

James Eagle Eye said the document has significantly changed and he would like to hold it over but said he would have difficulty attending a December 17th meeting. He would like to have Carrie Connelly look over the document.

In response to a question from Jim Bruvold if we should publish the code changes in the newspaper, Brian said staff is working on providing all Planning Commission and City Council packet information on the City's website.

Brian said if a tree cutting permit is applied for prior to a building permit or certificate of occupancy, he said an applicant could get site plan approval and take action on his tree permit and remove the trees. He said then he sells the trees and doesn't development the site for 10 years. He said this is a problem. He said tying the tree permit to buildable action on the site is the way to go. He said this would also work for a wetland permit. He said as far as the tree fund, if trees were removed that weren't suppose to, then fees are paid into the fund. He said maintenance of street trees and planting trees on City property should also be paid out of that fund. He said there could be a cap on fees but that the stakeholders did not reach consensus on this issue. He said the Aspen Heights and St. Vincent developments would be in the black when it comes to mitigating the number of trees that were removed. He said they met their mitigation standards by planting replacement trees on their developed sites. He said if a developer didn't have the opportunity to plant replacement trees, the cost could be significant. He said mitigating planting street trees could be a trade off. He said the \$250 per tree fine would require a resolution adopted by the City Council. He said that was a suggested amount based on what other cities have and the actual cost of purchase and planting.

Len Goodwin said Mr. Kloos' view of clear and objective standards are not the same. He urged staff to reconsider the possibility of reasonable flexibility that would meet the requirements of the code and courts. He said the City of Portland has been successful at navigating these waters. He felt the City would develop an urban city with a rational balance of infrastructure that makes it possible for the

City to comply with enacted land use goals. He said there may be an impact on a developer to maximize the viable use of certain property. He said mitigation isn't that simple.

Brian felt staff came to a compromise and created a unique piece of code. He said when the letters from land use attorneys started coming in opposing the proposed code, he felt it would likely get appealed if the Commissioners were to recommend it to the Council. He doesn't have all of Carrie Connelly's feedback but she has reviewed several portions of the proposed code.

Brian suggest a few revisions and to bring the code back to the January 7, 2008 Planning Commission meeting.

James Eagle Eye and Len Goodwin suggested the Planning Commission should review the proposed tree code changes one more time.

MOTION: Len Goodwin made a motion to continue the public hearing until the January 7, 2008 Planning Commission meeting. Jim Bruvold seconded the motion which passed with a vote of 4-0.

V. OTHER

- A. Update on Proposed Hillside Development Code
Brian stated that because the proposed tree code decision has been postponed and will affect the hillside development code, the City should hold off adopting the hillside development code. He said there are no pending developments that would be effected by postponing adoption of the hillside development code and that staff recommended tabling this amendment for now.

VI. ADJOURN

Chairman, James Eagle Eye adjourned the Veneta Planning Commission at 10:19 p.m.

James Eagle Eye, Chairman

Darci Henneman, Assistant City Recorder