

# Minutes of the Veneta Planning Commission

## March 3, 2015

Present: James Eagle Eye, Calvin Kenney, Len Goodwin, Kevin Conlin

Absent: Lily Rees

Others: Ric Ingham, City Administrator; Kay Bork, Community Development Director; Lisa Garbett, Associate Planner; Darci Henneman, Assistant City Recorder; Scott Morris, A & O Engineering, Inc.

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### I. Review Agenda

Chair James Eagle Eye opened the Veneta Planning Commission meeting at 7:05 p.m. and reviewed the agenda.

### II. Public Comment

None

### III. Approve Minutes

- a. December 8, 2014 Joint Meeting of the City Council and Planning Commission

**MOTION:** Kevin Conlin made a motion to approve the December 8, 2014 minutes of the City Council and Planning Commission Joint meeting. Len Goodwin seconded the motion which passed with a vote of 4-0.

- b. February 3, 2015 Planning Commission

**MOTION:** Len Goodwin made a motion to approve the February 3, 2015 minutes of the Planning Commission meeting. Kevin Conlin seconded the motion which passed with a vote of 4-0.

### IV. Request for Tentative Subdivision & Type C Tree Removal Approval, S-2-14 Madrone Ridge

- a. Request approval of a tentative plan to divide 21.22 acres into 96 parcels & associated Type C Tree Removal permit.

Garbett reviewed the staff report. She said this is a vacant property immediately west of Applegate Landing Phase 3 and exists to the north of 8<sup>th</sup> St. and Oaks Orchard.

#### Natural Resources

Garbett said the Planning Commission is being asked if 27 replacement trees that are proposed to be planted on lots, can be considered replacement trees and mitigation credit. If approved this could present a challenge in developing the property because according to code, the trees need to be planted prior to plat. She said the applicant may be required to enter into an assurance bond for the cost of replacing the trees should the trees die.

Garbett provided the Planning Commission with an update to proposed condition 24 regarding the trees. She reviewed the update which includes credit for retaining existing trees. She said the applicant shall sign and record an Irrevocable Development Agreement, for each affected lot, prior to issuance of the building permit. The applicant shall also post a three-year performance bond in favor of the City in the amount of \$6,750 (27 replacement trees x \$250 in lieu of planting).

### Transportation

Garbett said the applicant is proposing flag lots on lots 28 through 30, 47 through 50 and 87 through 89. All these lots will have access from Perkins Rd. Current code allows up to three lots that can share an access pole with a minimum width of 20 ft. She said the applicant has exceeded this with proposed 28 ft. paved widths. A shared access agreement between those lots sharing access to the private drive is also proposed.

### Stormwater

Garbett said the applicant is proposing a stormwater Detention pond outside City limits and in Lane County jurisdiction. Staff contacted Lane County for a referral and they indicated a special use permit with conditions would be necessary. The City Engineer commented that off-site drainage will need to be intercepted and routed around the proposed lots and conveyed through the site for each phase of development. The Madrone Ridge Homeowner's Association will be responsible for performing maintenance on all stormwater swales and detention ponds. The applicant will be required to execute and record stormwater agreements for maintenance of all stormwater swales and detention ponds. The agreement shall provide for City maintenance and monitoring of the ponds and open drainage for functionality only. She said an Operations and Maintenance Agreement with the applicant, property owner, and the City will be required for each pond.

In response to a question from Len Goodwin, Garbett said the homeowner's association would be responsible for maintaining the stormwater detention ponds. She said we would require the developer to bond the survival of the 27 replacement trees, even though they are the property of individual property owners.

Len Goodwin said it would be difficult to regulate trees on individual lots in terms of once they become replacement trees, they become significant. He said there is no security for the survival of those 27 trees.

Bork said the performance bond is for the street trees and the Development Agreement would be to assure the trees are planted. She said we can require the developer to bond trees on private property. She said the only status the trees will have is that they would become significant and the homeowner would be required to contact the City if they wanted to remove a tree. She said we could require a Development Agreement with property owners of the 27 replacement trees.

Len Goodwin said that may be a problem with having only one tree per lot.

In response to a question from James Eagle Eye, Bork said it is difficult to administratively monitor the trees.

In response to a question from Calvin Kenney, Bork said we would need to expand the Urban Growth Boundary (UGB) in order to include the detention pond that is currently under Lane County's jurisdiction.

In response to a question from James Eagle Eye, Bork said the City will sign the Development Agreement with the developer and the City Engineer can draft the Maintenance Agreement which will include a condition that the City be allowed to monitor and maintain the detention pond. She said we will also require an access easement which is part of the permitting process.

Len Goodwin said the stormwater code would not apply on land outside of our jurisdiction so how is the City able to contractually enforce a requirement that isn't consistent with Lane County. He said he's concerned about relying on a Homeowners' Association because they tend to become

dysfunctional and disappear and we end up, by default, taking over maintenance. He said it's never a satisfactory solution.

Garbett said proposed condition number 26 is a typographical error so she would like to omit that from the proposed condition of approval. It's in regard to maintenance plan to the stormwater facility outside City limits and is already addressed in condition number 5.

In response to a question from James Eagle Eye, Garbett said Schauer reviewed the sewer drain lines and she doesn't believe there was a recommended condition for those. She said Schauer proposed that sewer laterals be located within the right of way of streets.

Bork said according to Schauer's memo, they should be located in the rights-of-way and not in the backyard. There is no distinction between collection and lateral in his memo. She said we may need to add an easement for the location of the collectors.

Mr. Morris said collection it's needed on a hillside or you have to put a pump system under each house. He said if the collection system is running parallel with the street, on the downhill side, in the 14 ft. easement. Just the laterals from the uphill side will run from their direct property into the easement of that lot. He said all of the uphill lots will be in the right of way and tie into a parallel line. He said what Schauer and the City Engineer didn't want was laterals from an uphill lot going across the street and tying in behind someone else's house.

Garbett said a 10 ft. private utility easement is proposed on the east side of lots 86 and 87 and lots 66 and 67. She said on May 19, 2014 staff mailed and posted, at the site, public notice of the development in accordance with notice requirements of Veneta land Division Ordinance No. 494. She said no public comments were received.

Len Goodwin said he's not thrilled with the flag lots and felt this was an odd arrangement for those lots. He said he is concerned about providing security for the 27 replacement trees but he doesn't know what the solution would be. And he's troubled by the thought of putting a Homeowners' Association in charge of a fairly significant set of stormwater facilities which, by default, will likely become the responsibility of the City. He said most cities struggle with similar situations and the logical solution is for the stormwater facilities to become City property to maintain but we don't have the resources to do it. He said when the Homeowners' Association dissolves, the City will take responsibility so it seems logical to make them public facilities and secure resources through the Development Agreement to ensure that the City can afford to maintain them for the life of the development.

Ingham said when the Homeowners' Association goes away the City should be able to enforce the Development Agreement to assess the property owners for the monthly HOA fees in order to maintain those facilities.

Len Goodwin said in most cases the developer is long gone.

Ingham said we would include that language in the Subdivision Agreement to allow the City to assess an amount similar to an HOA fee.

Len Goodwin said if there is some way to provide some assurance that the City has the legal capacity to assess in the event of that situation would ease some of his concerns. He said maybe we could create an assessment district at the time of development and assess the property owners for an appropriate amount of money to maintain the stormwater facility. He said 10 years down the road, it's likely the Homeowners' Association will be dissolved and the City will be asked to assume responsibility after the stormwater pond has deteriorated.

Ingham suggested that could be done after the subdivision plan is adopted.

In response to a question from Bork, Len Goodwin said he would like to know if it is possible to do that. If not, he suggested it fall to the Homeowners' Association because he doesn't want to stall the development. But if there's some way to enforce it, outside of relying on the Homeowners' Association, he would find that preferable.

Bork said that can be added as a condition; that we will enter into a stormwater agreement with those two options and require the maintenance of the stormwater facilities be maintained by the property owners if the Homeowners' Association does not maintain the swales.

Len Goodwin said we could include a stormwater assessment district, operated and maintained by the City of Veneta. He said all properties are benefitted, so there's no legal impediment on having it but he doesn't know how we would create it with a developer and property owners and have it run with the land.

In response to a question from Bork, Len Goodwin said we need to determine who has fee simple ownership of the pond outside the UGB.

Bork said she will get a legal opinion on how we would handle that.

In response to a question from Calvin Kenney, Len Goodwin said if we use the assessment approach, the stormwater facility would be deeded to the City of Veneta so it starts out as City maintained and the homeowners pay for the maintenance.

James Eagle Eye said he would like to get feedback from Schauer and he agreed with Len Goodwin. He said some of the stormwater ponds are in that situation. He said we need to find a way to recoup those maintenance costs, if and when the stormwater facility is no longer maintained by the Homeowners' Association. He said he would like to have that conversation with Schauer to confirm that's something the City can take on at this point.

In response to a question from James Eagle Eye, Garbett said Schauer indicated to her that he only wanted to maintain the detention pond for functionality and not do any repairs. She said he would know how to maintain it but the City Engineer would be the one to condition it further.

Len Goodwin said detention ponds do and can break and failures happen.

Mr. Morris said he worked with Schauer and the City Engineer on this quite a bit. He said they cleared up that 90% of the maintenance of these things is the inlet/outlet structure and the part of the swale that cleans the water. He said all of that is in City limits. He said the intake structure, next to Perkins Rd., comes in and runs along the swale, before it gets to the county, and overflows in the storage pond. He said the only part that's outside of City limits is the storage area, (tank or pond) and then it overflows back into another swale that runs back to Perkins Rd. and that's where the intake is. He said Schauer and the City Engineer said all the structures needed to be in City's right-of-way close to the street. He said it is his understanding that the City crews would maintain the inlet and outlet structures because that's where 90% of the maintenance is anyway (cleaning out pipes). He said it's not 100% on County land and the bulk of the maintenance will be done in City limits adjacent to Perkins Rd.

James Eagle Eye said there's still clean up, vegetation and trash.

Len Goodwin said ponds do acquire occasional clean up and vegetation control.

Mr. Morris said 80% of the maintenance will be done inside City limits and about 20% of the overall maintenance cost will be on the land outside the UGB.

Bork thanked Mr. Morris for the clarification and said the discussion about maintenance by the Planning Commission is regardless of where it's located, it's more of a policy issue. She asked for direction from the Planning Commission. She said we can leave the condition as it is or we can move forward with the Development Agreements, with follow-up from legal counsel to determine if there is potential to create these kind of assessments. She said it's a major policy change for the City and she's not sure how easy it is to do but we can look into it.

Len Goodwin suggested staff look into it.

James Eagle Eye said if we can include assessment language it would definitely be worth adding that language.

In response to questions from James Eagle Eye, Garbett said lots 87, 88 and 89 have three flagpoles with a 28 ft. drive with sidewalks. She said the utility plans show the proposed utility access for all flag lots and private drives.

Len Goodwin said the easement is 50 ft. wide and the private drive is 28 ft. centered so you have 11 feet on each side.

Garbett said there's a 28 ft. paved width, and 5 ft. sidewalks on each side.

Mr. Morris said it's meant to mirror the street to the north. He said the plan started out with street stubs that Schauer didn't want unless they were connected to the County which was contrary to the plan for the area.

In response to a question from James Eagle Eye, Garbett said the applicant's proposal conforms with the maximum 600 ft. block length but where Madone Ridge Dr., connects north, future development may have to bring the cross street south a little bit to make that block length work but there's nothing out of conformance with how the applicant has proposed the block length.

Bork said with regard to a question from Len Goodwin regarding how to address the 27 trees in honoring the code. She said another option is to require the applicant pay in lieu of planting without the ability to plant them prior to final plat or to allow the trees to be planted prior to final plat with those issues that we know will come up.

Len Goodwin said what about a combination requiring a deposit and, following final plat, if the trees are plant, the deposit would be refunded.

James Eagle Eye said it becomes a significant tree on an individual lot and the City has no follow through at that point. He said we've had that issue in the past and the required trees end up on private lots and then they go away.

Bork said the only way we could address that is with a Development Agreement recorded against each lot requiring the tree be kept. She said the only benefit to the property owner is they can count that against the landscaping requirements when they construct their home.

In response to a question from Mr. Morris, Bork said we don't require a bond for the landscaping requirements and if the tree die, it dies. She said the code may require a time period that the trees must stay alive. She said if the Planning Commission agrees to allow the trees to be

planted, we would recommend a Development Agreement be recorded against every property so the homeowners are aware of the responsibility. She said that's the best we can do inform the property owner of that requirement.

Len Goodwin said we should allow the planting to be deferred but the risk to the trees, if they're planted now is significant.

Garbett said our code is in conflict because we allow them to be credited for landscaping but the trees will be planted at a time that's not going to ensure their survival.

Garbett said staff is recommending the Planning Commission approve option 2 which would credit 27 trees on individual lots.

Bork said if the Planning Commission approved option 2, she suggested adding language that the applicant shall post or deposit an amount equivalent to the 27 replacement trees and security satisfactory to the City Administrator. She said we would remove the three year performance bond because the trees would fall under the street requirements of survival of three years.

Ingham said staff will get feedback from legal about the Homeowners' Association and the maintenance of the detention ponds.

Bork said we could approve the subdivision requiring the Development Agreement be recorded. She said the Development Agreement could include language to allow the City to assess property owners if the storm detention swales and ponds are not maintained to City standards.

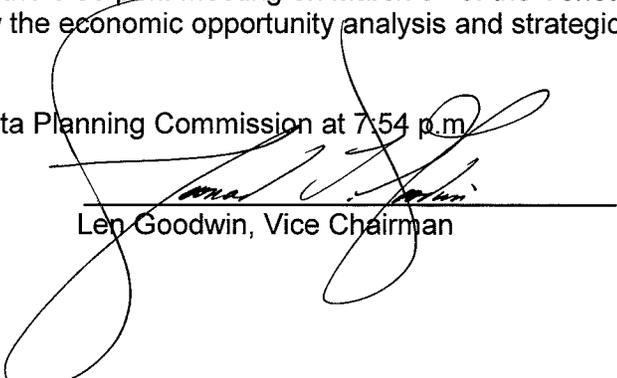
**MOTION: Len Goodwin made a motion to approve the subdivision subject to conditions set by staff. Kevin Conlin seconded the motion which passed with a vote of 4-0.**

**V. Other**

Bork reminded the Planning Commission of the 5:30 p.m. meeting on March 9<sup>th</sup> of the Veneta City Council and Planning Commission to review the economic opportunity analysis and strategic plan

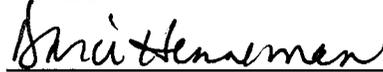
**VI. Adjourn**

Chair James Eagle Eye adjourned the Veneta Planning Commission at 7:54 p.m.



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Len Goodwin, Vice Chairman

ATTEST:



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Darci Henneman, Assistant City Recorder