

AGENDA
Veneta Planning Commission
TUESDAY – November 1, 2016 – 6:30 p.m.
Veneta City Hall

1. REVIEW AGENDA

2. PUBLIC COMMENT

If you wish to address the Planning Commission; state your name, address, and limit your comments to 3 minutes. Maximum time 20 minutes. The Planning Commission will not engage in any discussion or make any decisions based on public comment at this time; however, they may take comments under advisement for discussion and action at a future Planning Commission meeting.

3. APPROVAL OF MINUTES

- a. September 26, 2016 Joint Work Session (pgs. 3-4)
- b. October 4, 2016 (pgs. 5-7)

4. PROPOSED CODE AMENDMENTS (TREE CODE AND GREENWAY-OPEN SPACE SUBZONE) (pgs. 9-35)

5. OTHER

6. ADJOURN

Location is wheelchair accessible (WCA). Communication interpreter, including American Sign Language (ASL) interpretation, is available with 48 hours' notice. Contact Darci Henneman; Phone (541) 935-2191, FAX (541) 935-1838 or by TTY Telecommunications Relay Service 1-800-735-1232.

THIS MEETING WILL BE DIGITALLY RECORDED.

The Planning Commission considers all public comments, staff reports, and City ordinances in arriving at a final decision. **Staff reports are available for review at Veneta City Hall - 88184 8th Street - Veneta, Oregon.**

LAND USE DECISIONS - Veneta Municipal Code Chapter 18.05

Whenever this chapter is in effect, the following procedures or procedure similar thereto shall be followed by the city staff and applicable decision-making body: (1) Preparation of brief statement setting forth the criteria and standards considered relevant to the decision of the city staff. Such shall utilize criteria and standards found in the applicable ordinance, the comprehensive plan, and other ordinances and rules and regulations now in effect as from time to time adopted by the city council and appropriate decision-making body.

**Minutes of the Veneta City Council and
Veneta Planning Commission Joint Work Session
September 26, 2016**

Present: Sandra Larson, Tim Brooker, Laura Ruff, James Eagle Eye, Len Goodwin, Kevin Conlin, Lily Rees

Absent: Thomas Cotter, Thomas Laing, Calvin Kenney

Others: Ric Ingham, City Administrator; Kyle Schauer, Public Works Director; Kay Bork, Community Development Director; Lisa Garbett, Associate Planner; Darci Henneman, City Recorder; Matt Wadlington, Civil West Engineering Services, Inc.; and Joan Mariner, Fern Ridge Review

1. CALL TO ORDER THE VENETA CITY COUNCIL WORK SESSION

Mayor Larson called the City Council to order and James Eagle Eye called the Planning Commission to order at 5:34 p.m.

2. REVIEW WASTEWATER TREATMENT PLANT MASTER PLAN

Schauer introduced Matt Wadlington of Civil West Engineering.

Mr. Wadlington reviewed the options for expanding and updating the Wastewater Master Plan.

Schauer said the sewer connection map showed the east side as unserved. He said the Master Plan already addresses the east side. He said Mr. Wadlington reevaluated the 2009 Master Plan to prepare us for future development which includes replacing the Jeans Rd. lift station.

In response to a question from James Eagle Eye, Mr. Wadlington said the line to service Jack Kelley Dr. would be a replacement line to the Shopping Center but it would be deeper than the existing one and we would have to budget to go in a horizontal direction. He said it won't be easy but it is possible.

Schauer said the line would be about 20 ft. deep and the cost estimate did not include costs to acquire the land. He said we would only construct on City controlled property. He said everything in that 2009 report is still included in this update.

In response to questions from Len Goodwin, Schauer said the NPDES permit expires in 2017.

Mr. Wadlington said the current dry weather flow is .98 million gallons and wet weather flow is 2 million gallons per day.

Schauer said the plant has a 1.25 million gallon capacity. He said there are months that we average a million gallons a day. He said the data shows flow higher than they really are, but we have to address the data in the Master Plan.

In response to questions from Len Goodwin, Mr. Wadlington said he estimates the industrial flows for the Northeast Employment Center will stay the same and a high volume industrial user would have to have a pretreatment system. He said it's not high intensity flow but high volume flow. He said the east side is an 8 in. line and at Jeans Rd. it's a 10 or 12 in. line.

In response to a question from Mayor Larson, James Eagle Eye said the Sarto Village development would require a pump station to the Huston Rd. lift station. He said the City will have to plan to add pump stations for continued development. He said once a lift station came in, all of those pump stations may go away.

Schauer said he's not sure if the pump station would go away but it would pump to the Jeans. Rd. lift station. He said it's not likely it would be removed. He said the Sarto development was submitted when the update was almost completed so we actually asked Mr. Wadlington to review that scenario and see how that development impacts our capacity.

Mr. Wadlington said it's close enough to the Pine St. lift station that they would have their own pump station to Pine St. and we would route it to Huston from Hunter to the Pine St. basin and eventually go east to keep that volume out of the rest of the collection system capacity of the City's core.

In response to a question from James Eagle Eye, Ingham said a gravity feed west to Huston Rd. would need to be really deep and would require a full collection system.

In response to a question from James Eagle Eye, Mr. Wadlington said the CIP shows doing the east side pump station in 2021 and that's based on when it's needed.

In response to a question from Mayor Larson, Mr. Wadlington said based on this alignment, we can't build the pump station first, we need to start at the plant and work our way out.

Schauer said we want to make sure we have capacity for the next 20 years. He said its' going to be expensive but development won't occur until the sewer is dealt with.

In response to a question from Mayor Larson, Schauer said once all of these projects are completed, the City will be fairly well served. He said serving the Jeans Rd. area may be more difficult.

Mr. Wadlington said keep in mind, the east side pump station will likely be a two to three year process and it's not something that will happen until development starts to occur.

Schauer said that's why Sarto is looking at their own lift station because that area isn't currently served.

Len Goodwin said he is concerned about renewal of the NPDES permit. He said everything we've seen in the past five years has shown that renewing that permit will likely include restrictions like we've never seen. We need to be flexible with the wastewater treatment project.

In response to a question from James Eagle Eye, Schauer said staff is looking at bringing the Master Plan to the City Council for approval in the next four to six weeks.

Ingham said staff isn't sure how much more refining Mr. Wadlington can do. He said options 3 and 4 are very close. He said we'd like to look at how better we can serve Jack Kelley Dr.

In response to a question from Mayor Larson, Ingham said projects will be developed and brought to the Council and if approved, things won't be built for two to three years.

3. ADJOURN

Mayor Larson adjourned the City Council and James Eagle Eye adjourned the Planning Commission at 6:19 p.m.


Sandra H. Larson, Mayor

James Eagle Eye, Chairman

ATTEST:

Darci Henneman, City Recorder
(Minutes prepared by DHenneman)

Minutes of the Veneta Planning Commission

October 4, 2016

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

Absent: Lily Rees

Others: Kay Bork, Community Development Director; Lisa Garbett, Planner; Darci Henneman, City Recorder, Michelle Vloedman, Laura Ruff

I. REVIEW AGENDA

Chair James Eagle Eye called the Veneta Planning Commission to order at 6:32 p.m. and reviewed the agenda.

II. PUBLIC COMMENT

Michelle Vloedman, 25115 Luther Ln., Veneta, OR

Ms. Vloedman wanted to inform the Planning Commission that Mr. Vloedman wanted to be here but could not attend in person so he's attending the meeting via face time and he is available to answer any questions.

III. APPROVAL OF MINUTES

MOTION: Kevin Conlin made a motion to approve the September 6, 2016 minutes. Len Goodwin seconded the motion which passed with a vote of 4-0.

IV. INTERPRETATION REQUEST – 30 FT. LANDSCAPE BUFFER, NE EMPLOYMENT CENTER

Garbett reviewed her staff report regarding the buffer requirement of the Northeast Employment Center (NEEC). She said the applicant is wanting to purchase tax lot 1500 (east of tax lot 3100), remove the existing residence for development of storage units and he is requesting the Planning Commission waive the buffer requirement on the east side of tax lot 3100. She said the 30 ft. landscape buffer requirement was to mitigate potential noise and impacts to nonresidential uses to adjacent and nearby rural residential spaces within Veneta Urban Growth Boundary (UGB). She said the main questions for the Planning Commission were:

- 1) Does the east end landscape buffer still apply to tax lot 3100?, assuming demolition/removal of the existing home on tax lot 1500 and inclusion in the development site; given the landscape buffer was intended to mitigate adjacent and nearby rural residential uses outside the project area.

Garbett provided copies of a photo provided by the applicant, showing the project to the north (Lane County site) of the two subject sites and she pointed it out on the zoning map.

- 2) Does the Planning Commission agree an amendment to the Northeast Employment Center, Specific Development Plan (SDP) is required or supported?
- 3) Does the Planning Commission think a variance request applies? If so, would the Planning Commission support a variance request for removal of the east end landscape buffer requirement on tax lot 3100 if the existing single family dwelling is removed from tax lot 1500 and becomes part of the development site?

Bork said staff did some research and she sent the applicant copies of old zoning maps from the time the SDP was being drafted. She said they thought maybe the buffer was put there because of the residential zoning but the zoning exists today as it did when that specific plan was being drafted. She said they tried to figure out the rationale for such a large buffer and she couldn't find anything that related to it. She also provided the Planning Commission with maps going back to 1996.

Garbett referenced the map and showed the Planning Commission the property the applicant wants to include in the development which also includes a single family dwelling. She said the intent is for it to be developed under that Highway Commercial zoning uses.

In response to a question from Len Goodwin, Bork said the buffer would also apply to tax lot 3200 but we don't know the circumstances under which Lane County was permitted to construct their site without complying with the buffer requirements.

Garbett said the final order for Lane County's site plan included requiring the buffer and it was referenced in the building permit. She said it's hard to tell why the County didn't comply with the requirement and why we didn't enforce it.

James Eagle Eye said he's concerned about the lot on the east side of Lane County's yard. He said it looks like the development is in the center of the lot so they have their own vegetation buffer but the development to the east of lot 1500, looks like it's right along the property line so we should consider requiring a buffer. He said it is possibly supported to be zoned Highway Commercial, but there is a residence there now. He's also concerned about the drainage easement and asked if staff can provide any more information: Where does it drain? Why do we want to keep it? He said if we consider moving the buffer and the landscape, doesn't the drainage also need to be moved?

Bork said there are two separate issues but they are related because they create some barriers to developing the site. She said Public Works Director, Kyle Schauer, didn't have a good understanding of why that drainage easement was put there. She said they had a very preliminary discussion on moving the easement but that can't even be contemplated before the proposal is put before the City for review as part of a development proposal and to look at the buffer as a whole. She said if the Planning Commission chose to modify that standard, it would be through the amendment process.

Herb Vloedman said he reviewed the City's file that set out the plat for the Business Park, including the minutes from that Planning Commission meeting. He said the 30 ft. landscape buffer was established to be a detention pond and after talking with Schauer and the engineer for the Business Park street build out, it appears that the detention pond, that was slated to be built in the 30 ft. buffer, was moved to the underground pipe from Loten Way so the detention part of the system was incorporated into the street pipe system. He said all that's left in that 30 ft. easement is the transport of water due north which appears to be its original course. His proposal for handling storm water is to pipe it out through a portion of the easement but narrow the easement in coordination with Schauer and the City Engineer for potential future flows.

Bork said they have not asked the engineer to look at that issue because we're not there yet but we would definitely look into it.

James Eagle Eye said there were reasons why we put a buffer in and we should have been enforcing it to begin with, so if we want to combine the lots, we'll need to deal with the drainage but the buffer should be moved to the east side of tax lot 1500.

Len Goodwin agreed. The buffer is there to serve a purpose - to protect adjacent properties. If tax lots 3100 and 1500 are developed in a single development, it doesn't make sense to have a buffer between them. He suggested including tax lot 1500 in the SDP. But that would include the obligation to create and maintain the buffer on the east side of tax lot 1500. He said he's not sure how long it will be occupied as a residence and it could be a long time before it becomes something else. The fact that Lane County has flouted the law and violated our planning rules, unfortunately, it's not an excuse to abandon the entire buffer - he said we would no longer have any east side requirement if we waived it here. He said we should look at a buffer on the east end of lot 1500.

Kevin Conlin said he agreed with Len Goodwin and James Eagle Eye.

In response to a question from James Eagle Eye, Garbett said the drainage easement is approximately 15 ft. across a small portion of the northern border of lot 3200 but it doesn't extend east or west.

Len Goodwin said given that the detention pond has been abandoned and we are undergrounding the drainage flow, is it feasible to move the drainage easement to the east end of lot 1500 and can it accomplish it's purpose by being there as opposed to being in the middle of a consolidated site.

James Eagle Eye said that would come up during development. He said they can look at their detention and pre-treatment options at that time. He said he's concerned with how close the residence is.

In response to a question from Calvin Kenney, Bork said moving the easement to the east side to be part of the buffer would depend on what's planted in there.

Calvin Kenney suggested issuing a variance.

Len Goodwin said a variance would not solve the problem with lot 3200 and it would leave us with a situation of having a development that is not within the SDP area. He said a plan amendment to include the other parcel would maintain the integrity of the SDP and would eliminate the buffer at lots 3100 and 3200 but require it on lot 1500.

Bork said she's not sure if we can meet the requirement of unusual circumstances for a variance.

After a brief discussion, it was the consensus of the Planning Commission that they agree with question one and question two; they support amendments to the Northwest Employment Specific Development Plan to include tax lot 1500; question three; no, a variance request is not supported or applicable.

In response to a question from Len Goodwin, Bork said she will talk with Ingham about Lane County's non-conformance with the required buffer over 15 years ago.

V. OTHER

James Eagle Eye welcomed Calvin Kenney back.

Calvin Kenney said he's glad to be back.

VI. ADJOURN

Chair James Eagle eye adjourned the Veneta Planning Commission at 7:00 p.m

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James Eagle Eye, Chair

ATTEST:

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Darci Henneman, City Recorder

VENETA PLANNING COMMISSION

AGENDA ITEM SUMMARY

Title/Topic: Proposed Code Amendments (Tree Code and Greenway-Open Space Subzone)

Meeting Date: November 1, 2016
Department: Community Development

Staff Contact: Lisa Garbett
Email: lgarbett@ci.veneta.or.us
Telephone Number: 541-935-2191 Ext. 304

ISSUE STATEMENT

Staff is presenting proposed code amendment options to the tree code (Municipal Code Chapter 8.10 – Tree Cutting, Destruction & Removal) and one amendment to the Greenway-Open Space Subzone (Land Development Ordinance 493, Section 4.12). The one amendment to the Greenway-Open Space Subzone was recommended by legal counsel in order to reinforce a provision already listed in the Wetland Protection Ordinance (Veneta Municipal Code, Chapter 8.10 – Wetland Protection).

BACKGROUND

The Tree Code includes four types of tree removal applications (i.e. Type A, B, C and D) and trees are regulated depending on their species and size (diameter measured at breast height). Regulated or protected trees are either ‘Significant’ or ‘Heritage’ trees.

The following is a description of each type of tree removal application:

- Type A Tree Removal Permit: Allows removal of up to 3 trees (not including ‘Heritage’ trees) per year.
- Type B Tree Removal Permit: Allows removal of more than 3 trees (including ‘Heritage’) per year and tree mitigation (replacement) or payment is required.
- Type C Tree Removal Permit: Allows removal of more than 3 trees on a single lot or parcel. Mitigation (replacement) or payment is required. Accompanies a site plan review or amendment, subdivision, or partition application.
- Type D Tree Removal: Mitigation required for all non-fir ‘Significant’ trees in excess of three. Allows for harvesting operations of more than 3 trees on a commercial wood lot. Proof must be provided that the subject property is a “commercial wood lot” as defined by chapter 8.10.100 of the Veneta Municipal Code.

The Tree Code was last updated in 2008 (Ordinance 483). Since 2008, there have been several tree permits issued including Type A, B & C permits. One Type B tree permit in particular raised concerns by several abutting property owners. The property was a large (20+ acres), vacant/undeveloped parcel within city limits and adjacent to an existing developed subdivision. The City received several complaints primarily regarding leftover logging debris. There were also several inquiries into the property owners plans for development, when the owner had no intent to develop. In summary, the applicant complied with the approved tree permit (Type B). However, as summer approached, invasive vegetation developed on the site and staff became concerned with fire hazard due to remaining brush debris which prompted municipal code violation notices for “noxious vegetation” within the right-of-way.

Staff has met with the Oregon Department of Forestry on two separate occasions to discuss potential tree code amendments and glean knowledge on typical post logging requirements in terms of the Oregon Forest Practices Act. Veneta has chosen (during former tree code amendments) to regulate non-commercial logging operations with the adopted tree code in place of the Oregon Forest Practices Act (except in cases of Type D tree permit approval in which we require all applicable Forest Practice Act rules to be met).

Attached to this memo are proposed code amendment options for review, comment and policy direction. Exhibit A includes the complete proposed text amendments shown in red and underlined. Exhibit B is a reference map of all residential zoned property within city limits which are one (1) acre or more in size and vacant undeveloped. These sites may be affected by proposed code amendments for Type B tree permits.

Staff is hoping to receive direction on the following questions, in order to present municipal code amendment language, if desired, to the City Council for adoption at a later date. Potential new code language suggestions are shown in underlined font. Municipal code amendments are approved by City Council.

Issue #1:

Tree preservation is not required for Type B permits. Some Type B permits involve large undeveloped sites (one acre or more). Therefore, a property owner with one (1) acre or more of property and located in a residential zone, is able to clear cut a large piece of property with no tree preservation required. Depending on the size and species of the trees in question, tree mitigation (replacement) may be required or the applicant may pay in lieu of tree replacement.

Decision:

Should Type B tree permits that involve a vacant undeveloped site, one (1) acre or more in size, require tree preservation?

Potential code language:

VMC 8.10.080(3) Approval Criteria. Tree removal or transplanting pursuant to a Type B permit shall be limited to instances where the applicant has applied for a Type B permit in accordance with subsection (1) of this section, has provided complete and accurate information as required by this chapter, and where the proposal includes provisions for mitigation and tree protection in accordance with VMC 8.10.120 and 8.10.130. (Ord. 483 § 8, 2008) If the site is undeveloped/vacant and larger than one (1) acre, the applicant shall preserve trees, to the extent practical, in accordance with approval criteria listed in VMC 8.10.090(5)(a)(i-iii).

Pros:

There are many reasons to preserve trees including prevention of soil erosion and preservation of top soil, slowing water runoff, habitat for wildlife and benefits to air quality. Type C tree permit approval (required with subdivision or site plan review) requires tree preservation (see VMC 8.10.090(5)(a)(i-iii). Option A (typically for residential developments) allows the applicant to choose between the following options for a Type C permit; 1) Preserve at least 30 percent of the total significant tree diameter on the site or 2) Preserve all Heritage trees and at least 30 percent of the significant trees on the site or 3) If the site is larger than one acre, preserve at least 25 percent of the total tree canopy area on the site. Requiring tree preservation for Type B permits

may ensure large logging operations that don't meet the definition for a "commercial wood lot" (as required by a Type D tree permit) are required to preserve trees on the site per VMC 8.10.090(5) – Approval Standards for Type C Permits, regardless of intent to develop (i.e. site plan review, subdivision).

Cons:

Type B permits are not reviewed concurrently with site plan review, partition, subdivision, etc. and if the applicant is not proposing any development. Is it reasonable for the city to require tree preservation or regulate property owners who do not have plans for development as we do for Type C tree permit applicants? Currently tree preservation is not required for Type B permits but encouraged through incentives listed in VMC 8.10.120(b).

Issue #2:

Tree permits, except Type C, do not require notice or posting on site of a pending permit to surrounding property owners.

Decision:

Should courtesy notice be required to adjacent property owners (within 100-feet) for Type B tree permits that involve one (1) acre or more of property, a vacant undeveloped site and removal of ten (10) trees or more? And/ or should the site be posted at the property for which the Type B permit has been issued?

Potential code language:

VMC 8.10.140(1), Courtesy notice of Type B approved permits which involve one acre or more in size, a vacant/ undeveloped site and removal of ten (10) trees or more; shall be mailed to all property owners within not less than 100 feet of the property for which the Type B permit has been issued. A notice shall also be posted at the property for which the Type B permit has been issued. Notice of a pending Type C permit shall be mailed to surrounding property owners in accordance with Section 2.11 of the Veneta Land Development Ordinance.

Pros:

In an event of a larger logging operation that was not considered a commercial wood lot or require a Type D permit, staff would be able to send courtesy notice to adjacent property owners for Type B tree permits in advance of tree felling. May reduce number of potential complaints the City receives once tree felling begins, since adjacent property owners would already be aware of the approved activity. Giving courtesy notice indicates respect for neighbors.

Cons:

Notice would not include an opportunity for public comment, which may cause issues. Mailing notice would be an extra expense for the city in terms of postage costs.

Issue #3:

The definition and use of word "tree" in the code causes confusion. The Tree Code defines "tree" as any 'Significant' tree. The code also includes a separate definition for 'Significant' tree and a definition for 'Heritage' tree. The code mentions 'trees' throughout, and in some instances may be referring to Significant trees or both Significant and Heritage trees. For instance, VMC 8.10.030 – Tree removal permit required states, "*No person shall remove or transplant any tree without first obtaining a tree*

removal permit as required by this chapter.” Based on the definition of ‘tree’, removal of Heritage trees would not require a tree permit.

Decision:

Should the word ‘regulated’ or ‘protected’ be added to the code when mentioning ‘trees’? Or should the definition of ‘tree’ in VMC 8.10.120(14) be modified to include ‘Heritage’ and ‘Significant’ trees?

Potential code language:

VMC 8.10.020(14) “Tree” means any regulated or protected significant tree or “Tree” means any Significant or Heritage tree.

Pros:

May indicate to a potential applicant that the tree code applies to regulated or protected trees (both Significant and Heritage), not all trees.

Cons:

Leaving the code as is may encourage customers to inquire about tree permits for any tree removal if they assumed all trees were regulated.

Issue #4:

Currently, there is no mechanism in place to require timely (within a specific time period) tree replacement planting for Type B and Type D permits which are not reviewed concurrent with a development review process (i.e. land division, subdivision, site plan review, etc.). If replacement trees have not been planted prior to expiration of a Type B permit (three years) then staff would need to try and contact the applicant with a potential violation notification.

Decision:

Should tree mitigation (replacement trees) required by a Type B permit be required to be planted within a specific timeframe (i.e. within one year of tree permit approval)? Currently, replacement trees are required to be ‘*planted prior to plat for land divisions*’ and ‘*prior to issuance of certificate of occupancy*’ for other applications and shall “*run with the land until all required mitigation has been completed*”, per VMC 18.10.120(3)(d). Type B permits that are not associated with land division or a certificate of occupancy, expire after three years per VMC 8.10.060(4) – Application review procedure. Type C permits expire when the accompanying land use application expires per VMC 8.10.060(2)(b).

Potential code language:

VMC 8.10.120(3)(d) Replacement trees shall be planted prior to plat for land divisions and prior to issuance of final certificate of occupancy for other applications. Otherwise, replacement trees required by a Type B and Type D permit shall be planted within one (1) year of permit approval. Mitigation requirements shall run with the land until all required mitigation has been completed;

Pros:

Setting a specific timeframe for tree replacement after a tree permit is approved, may ensure the current property owner is responsible for tree replacement and ensure timely tree replacement takes place. Setting a specific timeframe for tree replacement would also allow staff to track the

tree removal permit within the specified timeframe and follow up with enforcement, if necessary. Environmental impact of tree removal begins as soon as tree removal occurs and this amendment would put in place a defined tracking and inspection period for staff to implement.

Cons:

Tree mitigation/ replacement is important in preserving the urban tree canopy and the city should ensure it is completed in a timely manner.

Issue #5:

The Tree Code includes alternatives to on-site mitigation if trees have been removed, including, ‘payment in lieu of planting’ mitigation trees. Should the applicant be required to provide payment in lieu of mitigation if an associated land use expires for a Type C permit? For example, if an applicant pursued Type C Tree permit approval concurrently with Tentative Partition approval and the applicant chose the option to plant mitigation trees, the final order for the Tentative Partition would require those mitigation trees to be planted prior to final plat. However, if final plat was never pursued, it would be difficult to enforce planting of mitigation trees.

Decision:

Should a Type C permit applicant be required to provide payment in lieu of mitigation if the associated land use permit expires?

Potential code language:

VMC 8.10.120(4)(a)(ii) Payment in Lieu of Planting. The applicant may pay into the tree fund an amount equal to the number of replacement trees required times a per-tree rate as established by resolution of the City Council. If an applicant received Type C Tree Permit approval as part of site plan review, tentative subdivision or tentative partition and the land use approval expires and if trees have been removed in accordance with the tree permit, the applicant shall provide payment in lieu of planting for required mitigation trees within ten (10) days after expiration of land use approval.

Pros:

This amendment would require the applicant of the tree permit and not the current property owner to be ultimately responsible given the applicant would be required to provide payment in lieu of planting for required mitigation trees within ten (10) days.

Cons:

Locating the applicant may be difficult if they have sold the property to a new owner. The applicant could potentially be out of state, etc. However, the ten (10) day requirement will help staff ensure payment is made on time.

Issue #6:

Tree removal, particularly clear cutting, can encourage growth of invasive species. Logging debris piles are an attractive nuisance within city limits and a potential fire hazard. The Tree Code does not currently include provisions for addressing debris post tree removal. Although not directly related to debris due to tree removal, the municipal code does include some provisions for regulation of “nuisances” per Veneta Municipal Code (VMC) Chapter 8.05 – Nuisances. For instance, VMC 8.05.030 Rodent control, prohibits conditions attracting rats, VMC 8.05.050 prohibits unguarded machinery, equipment or other

devices which are attractive, dangerous and accessible to children; and also lumber, logs or piling placed, or stored, in a manner so as to be attractive, dangerous and accessible to children. In addition, VMC 8.05.060 regulates noxious vegetation (i.e. poison oak, poison ivy, blackberries) but does not apply to property in excess of one acre unless the vegetation is a health hazard, a fire hazard or traffic hazard).

Decision:

Should the tree code include provisions for debris, site clean-up (noxious vegetation management) after Type B and Type C tree permit approval?

Potential code language:

VMC 8.10.200 Post Tree Removal Requirements for all tree permits (Type A – D).

(1) Debris clean-up post logging shall include the following:

- a) Removal of all logging equipment no later than 30 days after completion of tree felling.
- b) Plant mitigation/ replacement trees within one (1) year of tree permit approval.
- c) Maintain/ management of noxious vegetation as defined in the Veneta Municipal Code indefinitely or until site is developed.
- d) Slash piles.

Pros:

May alleviate neighboring property owners concerns. Cleaning up of slash piles under a tight timeframe (required under tree permit) may not only alleviate concerns of neighboring property owners but also prevent fire hazard and rodent habitat. Requiring removal of heavy equipment immediately after tree removal may lessen soil compaction, erosion and potential runoff issues.

Cons:

Logging debris can be beneficial for the soil, returning carbon and other nutrients to the soil, reducing erosion and sediment runoff from disturbed sites, especially when chipped and used as ground cover. Slashed lopped and scattered instead of chipped can also have the same affect. Typically, nutrients which are beneficial to the soil (fir needles) fall off in the first few months after tree is felled according to the Oregon Department of Forestry. There are few large (one acre or more in size) vacant/undeveloped properties within city limits (See Attachment B).

Issue #7:

The Tree Code requires city confirmation of tree condition in terms of removal of a dead or hazardous tree and also states that staff may obtain the opinion of a certified arborist (at the owner's expense) if unable to verify tree condition per Veneta Municipal Code, Chapter 81.10.040.

Decision:

Should Veneta Municipal Code Chapter 8.10.040 be amended to require the applicant to provide written documentation prepared by a certified arborist (with a photo of the tree in question) to the City in order to confirm a tree is hazardous or dead?

Potential code language:

Veneta Municipal Code, Chapter 8.10.040 - Exceptions.

(1) Removal of dead or hazardous trees upon ~~city confirmation~~ the applicant providing documentation to the City of certified arborist written confirmation of tree condition. ~~If unable to verify the condition of a tree, staff may obtain the opinion of a certified arborist at the owner's expense.~~ When trees are removed due to hazardous conditions, the owner may qualify for assistance from the city tree fund to aid in replacement of the tree(s) removed. Hazardous tree determination by a certified arborist shall include a photo of the tree in question.

Pros:

The City does not have a certified arborist on staff that is qualified to determine (if not blatantly noticeable) instances of dead or hazardous trees. Confirmation of tree condition should always be the applicant's responsibility to provide the city with a report from a certified arborist on the trees condition. Property owners have the option of submitting a tree permit (Type A or B) for review and approval for free or a relatively small fee (Type A permit is free of charge and Type B permit is a \$150 fee) in lieu of hiring a certified arborist for tree condition verification.

Cons:

Requiring verification from a certified arborist, at the property owners' expense may be cost prohibitive for the applicant and leave less funds for the property owner to actually procure a contractor to remove a dead or hazardous tree.

Issue #8:

The Greenway-Open Space Subzone per Veneta Land Development Ordinance No. 493, Section 4.12 indicates permitted uses within the greenway but does not cite allowances for development within the greenway considering an approved variance to the Wetland Protection Ordinance, VMC 18.10.

Decision:

Should Veneta Land Development Ordinance No. 493, Section 4.12(3)(1) be amended to state that parcels with no usable building sites may be granted to allow development on the parcel in accordance with the standards listed in VMC 18.10 – Wetland Protection Ordinance?

Potential code language:

Veneta Land Development Ordinance No. 493, Section 4.12 – Greenway-Open Space Subzone. (3)(1) For parcels that have no usable building site through the application of the requirements in VMC 18.10 – Wetland Protection Ordinance, a variance may be granted to allow development on the parcel; provided that the design of the development minimizes impact to the wetland.

Pros:

This amendment is recommended by legal counsel. It will reinforce that if the applicant has no usable building site as defined by the Wetland Protection Ordinance (VMC 18.10) then a variance may be granted to allow development on the parcel.

Cons:

N/A; this provision is already available to the customer as stated in the Wetland Protection Ordinance.

PLANNING COMMISSION OPTIONS

Review, comment and provide policy recommendations on proposed code amendments.

SUGGESTED MOTION

None.

ATTACHMENTS

- A. Proposed Code Amendments (Complete Text)
- B. Map – Large (one acre or more) undeveloped/ vacant parcels

Chapter 8.10 TREE CUTTING, DESTRUCTION AND REMOVAL

Sections:

8.10.010 Purpose and declaration.

8.10.020 Definitions.

8.10.030 Tree removal permit required.

8.10.040 Exceptions.

8.10.050 Application for tree removal permit.

8.10.060 Application review procedure.

8.10.070 Type A permit.

8.10.080 Type B permit.

8.10.090 Type C permit.

8.10.100 Type D permit.

8.10.110 Amendments to approved permits.

8.10.120 Mitigation.

8.10.130 Tree protection during construction.

8.10.140 Notice and appeal.

8.10.150 Timing of removal, display of permit – Inspection.

8.10.160 Violation – Enforcement.

8.10.170 Alternative enforcement.

8.10.180 Findings of fact.

8.10.190 Amendments.

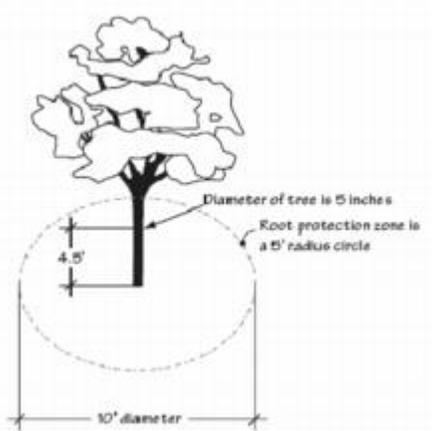
8.10.010 Purpose and declaration.

Pursuant to ORS 527.722, the city has chosen to regulate noncommercial cutting, destruction, and removal of trees in place of the Oregon Forest Practices Act. This chapter is intended to preserve and enhance the urban forest within the city of Veneta through the prudent management of existing trees, and the continual replacement and establishment of new trees compatible with an urban environment. Specifically, the council finds the following:

- (1) Trees and wooded areas, especially large native trees, are a large part of the aesthetic appeal of Veneta.
- (2) Trees benefit the public health, safety, and welfare by protecting air and water quality, preventing erosion and flooding, reducing energy costs, increasing property values, and providing natural beauty and contrast to the built environment which contributes to the physical and mental well-being of residents.
- (3) Trees enhance the local economy and increase property values by providing an attractive and aesthetically pleasing environment.
- (4) Management of Douglas fir for commercial purposes is a historic use which should continue to be accommodated while preserving those trees that have the highest value as part of Veneta's urban forest. (Ord. 483 § 1, 2008)

8.10.020 Definitions.

- (1) "Building official" means the Veneta building and planning official or designee thereof.
- (2) "Critical root zone" or "CRZ" means a circular area determined by either of the following methods. The method used shall be indicated on the plans.
 - (a) Method A. A circular area equal to one foot in radius for every inch of tree diameter at breast height measured from the outside trunk of the tree at four and one-half feet above ground level; or
 - (b) Method B. An area determined for an individual tree to be the necessary root area for the tree's continued normal growth as demonstrated in a written report by a certified arborist and based on documented field investigations. Reasonable alteration of the shape based on factors such as existing infrastructures, tree lean or steep slopes may be considered.



(3) “Commercial wood lot” means parcels or lots which meet the following criteria on the effective date of the ordinance codified in this chapter:

(a) The site is at least two acres in size.

(b) Trees have been actively managed and maintained on the subject property for the purpose of harvesting.

(c) The owner has supplied the city with proof that the property has been in tax-deferred status under state law provisions such as forest land deferral or small woodlands deferral for a minimum of five consecutive years immediately prior to application.

(4) “Diameter at breast height” or “dbh” means the diameter of the tree measured in inches at four and one-half feet above ground level. For trees with multiple trunks, dbh shall be measured at the narrowest point between ground level and the point where the trunk diverges, or shall be the sum of the diameters of the two largest trunks at breast height, whichever is smaller. All measurements shall be rounded to the nearest inch.

(5) “Dead” means the tree is obviously lifeless without any live leaves, needles or buds.

(6) “Dying” means the tree is in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees.

(7) “Hazardous tree” means the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

(8) “Heritage tree” means any of the following which are not hazardous trees as defined above.

Oregon white oak 18" or more dbh

Madrone 18" or more dbh

Douglas fir 48" or more dbh

Any other tree 36" or more dbh

(9) “Impacted tree” means a significant tree whose critical root zone will be impacted by proposed development. Impacts include, but are not limited to, fill, cuts, soil compaction, paving, placement of structures, stockpiling of soil, utility trenching and other activities that may impact the health and viability of the tree.

(10) “Remove” means:

(a) To cut down a tree, or to damage a tree so as to cause the tree to decline and/or die within a three-year period. Types of damage which may constitute removal include but are not limited to topping, damage inflicted upon a root system by application of toxic substances, and girdling. “Removal” does not include normal trimming or pruning of

trees as defined by ANSI A300 pruning standards current on the day this definition was adopted.

(b) To perform activities which result in impacts to more than 30 percent of the critical root zone if the CRZ is determined by Method A in subsection (2) of this section.

(c) To perform activities which impact any of the CRZ if determined using Method B in subsection (2) of this section.

(11) “Significant tree” means any of the following as well as trees which have been planted or individually preserved as part of a previous tree removal permit.

Any tree	18" or more dbh
Douglas fir	18" or more dbh
Big leaf maple	12" or more dbh
Chinquapin	12" or more dbh
Oregon ash	8" or more dbh
Pacific dogwood	6" or more dbh
Madrone	6" or more dbh
Red alder	6" or more dbh
Ponderosa pine	6" or more dbh
Western red cedar	6" or more dbh
California black oak	6" or more dbh
Oregon white oak	6" or more dbh

(12) “Street tree” means any tree planted or preserved within a dedicated street right-of-way.

(13) “Topping” means the severe cutting back of a tree’s limbs to stubs within the tree’s crown to such a degree so as to remove the natural canopy and disfigure the tree.

(14) “Tree” means any regulated or protected significant tree or “Tree” means any Significant or Heritage tree. (Ord. 483 § 2, 2008)

8.10.030 Tree removal permit required.

No person shall remove or transplant any tree without first obtaining a tree removal permit as required by this chapter. (Ord. 483 § 3, 2008)

8.10.040 Exceptions.

Notwithstanding VMC 8.10.030, the following activities are allowed without a tree removal permit, unless otherwise prohibited:

- (1) Removal of dead or hazardous trees upon ~~city confirmation~~ the applicant providing documentation to the City of certified arborist written confirmation of tree condition. ~~If unable to verify the condition of a tree, staff may obtain the opinion of a certified arborist at the owner's expense.~~ When trees are removed due to hazardous conditions, the owner may qualify for assistance from the city tree fund to aid in replacement of the tree(s) removed. Hazardous tree determination by a certified arborist shall include a photo of the tree in question.
- (2) Agriculture, Commercial Tree Farm or Orchard. Tree removal or transplanting occurring during use of land for commercial agriculture, orchard(s), or tree farm(s) for nursery or Christmas tree production. Removal of trees for timber production requires a Type D permit.
- (3) Emergencies. Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, utility damage or other like disasters, in order to prevent imminent injury or damage to persons or property or restore order, and it is impractical due to circumstances to apply for a permit.
- (4) Tree removal by the city or a utility within easements, rights-of-way, or on public lands.
- (5) Abatement of a nuisance as defined in Chapter 8.05 VMC. The city is not required to apply for a tree removal permit to undertake nuisance abatement pursuant to this chapter. However, the owner of the property subject to nuisance abatement is subject to all the mitigation provisions of this chapter. (Ord. 483 § 4, 2008)

8.10.050 Application for tree removal permit.

- (1) A person seeking to remove one or more trees shall apply for a tree removal permit Type A, B, C, or D, depending on the applicable standards as provided in this chapter.
 - (a) By submission of an application, the applicant shall be deemed to have authorized city employees, representatives, or consultants to have access to applicant's property after providing 24 hours' notice as may be necessary to verify the information provided, to observe site conditions, and, if a permit is granted, to verify that terms and conditions of the permit are followed.
- (2) Time of Application. Application for a tree removal permit shall be made before removing or transplanting significant trees except in emergency situations as provided in VMC 8.10.040(3). Where the site is proposed for development necessitating site plan or tentative plat review, application for a tree removal permit shall be made concurrent with subdivision, partition, site plan review, or other development application as specified in this chapter.
- (3) Fees. A person applying for a tree removal permit shall pay an application fee, as established by resolution of the city council. (Ord. 483 § 5, 2008)

8.10.060 Application review procedure.

- (1) Reviewing Authority.
 - (a) Type A, B, or D. Where site plan review or tentative plat approval by the planning commission is not required by city ordinance, the grant or denial of the tree removal permit application shall be the responsibility of the planning official.

(b) Type C. Where the site is proposed for development necessitating site plan review or plat approval by the planning commission, the tree removal permit shall be reviewed concurrently by the planning commission.

(2) Timeline and Notice – Review Period for Complete Applications.

(a) Type A and B permit applications shall be approved or denied within 10 calendar days.

(b) Type C permit applications shall be reviewed for completeness within 30 calendar days, and final action shall take place within 120 days as required by ORS 227.178. Notice of proposed action shall be given to surrounding property owners according to Land Development Ordinance 493 Article 2. A Type C permit shall follow the hearings procedures required for the accompanying land use application. If the accompanying land use application is denied or is withdrawn or expired, the tree removal permit shall similarly be denied, withdrawn, or expired.

(c) Type D permits shall be approved or denied within 45 calendar days.(3) Conditional Approval. Whenever an application for a tree removal permit is granted, the reviewing authority may attach to the permit any reasonable conditions considered necessary to ensure compliance with applicable standards.

(4) Tree removal permits and tree surveys shall be valid for a period not to exceed three years. (Ord. 483 § 6, 2008)

8.10.070 Type A permit.

(1) A Type A permit application will be approved when all of the following conditions are met:

(a) A completed request for Type A permit has been filed on the forms provided by the city.

(b) The request is for removal of three or fewer trees within a single 12-month period.

(c) The trees subject to removal are not heritage trees or street trees.

(d) The trees subject to removal were not retained as part of a previous site development approval or planted as mitigation for a previous tree removal.

(e) The tree removal is not to be performed in conjunction with a land development which requires a land use approval including but not limited to site plan review or amendment, subdivision, or partition approval.

(2) Tree removals under a Type A permit do not require mitigation; however, replanting is generally recommended, and recipients of Type A permits who wish to replant may qualify for assistance from the city's tree fund. (Ord. 483 § 7, 2008)

8.10.080 Type B permit.

(1) An applicant must apply for a Type B permit to remove regulated or protected trees when any of the following conditions are met:

(a) The applicant proposes to remove more than three trees within a 12-month period, independent of an application for site development review; or

(b) The applicant proposes to remove a tree or trees which were preserved as part of a previous land use permit or planted as mitigation for previous tree removal; or

(c) The applicant proposes to remove a heritage tree; or

(d) The proposed tree removal is for clearing of a home site on a lot subsequent to land division approval. All trees removed for home sites prior to occupancy shall be mitigated according to the standards of this chapter.

(2) Application for the Type B permit shall contain the following information unless specifically waived by the reviewing authority under subsection (2)(g) of this section:

(a) A brief statement explaining why tree removal is being requested, to ensure that another permit type or consolidated application is not more appropriate.

(b) An accurate map, drawn to scale, which shows:

(i) The shape and dimensions of the property, and the location of any existing and proposed structures, improvements, easements and setbacks.

(ii) The location of all impacted trees on the site including critical root zones, species and/or common name, and diameter at breast height (dbh).

(c) Tree Protection. Tree protection measures in conformance with VMC 8.10.130 must be outlined to address protection of the tree trunks, canopy and soils within the critical root zones during and after the tree removal process. Examples of tree protection methods include mulching, irrigation, protective fencing, compaction reduction measures, erosion control, etc.

(d) Field Identification. All trees to be removed shall be identified by a method obvious to a site inspector, such as tagging, painting, or flagging, in addition to clear identification on construction or application documents.

(e) Mitigation Plan. A description of the proposed tree replacement program with a detailed explanation including the number, size, species, and any necessary activities to ensure viability including, but not limited to, mulching and irrigation.

(f) Existing Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is proposing to remove trees on common areas governed by CC&Rs, the applicant shall provide a copy of the applicable CC&Rs, including any landscaping provisions.

(g) Waiver of Documentation. The reviewing authority may waive any of the above information requirements where the information has already been made available to the city, the information is not necessary to review the application, or alternate forms of information have been provided which provide sufficient detail to allow the reviewing official to review the application.

(3) Approval Criteria. Tree removal or transplanting pursuant to a Type B permit shall be limited to instances where the applicant has applied for a Type B permit in accordance with subsection (1) of this section, has provided complete and accurate information as required by this chapter, and where the proposal includes provisions for mitigation and tree protection in accordance with VMC 8.10.120 and 8.10.130. (Ord. 483 § 8, 2008). If the site is undeveloped/ vacant and larger than one (1) acre, the applicant shall preserve trees, to the extent practical, in accordance with approval criteria listed in VMC 8.10.090(5)(a)(i-iii).

8.10.090 Type C permit.

(1) Approval to remove more than three trees on a single lot or parcel as part of a site plan review or amendment, subdivision, or partition application may be granted as a Type C permit in conformance with subsection (5) of this section.

(2) Type C permit applications shall be reviewed concurrent with the development review process. If a Type C permit or its associated development application is appealed, no trees shall be removed until the appeal has been resolved.

(3) Submittal Requirements. The applicant must provide 10 copies of a tree maintenance and protection plan completed by a certified arborist that contains a summary of existing conditions and a mitigation plan as follows:

(a) Summary of existing conditions including a topographical survey bearing the stamp and signature of a qualified, registered professional containing all the following information:

(i) Property Dimensions. The shape and dimensions of the property, and the location of any existing or proposed structures, utility installations, grading, or other improvements.

(ii) Tree Survey. The survey must include:

(A) An accurate drawing of the site based on accurate survey techniques at a minimum scale of one inch equals 100 feet including:

1. The location, dbh, and tree number of all impacted trees (see subsection (3)(a)(iv) of this section, Field Identification).

2. The critical root zone of impacted trees, and the extent of likely impacts.

3. The common name of impacted trees.

4. Heritage trees shall be clearly noted on the survey.

(B) Where a stand of 20 or more contiguous trees will be removed, the required tree survey may be simplified to accurately show the location of all heritage trees, and significant trees which are within 50 feet of the edge of the development envelope. Only these trees are required to be field tagged. Interior tree areas shall be depicted with clouds or other similar linework and the dbh, common name, and total number of all interior trees shall be accurately stated on the plans.

(C) Neighboring Properties. All impacted trees on neighboring properties shall be shown on the tree survey. If the applicant cannot obtain permission to survey the neighboring properties, the person or persons preparing the survey shall make a note to this effect on the survey and locate the trees and CRZs to the best of their ability. The survey shall show the percentage of CRZ for these trees which will be impacted by the proposed improvements.

1. When a proposal includes activities which will result in removal of trees on neighboring properties, the applicant shall include the removal of the neighboring trees in the permit application and mitigate for their removal.

(iii) Arborist Report. The report shall describe the health and condition of all heritage trees including species, common name, dbh, approximate height, and age. The report shall identify hazardous, dead, or dying trees. The report shall identify opportunities for preservation of groves or stands of trees and make recommendations regarding special tree protection and maintenance practices necessary to restore preserved trees to full health.

(iv) Field Identification. Impacted trees shall be designated with metal tags that are to remain in place throughout the development. Those tags shall be numbered, with the numbers keyed to the tree survey map that is provided with the application. See subsection (3)(a)(ii)(B) of this section regarding large groups of trees.

(v) Tree Protection. A statement addressing tree protection during construction in accordance with VMC 8.10.130.

(b) Mitigation Plan. A plan prepared by a certified arborist or landscape architect describing the proposed tree replacement program with a detailed explanation including the number, size, species, and planting location of replacement trees, and any necessary activities to ensure viability including, but not limited to, mulching and irrigation.

(4) Waiver of Documentation. The reviewing authority may waive any of the above information requirements where the information has already been made available to the city, the information is not necessary to determine conformance with applicable criteria, or alternate forms of information have been provided which provide sufficient detail to allow such a determination.

(5) Approval Standards for Type C Permits. All Type C permits submitted as part of a proposed residential development shall be reviewed under Option A in subsection (5)(a) of this section unless the applicant chooses the alternative design review available in Option B in subsection (5)(b) of this section. All commercial and industrial developments shall comply with the criteria of Option B.

(a) Option A – Numerical Preservation Standard for Residential Developments. Existing trees must be preserved. The total tree diameter on the site is the total diameter of all significant trees on the site, minus the diameter of all exempt trees as defined by this chapter. The applicant must choose one of the following options. Calculations shall be in accordance with subsection (5)(c) of this section.

(i) Preserve at least 30 percent of the total significant tree diameter on the site;

(ii) Preserve all heritage trees and at least 30 percent of the significant trees on the site;

(iii) If the site is larger than one acre, preserve at least 25 percent of the total tree canopy area on the site.

(b) Option B – Commercial/Industrial and Alternative Residential Design Review. Tree preservation and conservation as a design principle shall be equal in concern and importance to other design principles. Application of the standards of this section shall not result in a reduction of overall building square footage or loss of density, but may require an applicant to modify plans to allow for buildings of greater height, different design, or alternate location. Tree removal or transplanting pursuant to a Type C permit shall be limited to instances where the applicant has provided complete and accurate information as required by this chapter and where the reviewing authority determines that the following criteria have been met.

(i) The proposal includes provisions for mitigation and tree protection in accordance with VMC 8.10.120 and 8.10.130.

(ii) The proposed removal is necessary for the construction of roads, structures, or other site improvements and the applicant has demonstrated that there are no feasible and reasonable location alternatives and/or design options which would better preserve significant trees on the site while providing the same overall level of density and design functionality.

(iii) Other. Where the applicant shows that tree removal or transplanting is reasonable and necessary under the circumstances.

(c) Under Option A, when calculating the amount of tree diameter and the number of significant trees on the site, the applicant may choose one of the following methods of measurement:

(i) Tree Inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or

(ii) Statistical Sampling. Statistical sampling may be used to estimate the total tree diameter and total number of significant trees present. Sampling must be carried out by individuals with demonstrated experience performing such surveys and shall be based on generally accepted standard methodologies.

(iii) Tree Canopy. When calculating the amount of tree canopy on the site, the total canopy area is based on the most recent aerial photograph available. If the most recent aerial photograph available is more than five years old, the applicant must provide a more recent photograph. (Ord. 483 § 9, 2008)

8.10.100 Type D permit.

The owner or operator of a commercial wood lot shall apply and receive approval for a Type D permit before beginning harvesting operations of more than three trees within any 12-month period. Type D permit applications shall be reviewed by the building official.

(1) Application for a Type D permit shall include the following:

(a) Proof that the subject property is a “commercial wood lot” as defined by this chapter;

(b) A map of the property including property boundaries;

(c) The size, species and location of all significant trees other than Douglas fir;

(d) The size, species and location of all heritage trees.

(2) Approval Standards for Type D permits. An application for a Type D permit shall be granted when all of the following criteria are met:

(a) The applicant has submitted a complete application as required by subsection (1) of this section;

(b) All heritage trees other than Douglas fir will be protected according to the requirements of this chapter;

(c) All nonfir significant trees in excess of three shall be mitigated according to VMC 8.10.120 or protected according to VMC 8.10.130;

(d) All applicable standards of the Oregon Forest Practice Rules are met;

(e) The applicant has submitted and obtained approval of an erosion control plan from the city engineer; and

(f) If the tree removal proposed is a final harvest, and no further planting, maintenance, or rotation of trees is proposed, the applicant shall submit a long-term erosion control and revegetation plan for review and approval. (Ord. 483 § 10, 2008)

8.10.110 Amendments to approved permits.

(1) Amendments. The planning official may allow removal of up to a total of three additional nonheritage trees as amendments to an approved Type B permit, or up to 10 additional nonheritage trees for a Type C permit subject to the mitigation requirements of this chapter. If removal of more than this number of trees, removal of a heritage tree, or substantial changes to the mitigation plan are necessary prior to final platting or certificate of occupancy due to changes in infrastructure layout, variable field conditions, or the necessities of construction, such changes shall be reviewed by the planning official as a Type B permit subject to the mitigation requirements of this chapter. (Ord. 483 § 11, 2008)

8.10.120 Mitigation.

(1) Requirement Established. Type B or C tree removal permit grantees shall plant one replacement tree for each significant tree removed in excess of the three that could otherwise be removed under a Type A permit. Type D permit grantees shall mitigate nonfir trees as required by VMC 8.10.100(2)(c). Mitigation is not required for removal of hazardous, dead, or dying trees.

(2) Heritage trees shall be mitigated based on the following methodology:

Replacement trees = 1 + (A - Q)

Where:

A = Actual dbh of the tree in question.

Q = Minimum dbh for this species to qualify as a heritage tree.

(3) Replacement Trees. Trees planted as mitigation must meet all of the following standards:

(a) To encourage a diversity of species when four or more trees are required as mitigation, no more than 25 percent of trees planted as mitigation shall be of any one species. Use of native trees where appropriate is encouraged;

(b) All replacement trees shall be appropriately chosen for the site conditions (especially soil and hydrology) from an approved tree species list supplied by the city, and shall be state Department of Agriculture and American Association of Nurserymen (AAN) American Standards for Nursery Stock (ANSI Z60.1) for top grade;

(c) All replacement trees shall be two-inch caliper. The planning official or planning commission may allow the use of replacement Oregon white oaks and other native trees with the largest available nursery stock if two-inch caliper trees are not available;

(d) Replacement trees shall be planted prior to plat for land divisions and prior to issuance of final certificate of occupancy for other applications. Otherwise, replacement trees required by a Type B and Type D permit shall be planted within one (1) year of permit approval. Mitigation requirements shall run with the land until all required mitigation has been completed;

(e) Replacement trees must be staked, fertilized, mulched, and irrigated as necessary to ensure survival; and

(f) Trees planted as mitigation for a Type C permit shall be guaranteed by the permit grantee or the grantee's successors-in-interest for three years after the planting date through an irrevocable development agreement.

(4) Alternatives to On-Site Mitigation.

(a) Relocation or Replacement Off Site. If in the opinion of a certified arborist or landscape architect there is insufficient available space on the subject property to accommodate the required mitigation plantings, the following alternatives may be used to fulfill mitigation requirements:

(i) Replanting may occur on other property in the applicant's ownership or control within the city, or in a city-owned or dedicated open space or park. If planting on city-owned or dedicated property, the city may specify the species, size, and location of the trees. Nothing in this section shall be construed as an obligation of the city to allow trees to be planted on city-owned or dedicated property.

(ii) Payment in Lieu of Planting. The applicant may pay into the tree fund an amount equal to the number of replacement trees required times a per-tree rate as established by resolution of the city council. If an applicant received Type C Tree Permit approval as part of site plan review, tentative subdivision or tentative partition and the land use approval expires (with no final plat approval)

and if trees have been removed in accordance with the tree permit, the applicant shall provide payment in lieu of planting for required mitigation trees within ten (10) days after expiration of the permit.

(5) Trees preserved or planted as mitigation may be used to fulfill the landscaping requirements as set forth in Veneta Land Development Ordinance Section 5.12.

(6) To encourage the retention of established trees which do not yet meet the criteria for significance, credit towards mitigation requirements shall be given on a tree-for-tree basis for preservation of the following healthy, structurally sound trees. If such trees are to be used towards meeting the mitigation requirements of this section, required tree preservation and planting plans shall include the size, species, and location of these trees, and these trees shall be given the protections required by VMC 8.10.130 and shall then be considered significant trees. Trees located within the greenway/open space subzone may not be counted towards required mitigation.

Big leaf maple	2 – 12" dbh
Oregon ash	2 – 8" dbh
Madrone	2 – 6" dbh
Red alder	2 – 6" dbh
Ponderosa pine	2 – 6" dbh
Western red cedar	2 – 6" dbh
Chinquapin	2 – 6" dbh
Pacific dogwood	2 – 6" dbh
Douglas fir	2 – 6" dbh
Oregon white oak	2 – 6" dbh

(7) Economic Development Waiver. The city council may reduce or waive mitigation requirements for developments on commercial and industrial zoned parcels when all of the criteria below are met. Request for waiver shall be made in writing to the city council following the approval of land use applications and resolution of all appeals.

(a) The applicant has complied with the landscaping requirements of Land Development Ordinance Section 5.12.

(b) The applicant is unable to meet the mitigation requirements through on-site plantings or off-site mitigation as determined by a professional landscape architect.

(c) The council determines that the proposed development will provide substantial economic, employment, and service benefits to the community including provision of family-wage jobs or services currently lacking within the city. (Ord. 483 § 12, 2008)

8.10.130 Tree protection during construction.

Where trees are to be preserved as part of a development plan, the following standards apply:

(1) All trees to be protected must be clearly differentiated from those being removed by clearly marking trees to be removed in an obvious visible manner such as bright-colored paint, ribbon, etc.

(2) Protective Barrier. Before development, vegetation removal, filling, or any land alteration for which a tree removal permit is required, the developer shall erect and maintain suitable barriers to prevent damage to remaining trees. Barriers shall be erected at the edge of the critical root zone of trees to be preserved. Protective barriers shall not be moved and shall remain in place until the city authorizes their removal or issues a final certificate of occupancy, whichever occurs first. At a minimum, barriers shall consist of 48-inch-high heavy duty, high visibility plastic fencing, or silt fencing, attached to anchored metal or wooden posts.

(3) Prior to commencement of ground-disturbing activities, the applicant shall request and receive an inspection of all tree protection barriers to ensure that the approved tree removal plans are accurately implemented on the ground. All inspection requests shall provide a minimum of 24 hours' notice.

(4) Construction Near Preserved Trees. No person may conduct any construction activity damaging to a tree designated to remain, including, but not limited to, placing solvents, building material, construction equipment or depositing soils within the tree protection zone, attaching fencing or other items to trees, using trees as anchors, or placing irrigated landscaping within the protective barrier.

(5) Where trees are removed from within the CRZ of a tree to remain, the removal shall be done by cutting the tree near the ground and grinding the stump or leaving it in place. Removal of trees or stumps within the CRZ of a protected tree by pushing trees down or pulling trees, chemical treatment and/or stumps out of the ground is prohibited. (Ord. 483 § 13, 2008)

8.10.140 Notice and appeal.

(1) Courtesy notice of Type B approved permits which involve one acre or more in size, a vacant/undeveloped site and removal of ten (10) trees or more; shall be mailed to all property owners within not less than 100 feet of the property for which the Type B permit has been issued. A notice shall also be posted at the property for which the Type B permit has been issued. Notice of a pending Type C permit shall be mailed to surrounding property owners in accordance with Section 2.11 of the Veneta Land Development Ordinance.

(2) Any decision on a Type C tree removal permit may be appealed in accordance with Section 2.07 of the Veneta Land Development Ordinance. (Ord. 483 § 14, 2008)

8.10.150 Timing of removal, display of permit – Inspection.

(1) No tree removal permitted as a Type B, C, or D permit shall take place until the applicant has received a notice to proceed from the city engineer on public improvements. When no public improvements are proposed, tree removal shall not occur until building permits have been issued.

The building official may make exceptions to this requirement when warranted due to extenuating circumstances or when no such permits are necessary.

(2) For applicants seeking a Type B permit to remove trees independent of site improvements, no tree removal shall take place until tree protection measures have been inspected and approved by the building official.

(3) Inspection and approval of all required tree protection measures by the building official is required prior to tree removals permitted as Type B, C, and D permits.

(4) Forty-eight hours prior to tree removal, a copy of the tree removal permit shall be prominently displayed on the subject property and shall remain on display at all times while tree removal operations are being conducted. (Ord. 483 § 15, 2008)

8.10.160 Violation – Enforcement.

(1) Any person found to have removed a significant tree in violation of this chapter shall incur a penalty of not more than \$1,000 nor less than \$250.00 per violation.

(2) Any person found to have removed a heritage tree in violation of this chapter shall incur a penalty of not less than the value of the tree according to VMC 8.10.120 plus no less than \$500.00 for each heritage tree removed.

(3) Failure to comply with any condition of the permit issued to the applicant shall constitute a violation of this chapter and shall subject the applicant to a fine of not more than \$1,000, nor less than \$500.00. Any fines collected by the city under this section shall accrue to the city tree fund.

(4) Each tree removed in violation of this chapter or any permit issued pursuant to this chapter shall constitute a separate violation.

(5) Each tree that the applicant fails to replant or replace as required by the terms of the permit, and each violation of any other condition of a permit, shall constitute a separate violation.

(6) Retroactive Permit. A person who removes a tree without obtaining a Type A permit may apply retroactively for a permit. In addition to all application requirements of this chapter, the person must be able to demonstrate compliance with all requirements of this chapter, in addition to paying an additional fee as established by resolution of the city council. Mitigation requirements of this chapter may apply to all retroactive permits.

(7) Withholding Permits and Stop-Work Orders. The building official has the authority to issue a stop-work order, withhold approval of a final plat, or withhold issuance of a certificate of occupancy, permits or inspections until the provisions of this chapter, including any conditions attached to a tree removal permit, have been fully met.

(8) Revocation of Permit. The city administrator may revoke any tree removal permit when the planning official or designee thereof has clearly demonstrated that the application was incomplete or inaccurate to such a degree as to invalidate the approval. Such a revocation may be immediately followed by a stop-work order and the applicant required to either:

(a) Revise and resubmit the permit for review and approval; or

(b) Pay fines for removing trees in violation of the permit under subsections (1) and (2) of this section.

(9) The city shall notify the property owner in writing that a violation has occurred and mitigation is required. Within 30 days of the date of mailing of the notice, the property owner shall provide a mitigation plan to the city. The plan shall provide for replacement of a tree or, at the city's discretion, payment into the tree fund according to the standards of VMC 8.10.120. (Ord. 483 § 16, 2008)

8.10.170 Alternative enforcement.

In the event that a person, company, or other operating unit commits more than one violation of this chapter, the following alternative sentence may be imposed by the Veneta municipal court:

(1) If a person has gained money or property through the commission of an offense under this section, then upon conviction thereof the court, in lieu of imposing a fine, may sentence the person to pay an amount, fixed by the court, not to exceed double the amount of the gain from the commission of the offense.

(2) "Gain" is defined as the amount of money or value of property derived from the commission of the violation, less the amount of money or value of property seized by or surrendered to the city. "Value" shall be the greater of the market value or replacement cost as determined by a licensed professional in the tree, nursery, or landscape field. (Ord. 483 § 17, 2008)

8.10.180 Findings of fact.

The findings of fact adopted by the Veneta city council on September 22, 2008, as support for the adoption of the ordinance codified in this chapter, attached as Exhibit A, are hereby incorporated herein and made a part of this chapter. (Ord. 483 § 18, 2008)

8.10.190 Amendments.

All amendments made to this land use chapter shall be in accordance with the amendment procedures set forth in Veneta's Land Development Ordinance. (Ord. 483 § 19, 2008)

8.10.200 Post Tree Removal Requirements for all tree permits (Type A – D).

(1) Debris clean-up post logging shall include the following:

a) Removal of all logging equipment no later than 30 days after completion of tree felling.

b) Plant mitigation/ replacement trees within one (1) year of tree permit approval.

c) Maintain/ management of noxious vegetation as defined in the Veneta Municipal Code indefinitely or until site is developed.

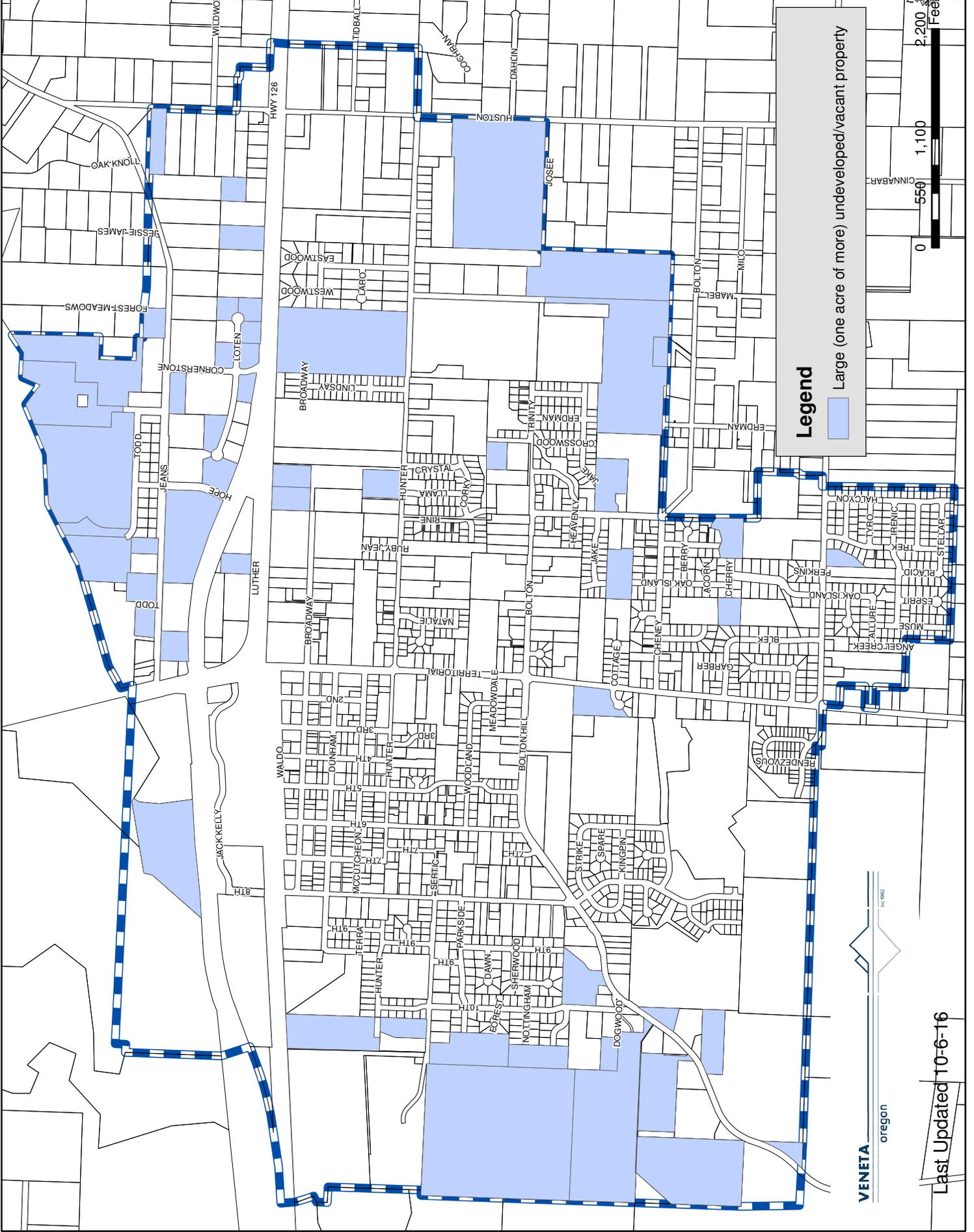
d) Slash piles.

Veneta Land Development Ordinance No. 493
Section 4.12 Greenway Open Space Subzone (/GW)

(3) Permitted Uses. In a GW subzone, the following uses are permitted subject to compliance with all state and local requirements, including the development standards of Section 4.12(6) of this ordinance.

(1) For parcels that have no usable building site through the application of the requirements in VMC 18.10 – Wetland Protection Ordinance, a variance may be granted to allow development on the parcel; provided that the design of the development minimizes impact to the wetland.

LARGE (ONE ACRE OR MORE) UNDEVELOPED/ VACANT PROPERTY



Last Updated 10-6-16