

**VENETA PLANNING COMMISSION
STAFF REPORT**

Babb Zone Change (CP/ZC-1-10)

Application Date: June 12, 2010
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Prepared By: Zac Moody

Planning Commission
Hearing Date: August 2, 2010
City Council
Hearing Date: August 9, 2010

Referrals: Department of Land Conservation & Development (DLCD)

BASIC DATA

Applicant: City of Veneta
P.O. Box 458
Veneta, Oregon 97487

Property Owner: Kib Babb
1550 SE Lava Dr., Unit 10
Portland, Oregon 97222

Assessors Map 17-06-36-41, Tax Lot 1100

Area: .15 acres

Plan Designation: Commercial (C)/Medium Density Residential (M)

Zoning: Community Commercial (CC)/General Residential (GR)

REQUEST

Zone Change

The request before the Planning Commission is to amend Veneta's Comprehensive Plan map and Zoning maps to redesignate and rezone the above described property. The proposed change to the Comprehensive Plan map would be from Commercial to Medium Density Residential and the Zoning map would be from Community Commercial to General Residential.

BACKGROUND

The property is currently developed with a small dwelling and is located west of Central Little School near the intersection of Bolton Hill Road and Territorial Hwy. The property is approximately 0.15 acres in size and has shared access to Bolton Hill Road. The property is adjacent to other residential properties as well as the Oregon Department of Forestry. Prior to the map amendments in 2009, the parcel was split zoned General Residential and Community Commercial. Considering the parcel was previously split zoned Commercial/Residential and the last use on the parcel was commercial, the Comprehensive Plan map and Zoning maps were amended to show a commercial designation.

On August 1, 2006, the City received a request to convert the existing dwelling from a residential use to a commercial use. The request to annex the existing residence located at 25053 Bolton Hill Road for use by Central Little School as a classroom triggered the need for a major site plan amendment. An application for the amendment was submitted (SR-7-06) and approved with conditions (Exhibit D). Condition #1 of the approved site plan required a revised parking plan that demonstrated safe on-site circulation that controlled traffic exiting the site and relocated the exit on Bolton Hill Road. The requirement identified in the above condition was met and during the construction of Bolton Hill Road, a new access was created on east side of the subject parcel (Tax Lot 1100). Coincidentally, during the construction of the new access the driveway access to the garage of the dwelling was removed.

ISSUES

Commercial vs. Residential Uses

On June 12, 2010, the property owner requested a rezone due to a mapping error. The applicant stated that the parcel was previously split zoned Commercial/Residential and as part of the map changes done in 2009 was incorrectly mapped. Staff rezoned the parcel to commercial due to its principal use at the time the mapping was done as well as its proximity to other Community Commercial parcels. The applicant stated that this parcel as a commercial property cannot meet the parking requirements for commercial and is not viable as a commercial site. A site visit confirms that the driveway that provides access to Bolton Hill Road is insufficient to provide both access and parking for a commercial use on the site nor is there on-street parking.

Access

A zone change back to General Residential is appropriate for this parcel. A change to residential would require the driveway to be moved to the previous location to conform with the off-street parking requirements of Section 5.20 of the Veneta Land Development Ordinance. Bolton Hill

Road is currently under the jurisdiction of Lane County and any modification to an access along the road requires approval from Lane County.

Effects on Existing Site Plan

Both the subject parcel and the parcel that Central Little School resides are tied together with an approved site plan from 2006 (Exhibit D). The conversion of the subject parcel back to residential is likely to mean moving the egress for Central Little School closer to Territorial Hwy. This action would not only require approval from Lane County, but would also require an amendment to the site plan reconfiguring the access and circulation.

Buildable Lands

The subject parcel is approximately 6,500 square feet in size with the previous split placing about 3,250 square in the commercial designation and 3,250 square feet in the residential designation. Considering the negligible square footage allotted to either designation, the change from one designation to the other will have virtually no impact on the buildable lands inventory for either designation. In addition to the minimum amount of square footage, the subject parcel is neither developable nor vacant.

APPROVAL CRITERIA

The Land Development Ordinance does not provide criteria for review of amendments to zoning maps; however, the Veneta Comprehensive Plan, Ordinance 416, page 80, B, Updating the Plan, states:

In order to maintain a workable plan, the City must review the Plan on a regular basis. It is suggested that the Plan be reviewed yearly and amended as necessary with major revision and updating occurring at seven- to ten-year intervals in conjunction with Periodic Review. As example, this Plan update is the fifth major revision of the City's Plan since it was adopted in 1969. Numerous amendments and technical reports have been added since 1980.

The Comprehensive Plan is intended to be flexible, and part of this flexibility is the ability to amend the plan when situations warrant changes. The long-range nature of the Plan requires decisions to be made based upon projections, namely economic and population projections. As time progresses, these projections must be continually compared with existing conditions, and, if a wide discrepancy occurs, the plan should be updated to reflect these changes. Otherwise, it will not realistically meet the needs of the community.

The City Council is solely responsible for adopting amendments to the Comprehensive Plan or for adopting an updated plan. Updating the plan periodically as recommended above would require Council action authorizing study to determine appropriate revisions. This most likely would be accomplished by directing the Planning Commission to undertake this work utilizing either city staff or contracting to either a public planning agency such as the County or LCOG or contracting to a private planning consultant.

Comprehensive Plan amendments, however, can be initiated by private citizens. The procedure will be exactly the same as the procedure used for a zone change as outlined in the Veneta Land Development Ordinance. The applicant makes the initial request for a plan amendment to the Planning Commission. The City notifies LCDC of the proposal 45 days prior to the first hearing date. The Planning Commission holds a public hearing and makes its recommendation to the City Council. The City Council holds a final public hearing. If the amendment is approved, the City would instruct the city attorney to prepare an ordinance to that effect and the ordinance could be adopted at the next regularly scheduled Council meeting.

For a plan amendment to be legally adopted, there must be documentation of an "established need" for the plan change. The establishment of this need rests ultimately with the City Council. However, the most common practice in Oregon is for the City Council and Planning Commission to require the applicant to submit the documentation for establishing that changes in the Comprehensive Plan cannot be arbitrary or capricious but must be based on a demonstrated need.

The proposal meets this criteria. The property owner submitted an application for the plan designation and zone designation change. The City notified DLCD of the proposal 45 days prior to the first evidentiary hearing. The Planning Commission will review the proposed change and make a recommendation to the Veneta City Council. The City Council will make the final decision.

The proposal for the comprehensive plan and zoning map changes are warranted, due to the fact the change that was made did not take into consideration commercial development requirements such as parking and access. The property contains a dwelling and has limited access, suitable only for a residential use.

The type of amendment procedure is considered a "mapping error" in nature to correct map changes that were arbitrary or capricious in nature and not based on a demonstrated need for the land for a commercial use.

AGENCY COMMENTS

The City has no objection to the proposed zone change to correct a mapping error. DLCD was given notice 45 days prior to the public hearing and had no comments.

PUBLIC COMMENT

No written comments were received by the public at the time the staff report was written.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

The Planning Commission shall review the plan and the reports of the appropriate officials and agencies. The Planning Commission may:

1. Recommend approval of the comprehensive plan and zoning map changes to the City Council, based on the findings and conclusion in the Staff Report.
2. Recommend denial of the comprehensive plan and zoning changes based on available criteria. Additional findings will need to be generated to support the denial.
3. Continue the review for good cause.

STAFF RECOMMENDATION

Based on the information above, staff finds that the proposal can meet all of Veneta's requirements for a change to the Veneta Comprehensive Plan map and Veneta Zoning map. Staff recommends that the Planning Commission recommend approval to the Veneta City Council.

EXHIBITS

- A. Zone Change Application
- B. Vicinity map
- C. Comprehensive Plan map dated 1/25/10 & Zoning Map dated 1/25/10
- D. Comprehensive Plan map dated 9/25/00
- E. SR-7-06 Final Orders and Site Plan map