

VENETA PLANNING COMMISSION STAFF REPORT & PROPOSED FINDINGS

Adoption of Additional Standards for Hillside Development (A-1-07)

Amendments to the Land Development Ordinance No. 461 And Land Division Ordinance No. 462

Application Date: June 21, 2007 (DLCD Notice)
Referrals Sent: Carrie Connelly, City Attorney (preliminary)
Jerry Elliott, City Engineer
Kyle Schauer, Public Works Superintendent
Heather Hill, Lane County Fire District #1

Notice Posted: August 15, 2007
Notice Published: August 15, 2007 (Register Guard)
Joint Worksession: June 4, 2007
Initial Hearing Date: September 4, 2007
Hearing Continued: October 1, 2007
Staff Report Date: September 24, 2007

REQUEST

The request before the Planning Commission is to review proposed amendments to the Veneta Land Development Ordinance No. 461 and Land Division Ordinance No. 462. These amendments are proposed to remove and replace Sections 5.25 and 1.06 of the Veneta Land Development and Land Division Ordinances respectively. These sections govern the development of lands with average slopes over 15%.

BACKGROUND

Please see the September 4th Staff Report

ISSUES

During the September 4th public hearing, the Planning Commission heard testimony from attorneys, engineers and concerned citizens. The following specific points were brought up during the public hearing. Following each point is a recommended resolution.

Comments from Bill Kloos representing Frontier Resources LLC and McDougal Bros. Investments

Mr. Kloos made several comments regarding Goal 10, and ORS 197.307 related to “needed housing”. Although ORS 197.307(6) prohibits standards or procedures that alone or cumulatively discourage needed housing through unreasonable cost or delay, it would be difficult to establish in an appeal of a legislative decision adopting standards or procedures that they cause unreasonable cost or delay and have the effect of discouraging needed housing. In most cases, such challenges can only be brought and meaningfully reviewed in the context of an “as-applied” challenge to a quasi-judicial decision. *Home Builders Assoc. v. City of Eugene, 41 Or LUBA 370, 422-23 (2002)*.

The assumption inherent in these arguments is that all housing proposed within the UGB is “needed housing” as defined by state statute. This assumption is problematic in two respects. First, ORS 197.303 and 197.307 are intended to prevent a local government from enacting regulations which have the effect of discouraging affordable housing when a need has been established for such housing “*at particular price ranges and rent levels*”. Expanding this definition to include all housing is extending the scope of these statutes for purposes other than those clearly stated in the law.

Second, based on the currently adopted coordinated population estimates for Veneta, the population will reach 5600 in 2030. Using the 2000 census figure of 2.85 persons per household, this equates to an additional 477 units. Not including Rural Residentially zoned properties, the current UGB has sufficient vacant unconstrained residential land to accommodate approximately 1,371 additional units. Including development of the RR zoned lands at urban densities would raise this total to over 2,000 units. This is a conservative estimate and does not include build out of tentatively approved subdivisions (nearly 200 units), infill development, or increases in density due to the use of density transfer in natural resource areas. Even if the peak growth rate of 7% per year was used to project a 2030 population of 9451 (a growth rate we are unlikely to maintain consistently over that period of time), we would only need 1828 additional units. This number is still less than the 2000+ units that vacant land within the UGB can support. In light of this, it would be difficult to make the case that all residential development within the UGB represents “needed housing” even under a loose interpretation of ORS 197.307

As shown in Table 2 of **EXHIBIT E**, the proposed amendments may reduce the number of potential units in the hillside areas by approximately 167 (note, this is a correction of the number stated in the previous staff report). This number is based on gross acreages and includes the area of Aspen Heights which is an approved subdivision exempt from this ordinance, and Bolton Hill Ranch, and area that will likely be submitted for subdivision prior to adoption of these amendments. Together, these exempt areas account for approximately 70 of the 167 lots. This number is higher than the actual impact because these numbers assume all hillside lots will be 8000 sqft and that all hillside lots will have a disturbed area of 4000 sqft. Hillside subdivisions in Veneta usually have lots which exceed the 8000 sqft minimum and a disturbed area closer to 3000 sqft based on previous development applications. These numbers also do not take into account the ability of developers to recoup units through density transfer. This potential reduction of lots does not adversely effect the City’s buildable lands inventory or reduce available land to the level of noncompliance (See Table 3 and Figure 2 of **EXHIBIT E**).

The remainder of Mr. Kloos’ arguments are addressed as follows:

*1. **Once only through the gauntlet, please:** The full regulatory scheme is triggered by a long list of actions. The result is that, in order to go from a raw land situation to the development of a house in a subdivision, one would have to endure the full regulatory review many times. For example, under section (3), the full bite of the regulatory review would be experienced at the following discrete stages of development: Planned unit development or master plan; tentative plat; road construction; final plat; dwelling construction; expansion of the dwelling by more than 500 square feet. The ordinance needs to include protections that prevent any particular development having to run the regulatory gauntlet more than once. Absent that, the ordinance would violate the*

prohibition in ORS 197.307 against “unreasonable cost or delay” in development of housing.

Resolution: The proposed amendments have been clarified. Specifically section 5(a)(1) has been revised to clarify that once a geotechnical report has been accepted by the City, all subsequent development on the property is to be in compliance with the recommendation of the initial report and that individual builders or homeowners need not duplicate this work. Section (5)(a)(2) has been added to allow the City Engineer to require additional information in situations where builders or homeowners propose changes to the site which may not have been anticipated by the adopted geotechnical report.

*2. **Judgment of the City Engineer as to when to apply:** Under subsection 3(i) of this draft the City Engineer has discretion to drop this process on any activity. This level of discretion itself violates the requirement in Goal 10, the Goal 10 Rule, and the Needed Housing Statute (ORS 197.307(6), that only clear and objective standards be applied to review of needed housing.*

*3. **Scope of things triggering need for geotechnical report:** Section 5(iv) says the a geotechnical report is required for any “land use application” or building permit in a hillside area. The scope of things that require such a report needs to be tied tightly to the list of things that are regulated by section (3). Otherwise, reports may be triggered for things that are not regulation. By definition, requiring reports for activities that are not regulated violates ORS 197.307(6). Home Builders Assoc. of Lane County v. City of Eugene, 41 Or LUBA 370 (2002).*

*4. **Scope of things triggering regulation:** Section 6(a) says that the standards in the chapter shall be applied to “all land use applications.” This may conflict with the more limited list of things in section (3) that are subject to regulation. This may be a conflict in the code, or may just be fuzzy language that needs to be clarified. The key point is that the ordinance needs to be clear as when it is triggered and when it is not.*

Resolution: These provisions have been removed and the language clarified to ensure that geotechnical investigations are not being needlessly duplicated, and that the City Engineer has the ability to require additional information that may be necessary to ensure conformance with preexisting geotechnical reports.

*5. **Building permits as a land use decision:** Section 6(a) seems to treat building permit issuance differently from other kinds of land use decisions, allowing some to be issued administratively and some to be bumped up to the Planning Commission at the discretion of the staff. If a building permit is subject to this ordinance, then its issuance becomes a “permit” decision in the meaning of ORS 227.160. The city needs to adopt a decision and appeal process, as for any other land use decision, that complies with the requirements in ORS 227.170 and .175. In short, the city must have code provisions that provide for public notice, and opportunity to comment, and an opportunity to appeal and get a full hearing on any building permit that is subject to the ordinance.*

Similarly, section 6(b) distinguishes between situations where the ordinance is applied in land use decisions and where it is applied and there is no land use decision. This

assumes a distinction that does not exist. Due the discretionary nature of the review that is conducted, any decision that applies the ordinance will be a land use decision.

Resolution: The proposed language has been amended. When a geotechnical report has been approved, all subsequent building permits need to be in compliance with the limitations and recommendations of that report. Such recommendations are of a detailed technical nature and the determination of whether or not a building permit has or has not complied is nondiscretionary. Such a determination is similar to those made by staff as to whether or not the applicant has complied with necessary setbacks, construction standards, and building codes, and therefore, does not place building permits into the realm of land use decisions. The language relating to referral of permits to the commission has been removed.

6. Discretionary nature of city review: *Under section 6(f), the city will review the recommendations of the private geotechnical analysis and determine whether they are “reasonable.” This is a highly discretionary review. This is one among many standards in this draft that call for the city to make a discretionary determination about the development proposal. This is contrary to Goal 10, the Goal 10 Rule, and ORS 197.307(6), which require only clear and objective approval standards and conditions.). Home Builders Assoc. of Lane County v. City of Eugene, 41 Or LUBA 370 (2002).*

It is worth noting that the city amended its code for housing during the periodic review process to inject new discretionary standards, including for steep slope development. These were objected to. The DLCDC upheld the objections and required to City to amend the code to delete the discretionary standards. The same shortcoming is apparent here. I am enclosing, only with the original copy of this letter, a set of the key documents relating to the DLCDC’s review of the residential amendments during periodic review.

Resolution: The proposed language has been amended and these discretionary points removed.

7. Open wallet condition: *Section 6(h) calls for a review of the applicant’s geotechnical report, with the costs of the review to be paid by the applicant. Presumably this language would authorize the city to hire a second expert to review or redo the work of the first expert, and to pay the cost of that work. The scope of the review is unclear; there is no requirement on the reasonableness of the fees that the applicant would have to reimburse. The city cannot justify the open ended nature of this financial obligation under the prohibition in ORS 197.307(6) against “unreasonable cost or delay” in development of housing.*

Resolution: The proposed language has been amended and these discretionary points removed. This is now 6(d) and has been clarified as to the extent and nature of the review.

8. Duplicative and Conflicting Standards: *Section (6) anticipates that an applicant will develop in compliance with the recommendations in the geotechnical report. Section 10(a) states the city’s own standards for grading. These may conflict with one another. Or the geotechnical report may say that a lesser or greater standard that what*

the city has set is appropriate for the site. There is a potential for duplication and conflict here. The city should decide whether it wants to go with a model for grading that is based on the geotechnical report, or go with a model that is based on generic standards.

*9. **Fuzzy standards for house color and foundation style:** The standards in section 10(b)1.(a) and (b) for color selection and foundation design are highly discretionary in nature. This is contrary to Goal 10, the Goal 10 Rule, and ORS 197.307(6), which require only clear and objective approval standards and conditions.).*

Resolution: The proposed language related to house color has been removed. This is generally a requirement that is stipulated in the CC&Rs for most subdivisions, especially those with larger lots and higher end homes, which those on hillsides are more likely to be due to development costs. The requirement to use special foundations has been removed. The intent of this provision was to avoid unnecessary tree removal and disturbance in hillside areas. If the Commission chooses to adopt the grading standards outline in Section 10, then this provision is unnecessary as the grading provisions would serve essentially the same purpose. Alternatively, (or additionally) the City could adopt specific standards requiring split pad foundations and other building design requirements intended to minimize cuts and fills.

*10. **Fuzzy drainage standards:** Section 13(b) gives the City Engineer lots of discretion to determine what is “feasible” in the way of locating drainage facilities. Section 13(c) requires to applicant to be responsible for conveying the 100-year flood to an “acceptable” disposal point off-site. This affords the city discretion to determine what is acceptable. It also could require the applicant to control drainage ways that are off-site. This is contrary to Goal 10, the Goal 10 Rule, and ORS 197.307(6), which require only clear and objective approval standards and conditions.).*

Resolution: Section 13(c) has been removed. The applicant is still required to show how the system would be affected by a 100 year storm. Whether or not the outcome is “acceptable” will become clear during the review and public process as the developer, City, and neighboring property owners are informed as to where the water will go. The City has other regulations and review criteria in place requiring that drainage patterns be maintained and preventing the development from creating undue hazards.

Comments from Shane Hughes, EGR Engineering representing and McDougal Bros. Investments and ATR Land LLC.

Many of the points raised by Mr. Hughes are similar to those raised by Mr. Kloos and are addressed above. For the full text of comments from EGR, see **EXHIBIT C2**. Additional points are addressed as follows:

5.25(2) Definitions

1. *Definition of an Engineer confusing and conflicting*

Resolution: This section has been revised and the language clarified.

2. *Definition of Hillside Area 525(2)(1), no method given for computing “average slope”*
Resolution: A definition and method for computing the average slope has been added. This is the same method used by City of Springfield and other municipalities.

5.25(6) Review and Approval (of Geotechnical Reports)

3. *Requirement that the assumptions of the geotechnical report be “generally accepted” and “reasonable” are ambiguous*
Resolution: This section has been revised and the discretionary language removed.
4. *Item (h) of this section is unclear as to what type of engineer may review geotechnical reports*
Resolution: This section has been revised to clarify the necessary qualifications.

5.25(10) Design Standards

5. *The limitations on grading are in conflict with the geotechnical reporting requirements. The City should either use one or the other, but not both.*
Resolution: The intent behind restricting the total area of disturbance is to increase the opportunity to preserve existing trees and vegetation in hillside areas, and prevent large differences in elevation at the property line by requiring larger lots and thus providing larger areas to accommodate grade changes for buildings sites within the envelope of the lot. Such considerations are required by the Veneta Comprehensive plan. The comp plan refers to *ecologically sensitive infrastructure , an environment that aesthetically stimulates us, incorporation of natural features into site plans, and the need to Maintain an attractive residential community in an appealing rural setting.* These goals and policies provide a framework for the current proposal.

Table 1. compares the grading limitations imposed by other cities with similar ordinances. If the Commission believes that geotechnical reports and tree removal criteria are sufficient to achieve safe, aesthetically acceptable hillside developments according to the goals and policies of the Comprehensive Plan, then these limitations should be stricken. The City Council has determined that current standards are bringing to fruition these goals and policies and revised or additional standards are necessary. Staff recommends retaining the proposed grading limitations.

6. *5.25(10)(a)(4) conflicts between the requirement for geotechnical reports and an arbitrary requirement for cuts and fills over 4 ft in height to be retained with structural devices (walls).*
7. *5.25(10)(a)(6) Terracing requirements are ill-defined and unnecessary.*
Resolution: Both of these requirements are largely intended to address the aesthetic and erosion control concerns of having potentially very large cuts and fills exposed. These are areas where revegetation is typically difficult to achieve due to the absence of topsoil and the difficulties of introducing vegetation. Within the ROW, these areas are typically left to erode, while homeowners attempt various types of leveling and installation of retaining structures on an individual basis. A good point is made here that applicants may extend cuts and fills to avoid construction of costly retaining walls. The retention requirement has been removed. Terracing requirements have been maintained.

8. *5.25(10)(a)(7) Maximum height of cuts and fills is arbitrary and may be contradictory to the recommendations of the geotechnical report*

Resolution: This requirement has been removed. Many cities set such a limit anywhere between 10 and 25 feet. Staff agrees that the limit is arbitrary and that cut/fill heights should be governed by the limits determined by the geotechnical expert.

9. *5.25(10)(b)(1)(a) & 5.25(10)(b)(1)(b) Color of houses and special foundation .*

Resolution: These requirements have been removed as discussed under comment number 9 from Bill Kloos above.

5.25(11) Density Transfer

10. *Slope methodology not clearly defined*

Resolution: Methodology has been defined.

5.25(8) Disclosure and Indemnification

11. *The City should create a “standard” document that is acceptable to both the City and Deeds and Records that developers could and would be required to use as a template.*

Resolution: No change is needed. Such documents would be drafted in coordination with the City Attorney and the Records office.

5.25(5)(a) Geo-technical Reports

12. *If the City proposes new language for this section someone should review that all of the requirements of the geotechnical report can be prepared by either a Geotechnical Engineer or an Engineering Geologist.*

Resolution: No change is needed. Section 5(a)(3) states that either of these professionals, or a combination thereof may be used to complete the geotechnical reporting requirements.

Other issues brought up in public comments at the September 4th meeting.

Draft Minutes of the September 4th meeting are attached as **EXHIBIT A**

13. *Understory retention may exacerbate fire danger in hillside areas*

Resolution: The code as proposed at the Sept 4th meeting contained the following definition “*Ground Disturbance*” includes grading, filling, cutting, removal of vegetation or trees and other activities which disturbs the native soil to a degree that soils are exposed to erosion. The effect of this language would include removal of vegetation as one of the activities prohibited outside of the area allowed to be disturbed under section 10(a)(1). There are both pros and cons to this approach. Pros include retention of vegetation to help prevent erosion through the reduction of raindrop velocity, and the preservation of native understory vegetation. Drawbacks include the fact that this is an increase in regulatory control over what individual property owners can do in terms of management their property which may be unworkable in terms of enforcement. Such a restriction may also be in direct conflict with best management

practices to reduce fire danger in hillside areas. The Fire District has submitted comments recommending that homeowners

- *Keep all grasses mowed and irrigated if possible.*
- *Keep all trees limbed a minimum of 10 feet from the ground.*
- *Keep underbrush cleared.*

Staff recommends clarifying this definition to exempt understory removal from regulation in order to allow homeowners in hillside areas to manage their property in the way that best protects human health and safety.

14. *The proposed code would place additional pressure on the UGB and lead to urban sprawl.*

Resolution: No change is needed. The density transfer provisions would allow developers to recoup density on the areas of the site with slopes less than 15%. Most parcels in the hillside area do have sizable areas of less than 15% where this could take place. In most cases, the effects on the net density of development would be negligible.

The calculations in the previous staff report were in error. Table 1 of **EXHIBIT E** shows the impact of the proposed amendments on housing development within the city prior to the use of density transfer. The proposed amendments may reduce the number of units in the hillside area by 167. Keep in mind that this number is higher than the actual impact because these numbers assume all hillside lots will be 8000 sqft and that all hillside lots will have a disturbed area of 4000 sqft.. Hillside subdivisions in Veneta usually have lots which exceed the 8000 sqft minimum and a disturbed area closer to 3000 sqft based on previous development applications.

PROPOSED FINDINGS

The Veneta Planning Commission finds the following:

1. The Veneta Planning Commission held a public hearing on September 4, 2007 on the proposed amendments after giving the required notice as per Section 2.11 of Veneta's Land Development Ordinance No. 461. The hearing was continued to October 1, 2004
2. Written notice was mailed to owners of affected properties in accordance with ORS 227.186 on August 15, 2007.
3. Notice of public hearing was published in a newspaper of general circulation, posted on the City's website and at City Hall on August 15, 2007 in accordance with Section 2.11 of the Veneta Land Development Ordinance.
4. The proposed amendments to the Veneta Land Development Ordinance and Land Division Ordinance are consistent with the goals and policies of the Veneta Comprehensive Plan Ordinance No. 416, and all statewide land use goals as detailed below.

Criteria #1: Conformance with the Veneta Comprehensive Plan

B. COMMUNITY, BUILDING, AND SITE DESIGN ELEMENT

GOAL:

Create a city with efficient and ecologically sensitive infrastructure; an environment that aesthetically stimulates us; and buildings, sidewalks, trails, and other public facilities that are accessible to everyone.

In order to provide “ecologically sensitive” infrastructure, it is necessary for the City to ensure that development in steep slope areas is adaptive to the natural topography and incorporates existing vegetation into development plans.

POLICIES:

7. *Incorporate natural features such as creeks, wetlands, and large trees into site plans (including grading, landscaping, and lighting).*

The proposed amendments increase the likelihood that large trees will be incorporated into site plans by limiting the total area of disturbance allowed on hillside lots and minimizing grading when feasible. Although there are springs, creeks, and wetlands on the hillsides, these features are covered elsewhere in City code. The proposed regulations will work in concert with other City codes to ensure that natural features are incorporated into hillside development plans.

13. *Establish and enforce development and performance standards for landscaping, buildings, open space, architecture, and tree canopy.*

The proposed amendments increase the likelihood that large trees and tree canopy will be preserved during the development process by limiting the overall impact of development in hillside areas through grading and design standards. The proposed regulations establish standards for landscaping, buildings, and architecture in hillside areas to ensure that development fits the natural topography and character of these areas, rather than allowing developers to reshape the hillsides to fit the proposed construction.

C. RESIDENTIAL LAND AND HOUSING ELEMENT

GOALS:

1. *Encourage efficient land development patterns that minimize service and infrastructure costs and provide viable, livable neighborhood centers with nodal development, mixed land uses,*

housing types and alternative or non-conventional building practices.

By clarifying the mechanics of the density transfer option, the proposed amendments encourage efficient land development by providing incentives for development of increased density in areas without steep slopes. The proposed amendments encourage a diversity of housing by requiring that homes in steep slope areas utilize custom foundations and other building practices to tailor the development to the natural topography, rather than allowing the same type and scale of development that is allowed in the flatter areas of the City. These design standards will result in a wide range of home sizes and styles. The proposed amendments help minimize infrastructure and maintenance costs by providing incentives for compact development of flat areas while preserving steep slope areas in their natural state where the cost of infrastructure maintenance would be appreciably higher.

2. *Generate new housing starts to adequately insure that all people in Veneta will have the opportunity and choice to acquire safe, sanitary, and affordable housing.*

The proposed amendments are intended to help ensure that developments in hillside areas are safe, and are not subject current or future residents to undue safety hazards due to erosion, slope movement, or other geologic hazards. Because the hillside area represents less than one quarter of the total Low Density Residential land within the City, and because density transfer will help offset the costs of developing hillside areas, the proposed changes will not appreciably effect the overall affordability of housing in Veneta.

3. *Maintain an attractive residential community in an appealing rural setting.*

To many residents of Veneta, mature trees and larger lots are integral parts of the “rural feel” of the area. The proposed amendments will lead to increased preservation of mature tree canopy and larger lots on the hillside which maintains an attractive rural community and an appealing rural setting which is rapidly being lost elsewhere in the community.

POLICIES:

1. *Designate adequate land to support the residential needs for a population of 5,760.*

The population number of 5760 was used during periodic review to estimate the number of residents in 2020. The

current population projection from Portland State University is 5600 by the year 2030.

Overall, housing densities within the City have increased over time. As housing prices have gone up and the supply of buildable land in surrounding areas has dwindled, developers have moved toward lots that more closely reflect the minimum lot sizes and densities outlined in the Comprehensive Plan and Land Development Ordinance. Using recent housing development from 2000-2007, net densities in the SFR6000 and SFR8000 zones have been approximately 6 and 4 units/acre respectively. Taking into account recently approved applications for multifamily developments, the net density for SFR6000 moves closer to 7 units/acre.

Tables 3 and 4 in the staff report compare the approximate number of new housing units the City will need to build by 2030 with the number of units the City could potentially accommodate on vacant unconstrained lands within the current UGB. A total of 477 units will be needed to accommodate an additional 1360 residents by 2030. The City can accommodate at least 1371 new units given the current supply of vacant unconstrained residential lands. This number accounts only for a limited amount of infill, and no development of the Rural Residential (RR) areas of the City. If the RR areas were to develop at a net density of 6 units/acre, an additional 747 units could be accommodated for a total of over 2000 units. These figures also do not count the number of residential units which have received tentative approval since the population figure of 4240 was released. The City has approved more than 100 units in the Southwest Area alone. The proposed regulations will not reduce the City's supply of buildable lands to the level of noncompliance.

5. *Encourage a range of housing prices including high-end, mid-range, and affordable housing that is available for purchase or rent.*

By clarifying the mechanics of the density transfer option, the proposed amendments encourage efficient land development by providing incentives for development of increased density in areas without steep slopes. The proposed amendments encourage a diversity of housing by requiring that homes in steep slope areas utilize custom foundations and other building practices to tailor the development to the natural topography, rather than allowing the same type and scale of development that is allowed in the flatter areas of the City.

These design standards will result in a wide range of home styles and prices which will provide a largely high-end alternative to the majority of mid-range and affordable housing which has been developed in Veneta in the past.

14. *If public open space is provided, allow smaller lot sizes than zoning districts otherwise allow. In this way, the overall gross density of development does not increase, but the open spaces may be used to protect natural resources or provide more viable recreation areas.*

The proposed changes will more clearly detail the way in which density may be transferred to protect natural resources. In exchange for creating open spaces in hillside areas, developers have the option of shifting that density to flatter areas of the site.

J. AIR, WATER, AND LAND RESOURCE QUALITY

POLICIES:

- (1) *Overall Policy: The City of Veneta shall comply with all federal, state and local environmental quality and environmental protection regulations.*
- (3) *Water Quality:*
- (a) *The City shall comply with all federal EPA Waste Discharge requirements, the State Water Quality Management Plan, Lane County "208" Comprehensive Study and all other applicable local, state, and federal water quality regulations.*

Erosion of hillside areas is a point of concern for the City. Removal of hillside vegetation and soil disturbance, especially mass grading on a sitewide basis poses a significant erosion control problem that cannot easily be managed. Two approaches exist to manage erosion in hillside areas, the use of best management practices (BMP's), essentially engineering solutions for stabilizing disturbed areas, and retention of native slopes and vegetation. Of these two methods, preserving existing vegetation is more effective, and requires minimal oversight by the City and is therefore, the preferred method of erosion control in these areas. The proposed hillside standards will limit the total area of disturbance in hillside areas and put in place standards intended to control erosion to the greatest degree practicable.

The City of Veneta is a Designated Management Agency (DMA) under the Total Maximum Daily Load (TMDL) program administered by Oregon Department of Environmental Quality. As a DMA, the City has the

responsibility to reduce pollutant loads into nearby water bodies. Erosion control and stormwater management are listed as high priorities in the draft Veneta TMDL implementation plan. The proposed hillside standards will codify erosion control requirements for development of these areas and work in conjunction with DEQ requirements to help ensure that erosion is minimized to the greatest degree practicable.

K. AREAS SUBJECT TO DEVELOPMENT CONSTRAINTS

GOAL:

Protect life and property from natural hazards and disasters.

POLICIES:

- (1) *All Hazard Areas: The City shall cooperate with all local, state, and federal agencies to ensure that all physiographic constraints to development are evaluated and hazards are minimized.*
- (b) *An in-depth review may be required if affected property possesses any of the following characteristics:*
 3. *Site is located in the steep slopes area above the 450 foot elevation level.*

Nearly all of the hillsides over 15% slope are located above the 450ft elevation level. In order to ensure that developments are safe and that danger to life and property from slope instabilities are minimized, the proposed amendments will continue to apply to all developments on lands over 15%, as opposed to just those over 450ft elevation. In depth geotechnical reporting is currently required for development of slopes over 15%. The proposed amendments clarify what specific issues and recommendations should be addressed in the report, and required qualifications of those drafting such reports.

- (4) *Steep Slope Areas: The City shall cooperate with all private developers and affected persons to ensure that steep slope hazard areas are identified and non-buildable slopes are protected.*

In order to ensure that developments are safe and that danger to life and property from slope instabilities are minimized, the proposed amendments clarify the information required to accompany hillside development applications. The proposed amendments also set a limit on the slopes that can be developed at 35%. Any slope over 35% is considered unbuildable. This number was arrived at through analysis of what other cities had done and represents the average of the limits imposed by other cities.

- (a) *All developments over two acres in size and land division proposals located on slopes exceeding 15% shall provide a geotechnical report identifying buildable and non-buildable areas, proposed improvements to alleviate the hazards and a statement on the environmental impact of the development.*

In depth geotechnical reporting is currently required for development of slopes over 15%. The proposed amendments clarify what specific issues and recommendations should be addressed in the report.

- (b) *Subzone zone shall be used to identify this steep slope zone on the Veneta Zoning Map.*

A subzone does not currently exist. The SRF8000 zone essentially acts as a subzone requiring larger lots in the western portion of the City. This is based primarily on the need for larger lots in steep slope areas as shown below in the purpose of the (L) plan designation. A more refined subzone that overlays only the hillside areas, and a rezone of nonslope areas to 6000sqft minimums may be proposed at a later date.

IV. COMPREHENSIVE PLAN MAP AND LAND USE DESIGNATIONS

PLAN DESIGNATIONS:

LOW DENSITY RESIDENTIAL (L)

Purpose of Plan Designation:

- *Provide areas suitable and desirable for primarily single-family uses with provisions for associated public service uses, planned developments, and limited multiple-family use under controlled conditions on lots incapable of division to city standards.*
- *Ensure that residents are provided with a low density single-family residential area.*
- *Allow up to seven (7) units per net acre. Planned Developments may qualify for a density bonus of up to fifteen (15) living units per net acre in the Single Family Residential (SFR) zone.*
- *Require minimum lot sizes shall of 6,000 square feet and 8,000 square feet on steep slopes. Larger lots may be established by the Planning Commission if it determines that development hazards or constraints exist or if the Planning Commission finds larger lot sizes will be more compatible with surrounding residential areas.*

The SRF8000 zone essentially acts as a subzone requiring larger lots in the western portion of the City. This is based primarily on the need for larger lots in steep slope areas as stated in the purpose of the (L) plan designation. A more refined subzone that overlays only the hillside areas, and a rezone of nonslope areas to 6000sqft minimums may be proposed at a later date. The proposed amendments include

provisions for density transfer which would allow densities up to the 7 units/net acre stated above in exchange for setting aside hillside areas as open space. The proposed amendments codify the ability of the City to require larger lots to avoid hazards or development constraints. The City finds that the potential hazards and practical constraints of developing in hillside areas justifies the proposed limitations on development and the proposed amendments will provide greater certainty to the development community rather than imposing constraints on a case by case basis.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

There was considerable opposition to the proposed amendments voiced at the September 4th meeting. Staff has attempted to address these concerns as stated above. The Planning Commission has several options available at this point.

- a. Close the public hearing. Approve the proposed draft language and findings and recommend approval of the amendments to the City Council.
- b. Close the public hearing. Modify the proposed draft language and/or findings and recommend approval of the amendments with changes to the City Council.
- b. If more research is needed, the Commission may direct staff to conduct the needed research and bring revised language/findings to the November 5th Commission meeting. If this is done, staff recommends leaving the public hearing open to allow public comment on the revisions.
- c. If the Commission feels that the proposed amendments are not ready to be forwarded to the Council, and the changes needed are extensive, the Commission may choose to withdraw the proposed amendments from the hearings process in favor of conducting additional work sessions or some other alternative public process (stakeholder committee etc.)

STAFF RECOMMENDATION

The proposed amendments will clarify existing code and improve consistency. The proposed text will provide more information for decision makers and clarity for applicants. Staff recommends that the Veneta Planning Commission approve the findings of fact and recommend approval of the proposed amendments to the City Council.

EXHIBITS

- A. Draft minutes of the Veneta Planning Commission, September 4th, 2007
- B. Proposed changes to the Land Development and Land Division Ordinance revised 9/24/07
- C. Public Comment
 1. Bill Kloos, September 4th 2007 (submitted at Sept 4th meeting)
 2. Shane Hughes/EGR Engineering, (submitted at Sept 4th meeting)
 3. Mona Linstromberg, (submitted at Sept 4th meeting)
- D. Agency Comments
 1. Heather Hill, LCFD#1
- E. Tables and Graphs