

**FINAL ORDER OF THE VENETA PLANNING COMMISSION
HEATHER GLEN
SITE PLAN REVIEW and TREE REMOVAL PERMIT
(SR-6-06)**

A. The Veneta Planning Commission finds the following:

1. The Veneta Planning Commission has reviewed all material relevant to the Site Plan Review (SR-6-06) which has been submitted by the applicant, staff, and the general public regarding this matter.
2. The Veneta Planning Commission held a meeting on April 2, 2007 to discuss the Site Plan application for assessor's map 17-06-36-44 Tax Lot 300 after giving the required notice to surrounding property owners as per Section 2.13 of Veneta's Land Development Ordinance 461.
3. The Veneta Planning Commission followed the required procedure and standards for approving site plans as required by Section 6.05 and 6.06 of Veneta's Land Development Ordinance No. 461.
4. The Veneta Planning Commission followed the required procedure and standards for approving Tree Removal Permits as required by Veneta Municipal Code 8.10.

B. The Veneta Planning Commission approves with conditions the Heather Glen Site Plan (SR-6-06) and the accompanying Tree Removal Permit. The applicant shall comply with the following conditions of approval.

PRIOR TO ISSUANCE OF BUILDING PERMITS

- 1) No more than three trees shall be removed until public improvement plans have been accepted and Notice to Proceed has been issued
- 2) The applicant shall install tree protection measures including
 - a) Tree Protection Zones are to be established for trees to be saved and all trees on neighboring properties if proposed construction will impact the area within the dripline of said trees. The dripline buffer encircling each tree shall be fenced prior to any ground disturbing activities or heavy equipment activity on the site. Zones are to be inspected by City prior to removal of any trees or commencement of construction on the site and are to be maintained throughout entire construction process.
 - b) Fences are not to be moved for any reason and work within protection zones is not allowed without prior consent.
 - c) During construction, roots greater than 1 inch in diameter must be cut cleanly using sharp pruning tools. Cut roots and exposed soil must be maintained in a moist condition until permanent soil cover is reestablished or consistent rain events have returned.

- 3) Obtain a 1200C permit from Oregon Department of Environmental Quality as required by DEQ.

PRIOR TO CONSTRUCTION ON SITE, THE APPLICANT SHALL:

- 4) Obtain City approval for improvement plans to include the items listed below.
 - a) UNDERGROUND UTILITY PLANS including telephone, electric, and cable. Installation of utilities must be coordinated with the appropriate regulatory agencies.
 - b) TREE MITIGATION, LANDSCAPING and SCREENING PLANS which include:
 - i) The plans shall provide screening for the property to the west
 - ii) All garbage collection areas, service facilities and air conditioning facilities located outside the building shall have sight-obscuring screening.
 - iii) Screening of all parking lot areas from the abutting residentially zoned properties to the west and east.
 - iv) All lots shall be planted with a minimum of one (1) tree and four (4) shrubs per 1000 sq ft of open space. Credit shall be given for preserved trees.
 - v) Detention facility planting details showing species mix and seeding rate
 - vi) All cut and fill slopes shall be vegetated with native plantings sufficient to control erosion and prevent establishment of invasive species.
 - vii) A report from a licensed landscape architect addressing mitigation for the loss of trees according to the services outlined in Veneta Municipal Code Chapter 8.10(3)(i), (ii), (iv), (v), (vi), (vii), and (viii):
 - (1) The plan shall include proposed mitigation for removal of trees from lots 2-5.
 - (2) The site shall be replanted at the maximum density practicable given the proposed improvements, site constraints, and growth requirements of trees being planted (v) and (vi).
 - (3) Trees planted as mitigation shall be of the maximum caliper available from nurseries in Oregon (vi).
 - (4) Trees along the perimeter of the site shall be selected and located to provide maximum screening and privacy on a year-around basis (ii) and (iv).
 - (5) The majority of replanted trees shall be native species with a predominance of native hardwoods (vi).
 - (6) Trees shall be planted along and/or within wetlands and detention areas to ensure soil stability and prevent erosion (i).
 - (7) All plantings shall be provided with sufficient irrigation to ensure viability
 - c) ACCESS and PARKING PLANS which include:
 - i) Street lighting, striping, and signage plans including crosswalks
 - ii) All parking spaces shall have a minimum dimension of 9x18 ft
 - iii) Curbs painted yellow 10 ft to each side of all hydrants to indicate “No Parking”
 - iv) All parking areas shall be striped

- v) All Parking spaces along outer boundaries of a parking area shall be contained by a curb or bumper so placed to prevent a motor vehicle from extending over the property line.
 - vi) Signage, lane, and crosswalk striping including crosswalks
 - vii) All street curbs, including the cul-de-sac shall be painted yellow and clearly signed “no parking” including the curbs east and west of the basketball court which shall be clearly marked “Fire Lane, No Parking”
- d) DRAINAGE FACILITY improvement plans including:
- i) Access easements encompassing all stormwater swales and wetland drainages
 - ii) A drainage study for all lots defining the difference between the pre- and post-development runoff from the site with calculations and a brief narrative that explains the analysis and conclusions of the drainage study. The study must show that post-development peak flows shall not exceed predevelopment peak flows for a 10 year storm.
- e) EROSION CONTROL and GRADING plans which:
- i) Address erosion and run-off during and after construction and include a 1200C permit as required by DEQ.
 - ii) Grading plans shall show existing and proposed cut and fill slopes, type of fill materials, finish grade elevations at property boundaries, and existing elevations of neighboring parcels at the property lines.

PRIOR TO OCCUPANCY

- 5) Submit a development agreement stating that:
- i) The applicant shall permanently maintain all landscaping including preserved trees and stormwater facilities. This agreement shall state that no additional trees shall be removed from the subject property without first obtaining a tree removal permit from the City.
 - ii) The applicant shall maintain all required parking spaces for the continual use of residents and visitors for the parking of operable motor vehicles.
 - iii) Lot 1 shall meet the landscaping requirements of Veneta Land Development Ordinance Section 5.12(4) prior to occupancy and shall meet said requirements continually. Maintenance of all landscaping and screening are the continuing obligation of the property owner.
 - iv) Clear vision areas including those shown on the tentative plans and a triangle with 25 ft sides on all corner lots shall be permanently maintained. These areas shall contain no plantings, driveways, fences, walls, structures or temporary or permanent obstructions exceeding 2-1/2 feet in height, measured from the top of the curb or where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of eight (8) feet above grade.
 - v) No filling or other ground disturbing activities shall occur within the boundaries of the significant wetlands on the site without prior approval of a variance by the City.

- vi) All private drives and parking areas shall be continually maintained including surfacing, striping, etc.
 - vii) All owners, occupants, and guests of lots 2-5 shall continue to have access to all park facilities provided on this site (lot 1) in fulfillment of Parkland Dedication requirements.
- 6) Buildings 3, 4, and 5 shall have fire suppression sprinklers installed.
- 7) Fire extinguishers with a minimum rating of 2A:10BC shall be placed throughout the property so that the maximum travel distance between extinguishers does not exceed 75 feet. These extinguishers shall be located so that persons within the facility have direct access to the extinguisher. These extinguishers shall be mounted inside approved cabinets so that they are accessible and protected from environmental damage.
- 8) All required landscaping shall be installed according to the landscaping and screening plans.

C. IT IS HEREBY ORDERED THAT the Veneta Planning Commission approves the Heather Glen Site Plan (SR-6-06) and accompanying Tree Removal Permit with the above conditions based on the information in the staff report and the following criteria and findings of fact:

Site Plan Review applicable criteria are in italics; findings are in bold.

SECTION 6.04 REQUIRED FINDINGS

After an examination of the site and prior to approval of plans, the Commission or Building and Planning Official must make the following findings:

(1) That all provisions of city ordinances are complied with.

Veneta Land Development Ordinance No. 461

Article 4-USE ZONES

SECTION 4.03 GENERAL RESIDENTIAL ZONE (GR)

In the GR zone, the following regulations shall apply:

(1) Purpose. To provide areas suitable and desirable for a variety of housing types and densities with provisions for associated public service uses, planned developments and other uses under controlled conditions.

The proposal is consistent with this zoning purpose because the proposal provides multi-family housing which is an allowed use in this zone.

- (2) *Permitted Uses:* . In a GR zone, the following uses and their accessory uses are permitted. As described in Section 6.01, some development activities or changes in use, including those on properties located within subzones or properties with physical characteristics which may be affected by the development, may require a Site Plan Review.

(d) *Multiple-family dwellings, subject to the Site Plan Review procedures of Article 6.*

The proposed use is a permitted use in the GR zone.

- (4) *Lot size and Width.* Except as provided in Articles 5, 6 and 8, the minimum lot size and width in a GR zone shall be as follows:

- (a) *For any housing type, the maximum density allowed per legal lot is one dwelling per 6,000 square feet (5,400 in the downtown area on the Comprehensive Plan map), two (2) dwellings per 7,500 square feet, plus 2,000 square feet for each additional dwelling unit.*

The proposal is consistent with this requirement. All single family lots are at least 6000 sq ft in area. The application includes 27 units on 119,047 sq ft. Using the calculation given above, this area could accommodate up to 57 multi-family units

- 5) *Yards.* Except as provided in Articles 5 and 6, in a GR zone, yards shall be as follows:

- (a) *Front yards shall be a minimum of twenty (20) feet.*
- (b) *Sideyards shall be a minimum of five (5) feet on one side and the total of the two (2) side yards shall be a minimum of fifteen (15) feet. Side yards are not required for single-family attached homes, except when the adjacent side lot(s) is(are) developed. In these cases, the minimum side yard shall be a minimum of 5 feet.*
- (c) *Back yards shall be a minimum of five (5) feet.*

The proposal is consistent with this requirement. All proposed buildings meet the above yard setbacks as shown on the tentative plan.

- (d) *Yards shall be landscaped as provided in Section 5.12.*

The proposal is consistent with this provision with the condition that all lots shall be planted with a minimum of four (4) trees and sixteen (16) shrubs per lot. Lot 1 shall be planted with a minimum of one (1) tree and four (4) shrubs per 1000 sq ft of open space. Credit shall be given for preserved trees on lot 1. The applicant shall also sign an irrevocable development agreement stating that all lots shall meet these landscaping standards prior to occupancy and shall meet these standards continually.

- (e) *See Section 5.09 for additional setbacks on designated streets.*

SECTION 5.09 EXCEPTIONS TO YARD REQUIREMENTS

- (3) *In order to permit the eventual widening of streets, every lot abutting a portion of a street hereinafter named shall have an additional setback over the required yard dimension specified in the zone so that the minimum distance from the center line of the street right-of-way to the front setback line shall be listed as below:*

<u>Street Name</u>	<u>Setback from Center Line</u>
Territorial Highway	40 feet - West side only

The proposal is consistent with this requirement. A 40 ft setback is proposed from the centerline on Territorial.

- (6) *Lot Coverage. In a GR zone, all buildings shall not occupy more than 50 percent of the lot area.*

The proposal is consistent with this requirement. Total lot space covered by all building is 16.7%.

- (7) *Building Height. Except as provided in Articles 5, 6 and 8, in a GR zone, no building shall exceed 2-1/2 stories or 35 feet*

The proposal is consistent with this requirement. Maximum proposed building height is 27 ft.

- (8) *For additional requirements, see Article 5 - Supplementary Provisions.*

Article 5-SUPPLEMENTARY PROVISIONS

Section 5.02 **ACCESS**

Generally, every lot shall abut a street other than an alley for a minimum width of 50 feet and 35 feet for a cul-de-sac. Exceptions to the frontage requirement may be made where the Planning Commission has approved an easement for access, where the easement existed prior to 1989, the Planning Commission has approved panhandle lots, or the lot will be used for single-family attached housing.

The proposal is consistent with this criterion because all lots will have the required amount of frontage on a public street.

SECTION 5.03 CLEAR VISION AREAS

In all zones except the C zone a clear vision area shall be maintained on the corners of all property at the intersections of two (2) streets, a street-alley or street-railroad.

- (1) *Corner lots shall maintain a triangular area at street intersections, railroad-street intersections alley-street intersections, and panhandle-street intersections for safety vision purposes. Two (2) sides of the triangular area shall be exterior property lines, 25 feet in length at street intersections and fifteen (15) feet leg lengths at alley-street intersections and panhandle-street intersections. When the angle of the portion of the intersection between streets is less than 30 degrees, the visual distance shall be 25 feet along the property line from the point of intersection. The third side of the triangle shall be an interior line connecting the two (2) exterior sides.*
- (2) *A clear vision area shall contain no plantings, driveways, fences, walls, structures or temporary or permanent obstruction exceeding 2-1/2 feet in height, measured from the top of the curb or where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of eight (8) feet above grade.*

The proposal is consistent with these requirements with the conditions that the applicant sign an irrevocable development agreement stating that clear vision areas including those shown on the tentative plans and a triangle with 25 ft sides on all corner lots shall be permanently maintained. These areas shall contain no plantings, driveways, fences, walls, structures or temporary or permanent obstructions exceeding 2-1/2 feet in height, measured from the top of the curb or where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of eight (8) feet above grade.

Section 5.12 LANDSCAPING

All yards and parking areas shall be landscaped in accordance with the following requirements:

- (1) Provisions for landscaping, screening and maintenance are a continuing obligation of the property owner.*

The proposal is consistent with this criterion with the condition that the applicant sign a development agreement to continually maintain the landscaping.

- (2) Site plans indicating landscape improvements shall be included with the plans submitted to the Building and Planning Official or Planning Commission for approval. Issuance of a Building permit includes these required improvements which shall be completed before issuance of a Certificate of Occupancy.*

The proposal is consistent with this criterion with the condition that the applicant submit landscaping plans for approval by the City.

- (3) Existing trees, plant material and special site features shall be preserved within a project site to the fullest extent possible. Particular attention shall be focused on preserving native and heritage trees.*

This requirement is fulfilled through compliance with the City's tree removal permitting criteria as detailed in the findings for VMC 8.10 presented later in this report. The applicant shall sign a development agreement stating that no filling or other ground disturbing activities shall occur within the boundaries of the significant wetlands on the site without prior approval of a variance by the City.

- (6) Multiple-family sites and parking lots shall be screened from abutting single-family land uses by a combination of sight-obscuring fences, walls*

and landscaping adequate to provide privacy and separation for the abutting land use.

The proposal is consistent with this criterion with the condition that the applicant provide landscaping and screening plans which include screening for the property to the west.

- (7) *Garbage collection areas, service facilities and air conditioning facilities located outside the building shall have sight-obscuring screening. Mechanical equipment, lights, emissions, shipping/receiving areas, and garbage collection areas for industrial, commercial, and public facility uses shall be located away from residential areas, schools, and parks.*

The proposal is consistent with this criterion with the condition that all garbage collection areas, service facilities and air conditioning facilities located outside the building shall have sight-obscuring screening.

Section 5.15 SIGNS

- (3) *Three sign districts have been established to ensure that sign size and location will provide the most visibility for each business while protecting the aesthetic and livability qualities of surrounding uses. The size, height and distance allowed between signs vary by district, taking into account traffic speeds and types of uses in each district. Refer to Tables A and B for Permitted Signs to determined whether or not a sign is allowed in the following districts and what specific requirements may apply. In addition to specific requirements for each district, signs must comply with all other sections of the Veneta Sign Code.*

- (c) *Residential District: All property zoned rural residential, general residential or single-family residential. Also includes residential uses in the residential/ commercial zone. If property is visible from a state highway, a permit from the Oregon Department of Transportation (ODOT) may be required in addition to any city permits.*

The proposal is consistent with this criterion. No new signs are proposed.

Section 5.20 OFF-STREET PARKING REQUIREMENTS

- (2) *Design and improvement requirements for parking lots (not including single-family two-family dwellings).*

(a) All parking area and driveway approaches shall be surfaced with two (2) inches of asphaltic concrete or six (6) inches Portland Cement over approved base or other materials approved by the City Engineer. All parking lots shall be graded so as not to drain storm water over the sidewalk or onto any abutting property

The proposal is consistent with this requirement. All proposed parking and driveway areas are proposed to be paved.

(b) Service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Parking spaces, except for handicap spaces, shall have a minimum dimension of eighteen (18)' x nine (9)' exclusive of maneuvering and access area. The dimension includes the area in front of the curb stop over which the front of a vehicle would extend. Handicap spaces shall be provided as required by the Oregon State Structural Specialty Code.

The proposal is consistent with this requirement with the condition that the applicant increase parking space depth to the required 18 ft, and stripe all parking areas.

(c) Parking lots shall be served by a service driveway so that no backing movements or other maneuvering within a street other than an alley shall be required. Design for parking arrangements and turning movements shall be approved by the Building and Planning Official. Two-way driveways shall have a minimum width of twenty (20) feet and a maximum width of thirty (30) feet. One-way driveways shall have a minimum width of twelve (12) feet and a maximum width of sixteen (16) feet.

The proposal is consistent with this criterion. The width of two-way driveways within the site is 24 ft.

(d) Parking spaces along outer boundaries of a parking area shall be contained by a curb or bumper so placed to prevent a motor vehicle from extending over the property line.

The proposal is consistent with this requirement with the condition that all parking spaces along outer boundaries of a parking area shall be contained by a curb or bumper so placed to prevent a motor vehicle from extending over the property line.

(e) Service driveways to off-street parking lots shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site. The number of service driveways shall be limited to the minimum that will allow the property to accommodate and service the traffic anticipated.

The proposal is consistent with this criterion with the condition that the applicant submit access and parking plans including signage, lane striping, and crosswalk striping to the City for approval. The curbs east and west of the basketball court shall be clearly marked “Fire Lane, No Parking”.

(f) All off-street parking lots within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge as approved by the Building and Planning Official to minimize disturbances to adjacent residents.

The proposal is consistent with this criterion with the condition that the applicant submit screening plans which include screening of all parking lot areas from the abutting residentially zoned properties to the west and east.

(g) A grading structure and drainage plan shall be submitted to the City Building and Planning Official and approved by the City Engineer.

The proposal is consistent with this requirement with the condition that the applicant submit a drainage study defining the difference between the pre- and post-development runoff from the site with calculations and a brief narrative that explains the analysis and conclusions of the drainage study. The study must show that post-development peak flows shall not exceed predevelopment peak flows for a 10 year storm. The applicant must also provide grading plans shall show existing and proposed cut and fill slopes, type of fill materials, finish grade elevations at property boundaries, and existing elevations of neighboring parcels at the property lines.

(3) Location standards for parking lots

(a) *Off-street parking shall be provided on the development site for all zones, except off-street parking spaces for the Commercial, Residential-Commercial, and Industrial Zones may be located not farther than 400 feet from the building or use they are required to serve. Owners of two (2) or more uses, structures, or parcels of land may agree to use the same parking spaces jointly when peak demands do not occur at the same time periods, provided substantial proof is presented to the Building and Planning Official or Planning Commission pertaining to the cooperative use of the parking facilities.*

The proposal is consistent with this criterion because off street parking is provided.

(b) *Off-street parking areas shall not be located in a required front yard.*

The proposal is consistent with this criterion because the parking is contained within the development adjacent to the units and not within the required front yards.

(4) *Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers, patrons, and employees only and shall not be used for storage of vehicle or materials or for the parking of trucks used in conducting the business or for repair or servicing.*

(5) *The provision and maintenance of off-street parking spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show parking space. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking area required by this ordinance.*

The proposal is consistent with this criterion with the condition that the applicant shall enter into an agreement to maintain all required parking spaces for the continual use of residents and visitors for the parking of operable motor vehicles, and continually maintain all parking lots and access driveways including surfacing, striping, etc.

11) *Space requirements for off-street parking shall be listed in this section. Fractional space requirements shall be counted as a whole space. When square feet are specified, the area measured shall be the gross*

floor area of the building primary to the use but shall exclude any space within a building used for off-street parking, loading or service functions not primary to the use. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season. A reduction in the number of required spaces is allowed if evidence is provided to show that a reduced amount of parking is sufficient and will not cause any detrimental impacts to on-street parking or other parking areas. For example, an employer working with LTD to provide bus passes to employees or who offers van pools may need fewer parking spaces for employees.

- (b) Multiple-family dwellings spaces/units
 - Studio or 1 bedroom - One (1) space/unit
 - 2 bedrooms - One and one half (1-1/2) spaces/unit
 - 3 bedrooms or more - Two (2) spaces/unit

The proposal is consistent with this requirement. The proposal includes three 1 bedroom units, eight 2-bedroom units, and four 3-bedroom units. The 1-bedroom units together require 3 spaces, the 2-bedroom units require 12 spaces, and the 3-bedroom units require 8 spaces. Altogether, a total of 23 spaces are required. The applicant has provided 30.

(12) Accessible Parking Spaces. Parking shall be provided for disabled persons, in accordance with the Americans with Disabilities Act. Accessible parking is included in the minimum number of required parking spaces listed above.

Minimum Number of Accessible Parking Spaces

<i>Total Number of Parking Spaces Provided (per lot)</i>	<i>Total Minimum Number of Accessible Parking Spaces (60" and 96" aisles)</i>	<i>Van Accessible Parking Spaces with min. 96" wide access aisle</i>	<i>Accessible Parking Spaces with min. 60" wide access aisle</i>
<i>1 to 25</i>	<i>1</i>	<i>1</i>	<i>0</i>
<i>25 to 50</i>	<i>2</i>	<i>1</i>	<i>1</i>

The proposal is consistent with this requirement. The applicant has provided 4 96" ADA accessible spaces.

Section 5.21 BICYCLE PARKING

Bicycle parking requirements shall apply to all developments that require a site plan or amended site plan for new development, changes of use, and building expansions and remodels. Bicycle parking spaces provide a convenient place to lock a bicycle and shall be at least six (6) feet long, two (2) feet wide, and seven feet high. Bicycle parking shall not interfere with pedestrian circulation.

- (1) Multi-Family Residences. Every residential use of four or more multi-family dwelling units shall provide at least one sheltered bicycle parking space for each unit. Residential care facilities with more than fifteen (15) persons shall provide one sheltered bicycle parking space for every twenty (20) vehicle parking spaces, or two (2) spaces, whichever is greater. Sheltered bicycle parking areas may be in a conveniently located garage or storage unit, or under an eave, independent structure, or similar cover.*

The proposal is consistent with this criterion. A total of 27 bicycle parking spaces are required. One is provided in the storage area provided with each unit. An additional 6 spaces are provided for guests.

Section 5.22 PEDESTRIAN ACCESS AND CIRCULATION

- 1) Internal pedestrian circulation shall be provided within new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping or similar techniques.*

The proposal is consistent with this requirement. Numerous paved walkways are provided.

- (2) Pedestrian access to transit facilities shall be provided from new commercial, employment, and multi-family residential developments and new activity centers shall be provided while existing developments shall provide safe and accessible pedestrian access to transit facilities when a site changes uses or is retrofitted.*

The proposal is consistent with this requirement. The site is directly adjacent to an LTD stop on Territorial Hwy.

- (3) Internal pedestrian and bicycle systems shall connect with external existing or planned systems. Pedestrian access from public sidewalks to the main entrances of public, semi-public, commercial, and multi-family buildings shall not cross driveways or parking lots.*

The proposal is consistent with this criterion. Internal walkways are directly connected to the sidewalks on Territorial.

Veneta Municipal Code (VMC)

Chapter 8.10: Tree Cutting, Destruction and Removal

APPLICABILITY

Section 6.04(1) of Veneta’s Land Development Ordinance states that:

SECTION 6.04 REQUIRED FINDINGS

After an examination of the site and prior to approval of plans, the Commission or Building and Planning Official must make the following findings:

(1) That all provisions of city ordinances are complied with.

VMC 8.10 was originally developed as Ordinance 399 in 1998 using the full procedures for adopting land use regulations under state statute including notice to the Department of Land Conservation and Development (DLCDD), and multiple public hearings, and therefore, is an applicable land use regulation that all site plans are required to comply with.

Veneta’s Tree Code VMC 8.10.060(1) requires that:

1) Any application for any planned unit development, subdivision, site plan or other zoning permit or approval, the plans for which call for tree removal which would require a tree removal permit, pursuant to VMC 8.10.030, shall be accompanied by an application for a tree removal permit, together with the required filing fee under VMC 8.10.050.

2) Compliance with this chapter shall be a supplemental condition of approval for all site plans, PUDs, and subdivisions.

It is explicit in the code that removal permits are to be considered concurrent with site plans and other land use actions or permits, and that the criteria in VMC8.10.080 are to be considered supplemental to other applicable criteria found in other land use regulations. Therefore, the City must consider the applicant’s request for a Tree Removal Permit concurrent with the Site Plan and apply the criteria found in its VMC 8.10.080, including criteria 2(d)(i-viii) as approval criteria for the application at hand.

8.10.030 *Tree removal prohibited.*

- (1) *Except as provided in VMC 8.10.060, no person shall remove more than three trees per parcel within a single calendar year without first filing a tree removal plan and obtaining a tree removal permit.*

The proposal is consistent with this criterion with the condition that no more than three trees shall be cut on the site without an approved tree removal permit.

8.10.060 *Permits required with planned unit developments, subdivisions and site plans.*

- (1) *Any application for any planned unit development, subdivision, site plan or other zoning permit or approval, the plans for which call for tree removal which would require a tree removal pursuant to VMC 18.10.030, shall be accompanied by an application for a tree removal permit, together with the required filing fee under VMC 8.10.050.*

The proposal is consistent with this criterion. The applicant has submitted the required plans and information, and has paid the applicable fees.

- (2) *Compliance with this chapter shall be a supplemental condition of approval for all site plans, PUDs, and subdivisions. (Ord. 399 § 6, 1998)*

The proposal is in compliance with this chapter as required by VMC 8.10.060(2), VLDO 5.12(3), and 6.04(1) with the conditions specified below.

8.10.070 *Procedure for filing tree removal plan.*

- (1) *The city administrator, in consultation with the city engineer and the fire chief, shall approve, approve with conditions or deny the permit, as provided in VMC 8.10.090. However, the city administrator may, at his or her discretion, refer the permit to the city planning commission.*

The City administrator has referred this tree permit to the Planning Commission for concurrent consideration and final decision.

8.10.080 *Tree Removal Standards.*

- (2) *The city's consideration of the permit shall be based on the following standards:*
 - (2)(a) *The conditions of the trees with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety.*

The conditions of the trees with respect to disease

As stated in the applicant's narrative "Most of the existing trees on the site are healthy". Therefore, the condition of the trees is not considered a reason for removal

Hazardous or unsafe conditions, danger of falling

The applicant's narrative states that the proposed level of tree removal is necessary to "minimize the likelihood of tree windthrow after development. The responses in the narrative are stated to be the collaborative efforts of the applicant, Nathaniel Sperry (a certified arborist), and a landscape architect. Based on this information, the City finds that the density of the development, along with the current densely packed nature of the forest on the site would create a significant risk to life and property from windthrow if individual trees were to be preserved.

Proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety.

Most of the trees proposed for removal interfere directly with development of the proposed plan. The dense nature of development on the site, heightened by the need to accommodate stormwater and preserve significant wetlands on the site, precludes preservation of any significant number of trees.

- (2)(b) *The impact the trees' removal has on the environment quality of the area, including but not limited to, the protection of nearby trees and windbreaks; air quality, fish and wildlife; erosion, soil retention and stability; volume of surface runoff and water quality of streams; scenic quality; and geological sites.*

Protection of nearby trees and windbreaks:

There are very few existing trees north or west of the property. As a condition of approval, trees on neighboring properties are required to be protected within their dripline.

Air quality:

There will be no appreciable effect on the air quality of the area due to the proposed tree removal.

Impacts on fish and wildlife

There are no fishbearing streams in close proximity to the site. There is no information available indicating that there is or may be threatened or endangered species on the site.

Soil Retention and Stability

The site is essentially flat and danger of significant erosion is minimal. To help ensure that cut/fill slopes are not eroded, all cut and fill slopes shall be vegetated with native plantings sufficient to control erosion and prevent establishment of invasive species as a condition of approval.

Volume of surface runoff and water quality of streams:

The proposed tree removal will have no significant impact on surface runoff in terms of either quantity or quality. Volume of surface runoff for the entire site has been accounted for in the stormwater management plan which utilizes bioswales and other novel detention options which provide significant treatment benefits over conventional systems.

Scenic Quality

There is no evidence in any adopted City planning document which indicates that the trees in question have any significant scenic value.

- (2)(c) *Whether it is necessary to remove trees in order to construct proposed improvements or to otherwise utilize the applicant's property in a reasonable manner.*

Given the extent of the proposed construction, it is necessary to conduct the proposed tree removal to construct the proposed plan.

- (2)(d) *In the event that no Plot Plan has been approved by the City, removal of trees shall be permitted on a limited basis consistent with the following criteria:*

- (i) *Wooded areas associated with natural drainageways and water areas shall be retained to preserve riparian habitat and to minimize erosion. **Trees within the seasonal wetland will be preserved. These wetland areas are generally low shallow drainages and no trees are proposed for removal within close proximity of the actual drainage channel. As a condition of approval, the applicant is required to submit an Erosion Control and Grading plan for approval by the City.***
- (ii) *Wooded areas that will likely provide attractive on-site views to occupants of future developments shall be retained.*

The proposal meets this criterion with the condition that the applicant submit a landscaping plan which includes:

- 1. A report from a licensed landscape architect addressing the following**
 - a. The site shall be replanted at the maximum density practicable given the proposed improvements, site constraints, and growth requirements of trees being planted.**

- b. Trees planted as mitigation shall be of the maximum caliper available from nurseries in Oregon.
- c. Trees along the perimeter of the site shall be selected and located to provide maximum screening and privacy on a year-around basis
- d. The majority of replanted the tress shall be native species with a predominance of native hardwoods.
- e. All plantings shall be provided with sufficient irrigation to ensure viability

(iii) *Wooded areas along ridge lines and hilltops shall be retained for scenic and wildlife value.*

The subject property is not on a ridge or hill. This criterion is not applicable

(iv) *Wooded areas shall be retained to serve as buffers along property lines, streets, roadways, railroad right-of-ways and other thoroughfares.*

The applicant’s narrative states that the proposed level of tree removal is necessary to “minimize the likelihood of tree windthrow after development. The responses in the narrative are stated to be the collaborative efforts of the applicant, Nathaniel Sperry (a certified arborist), and a landscape architect. Based on this information, the City finds that the density of the development, along with the current densely packed nature of the forest on the site would create a significant risk to life and property from windthrow if individual trees were to be preserved along the western property line. Given the requirement to accommodate stormwater and other utilities on the site, there is no opportunity to preserve existing trees along Territorial Highway.

(v) *Tress shall be retained in sufficient large areas and dense stands so as to ensure against windthrow.*

Given the proposed site plan and the existing constraints of the wetlands on the site, there is no opportunity to preserve large stands. Trees are not being removed from the area of lots 2-5 at this time. The density of trees on these lots should be sufficient to ensure against windthrow. Trees south of the subject property already receive direct winds from the south and the proposed tree removal is unlikely to result in windthrow.

- (vi) *Any proposed replanting of new trees or vegetation must be an adequate substitute for the trees removed.*

The City finds that this criterion allows for mitigation to alleviate the effects of tree removal in situations where criteria i-v above cannot be met. In the past, tree permits were largely processed after approval of development plans. As discussed above, this was contrary to the explicit language and intent of the code. In these cases, staff required mitigation to help alleviate the effects of tree removal as altering the development plan was not an option. Here, the City is further refining this idea to allow for mitigation at the plan approval stage when the measures required to meet the criteria would cause drastic and unreasonable changes to the site plan including casing significant safety hazards for future occupants.

The applicant's narrative specifically address the mitigation value of the trees to be planted in terms of replacing the heritage trees on the site. The proposal meets this criterion with the condition that the applicant submit a Tree Removal Mitigation/Landscaping plan which includes:

- 1. A report from a licensed landscape architect addressing the following**
 - f. The site shall be replanted at the maximum density practicable given the proposed improvements, site constraints, and growth requirements of trees being planted.**
 - g. Trees planted as mitigation shall be of the maximum caliper available from nurseries in Oregon.**
 - h. Trees along the perimeter of the site shall be selected and located to provide maximum screening and privacy on a year-around basis**
 - i. No less than 25% of the trees planted shall be native hardwoods**
 - j. No less than 50% of the trees overall shall be native species**
 - k. All plantings shall be provided with sufficient irrigation to ensure viability**

Land Development Code Section 6.04 required Site Plan Review findings continued...

- (2) *That traffic congestion is avoided, pedestrian, bicycle and vehicular safety are protected and future street right-of-way are protected.*

The proposal is consistent with this criterion with the condition that the applicant submit ACCESS and PARKING PLANS which include:

- i) All parking spaces shall have a minimum dimension of 9x18 ft**
- ii) All parking areas shall be striped**
- iii) All Parking spaces along outer boundaries of a parking area shall be contained by a curb or bumper so placed to prevent a motor vehicle from extending over the property line.**
- iv) Signage and lane striping, including crosswalks.**

(3) That proposed signs or lighting will not, by size, location or color, interfere with traffic or limit visibility.

The proposal is consistent with this requirement because no new signs proposed and lighting will not be close enough to any street to interfere with traffic or visibility. Street light locations require City approval as part of the improvement plans.

(4) That adequate water, sewer and utilities for the proposed use are available.

The proposal is consistent with this requirement. All City utilities are adequate to serve the proposed development.

(5) That drainageways are protected and drainage facilities provided.

The proposal is consistent with this requirement with the condition that the applicant shall submit DRAINAGE FACILITY improvement plans for approval including:

- 1. Access easements encompassing all stormwater swales and wetland drainages**
- 2. A drainage study for all lots defining the difference between the pre- and post-development runoff from the site with calculations and a brief narrative that explains the analysis and conclusions of the drainage study. The study must show that post-development peak flows shall not exceed predevelopment peak flows for a 10 year storm.**

(6) That the extent of emissions and potential nuisance characteristics are reasonably compatible with the land use district, adjacent land uses and the standards of all applicable regulatory agencies having jurisdiction.

The proposal is consistent with this criterion. No nuisance characteristics are anticipated.

D. This approval shall become final on the date this decision and supporting findings of fact are signed. A Planning Commission decision may be appealed to the City Council within 15 days after the final order has been signed and mailed. An appeal

of the City Council's decision must be submitted to the Land Use Board of Appeals within 21 days of the Council's decision becoming final.

James Eagle Eye, Chairperson
Planning Commission Chairperson

Date