

**VENETA PLANNING COMMISSION  
STAFF REPORT and RECOMMENDED FINDINGS**

**Bolton Hill Ranch First Addition  
ZONE CHANGE (ZC-2-07)**

Tentative Plan Application Submitted:	October 10, 2007
Tentative Plan Application Deemed Complete:	November 6, 2007
Tentative Plan Notice Posted and Mailed:	November 6, 2007
Hearing Date:	December 3, 2007
Staff Report Date:	December 17, 2007
Prepared By:	Brian Issa

Referrals: Veneta Public Works  
City Engineer  
DLCD

**BASIC DATA**

Applicant: ATR Land LLC  
P.O. Box 518  
Cresswell, OR 97426

Property Owner: ATR Land LLC

Assessors Map 18-06-01-00, Taxlot 1702

Area: 24.1 acres

Plan Designation: Low Density Residential (L)

Zoning: Rural Residential (RR)

**REQUEST**

**Zone Change**

The request before the Planning Commission is for approval of a change of zoning for a 24.1 acre parcel from Rural Residential to SFR8000 Single Family Residential. The plan designation of the property is currently Low Density Residential (L) and will not change.

**PROPERTY CHARACTERISTICS AND SURROUNDING CONTEXT**

The subject property is located South of Bolton Hill Road near the southwest corner of the City. The plan designation for this property is Low Density Residential.

## **PUBLIC COMMENT**

Please see EXHIBIT B for public comments.

## **ISSUES**

The following issues were raised in public comment received.

### **Devon Trottier & Perry Burdon**

Pumping wastewater uphill to the Bolton Hill pipe increases the potential for overloading the existing system. The City's current wastewater treatment/stormwater system will not support all of the development already approved, let alone future construction

**No evidence is provided to support this assertion. Both Veneta Public works and the City Engineer have stated that the proposed methods of sewer service are acceptable provided that pressure systems are privately maintained. Both pre and post development storm flows have been accounted for in the SWAP, and on site detention/conveyance mechanisms will be addressed if/when public improvement plans are submitted.**

The staff report states that there are no significant wetlands or natural resources on site. It does not state how that conclusion was reached.

**Wetlands are the only "significant" inventoried Goal 5 resource within the City. The applicant has performed a wetland delineation on the property which shows no wetlands on the subject parcel. This delineation dated February 7, 2007 is hereby entered into the record by reference.**

The City's water supply and distribution system are NOT adequate to provide service to the property...

**The comments offer no facts or data to support this assertion. Upon further consideration, staff believes that Comprehensive Plan Policy 6 was incorrectly applied to the requested rezone and that the required findings of adequacy of services stated therein, apply only to changes of Plan Designation. This is discussed in more detail in the findings below.**

The traffic analysis for the proposed Bolton Hill Ranch estates used by staff to validate required v/c ratios states that the v/c standards would be exceeded in both the peak am and pm and the intersection of 126 and Territorial will exceed maximum v/c by 2010.

**The TIA does state that the intersection of Territorial and 126 will exceed the v/c standard by 2010. This intersection is a state transportation facility and is not within the jurisdiction of the City of Veneta. The requested rezone itself will not**

**impact transportation facilities in any way. Transportation impacts will be reviewed if/when development is proposed for the site.**

Goal One Coalition

There is no evidence in the record that the City has complied with the provisions for notice found in ORS 197.610 and LDO Article 210.

**The record does show that the City mailed notice to DLCD for the proposed zone change on March 5 of 2007 under the previous file number ZC-2-06. This zone change was originally submitted in June of 2006 under the file number ZC-2-06 concurrent with subdivision plans for both Bolton Hill Ranch Estates, and the First Addition, the parcel for which a rezone is currently being sought, as a single consolidated application. The application for subdivision was deemed incomplete and expired due to lack of action and submission of a new plan which included new parcels. Because the zone change was consolidated with the original subdivision, that application expired as well. DLCD had no comments on the original application for rezone after having been sent the required notice. The current application does not differ in substance or intent from the previous application and therefore, DLCD has been supplied with a notice that “*contain[s] the text and any supplemental information that the local government believes is necessary to inform the director as to the effect of the proposal*” as required under ORS 179.610. DLCD was notified of the change in file number and had no comments.**

[The proposal] is inconsistent with [Comprehensive Plan] Policy C2 which states that the City shall:

*Provide a variety of residential neighborhoods including rural residential with large lots, traditional single-family subdivisions with standard lots, areas with a mix of housing types, and mixed-use neighborhoods where commercial and residential are blended such as in the downtown area.*

**The term “rural residential” as used in Policy C2 is not intended to identify a specific planning or zoning classification, but rather, is used to describe a general development pattern similar to the use of “traditional single family subdivisions”. Policy C2 has been implemented through policies such as not requiring minimum densities as many other cities do, and through provision of zones which allow for a variety of lot sizes and housing types.**

**The subdivision currently proposed for the subject parcel directly reflects the implementation of this policy by proposing lots which far exceed the minimum lot size for the SFR8000 zone. Such development is in contrast to the vast majority of housing developments in Veneta, and provides a greater variety of residential neighborhood as stated in Policy C2.**

The staff report establishes that sewer service is not currently available to the subject property, [and has not] established what would be an acceptable mechanism for provision of sewer services in accordance with policy C(3) as follows:

*Policy. 3. Encourage development of vacant lands within the sewer service area on the west side of Veneta as a first priority.*

**There seems to be confusion over what the term “sewer service area” means. The Comprehensive plan uses this term interchangeably with “urban service area”. The narrative statement for Element IV(A) provides guidance as to what these terms mean.**

*In Veneta, the urban service boundary is the priority development area (Phase I and Phase II) which can be served with public sewers. The urban service boundary encompasses all commercial and industrial properties in the city, with the exception of the Highway 126 east commercial area. The urban service area is less than the total city limits area and will change as the sewer system is expanded. Lands inside the urban service boundary are identified as the Phase I and II Development Area. Land in the Phase III Development area will essentially remain rural until such time when conversion to urban densities is feasible and needed.*

**A map of Priority Development Areas is found in the Comprehensive Plan on page 19. This map clearly shows the Urban Service Boundary encompassing the subject property, which is designated a Phase II priority development area.**

**It is clear that the property is not required to have currently existing sewer service to be rezoned, only that it “can be served with public sewers”. This is the difference between vacant parcels on the east and west sides of Veneta. On the west side, although applicants may have to extend existing lines to serve development, the parcels can feasibly be served. In the rural residentially zoned areas east of Territorial Highway, there is a grade break and conveyance constraints which currently prevent development in this area from being served, even if lines were extended.**

**There also seems to be confusion over the role of Comprehensive Plan Designations versus Zoning. The Plan provides guidance on this as follows:**

*The basis of zoning is the Comprehensive Plan, and, in this case in particular, the land use plan element. Where the Comprehensive Plan delineates in a generalized manner land use of the future, the Zoning Ordinance governs existing land use in a specific manner. The Zoning Ordinance essentially insures that the community at any point in time has adequate space for various land uses, that these uses are properly situated in relation to one another, and*

*that appropriate development densities are maintained. In this manner, the community can direct growth to occur in appropriate places where public services can be economically provided.*

*Review of the Zoning Ordinance should occur on a periodic basis to ensure that it keeps pace with changes in the community or with changes in the Comprehensive Plan.*

**The zoning designation should therefore be consistent, in terms of allowed uses and density of development, with the underlying plan designation. As a basis for zoning, the current comprehensive plan designation of Low Density Residential (L) states:**

**LOW DENSITY RESIDENTIAL (L)**

*Purpose of Plan Designation:*

- 1. Provide areas suitable and desirable for primarily single-family uses with provisions for associated public service uses, planned developments, and limited multiple-family use under controlled conditions on lots incapable of division to city standards.*
- 2. Ensure that residents are provided with a low density single-family residential area.*
- 3. Allow up to seven (7) units per net acre. Planned Developments may qualify for a density bonus of up to fifteen (15) living units per net acre in the Single Family Residential (SFR) zone.*
- 4. Require minimum lot sizes shall of 6,000 square feet and 8,000 square feet on steep slopes. Larger lots may be established by the Planning Commission if it determines that development hazards or constraints exist or if the Planning Commission finds larger lot sizes will be more compatible with surrounding residential areas.*
- 5. Allow multi-family uses in this designation area if there is no feasible alternative which would allow division of the large lot into smaller single-family lots.*
- 6. Allow for residential care facilities for more than 15 people. Allow up to 30 units per acre.*

**The property is currently zoned Rural Residential (RR) with a minimum lot size of 1 acre. Clearly, development of the property with 1 acre lots on wells and septic systems which may be allowed under the current (RR) zoning does not meet the intent of allowing up to 7 units per net acre, or the stated minimum lot sizes of 6000-8000 square feet. VLDO Section 4.01(1) states the purpose of the current RR zone as:**

- (1) Purpose. To maintain areas outside the City's service boundary for limited rural development within the carrying capacity of the natural resources until conversion to urban residential uses.*

**As stated earlier, this property is clearly within the urban service boundary, and therefore, should not be zoned RR. Even if it were, it is clear that the RR zone is considered temporary and that conversion to other, more intensely developable classifications is expected. To retain lands within the UGB in a rural residential status indefinitely is contrary to the comprehensive plan and statewide planning goals.**

**In order to fulfill the intent of the (L) plan designation and implement the Comprehensive Plan, it is necessary to rezone the property from Rural Residential to another zone which allows for development in conformance with the plan. The proposed zone designation for SFR8000 accomplishes this.**

Mona Linstromberg

If the applicant wants to develop this property as a subdivision, it can be developed to the same density under the existing RR zoning. Again, the existing zoning of RR allows for the same density of development as the requested designation of SFR [if] the land can support that level of development

**These statements are inconsistent with the facts. A zoning of RR allows for a minimum lot size of 1 acre (one unit per net acre). SFR8000 zoning allows for minimum lot sizes of 8000 square feet (3-4 units per net acre).**

Staff has inappropriately limited the pertinent criteria to Growth Management Policy 6.

**Growth Management Policy 6 states that they City shall:**

*6. Make the following findings of fact in order to permit conversion of rural residential lands to other plan designations:*

- (1) Water: The City water supply and distribution system are adequate to provide service to the property proposed for conversion to urban densities.*
- (2) Sewer: The City sewer treatment and collection system are adequate to provide service to the property for conversion to urban densities.*
- (3) Streets: The neighborhood streets and drainage system are adequate to handle additional traffic and storm drainage.*

**Upon further review, staff agrees that relying on Policy 6 for rezoning properties is incorrect. In fact, staff now believes that because the application is not for a comprehensive plan change, this criterion is not applicable. The request is for a zone change, not a plan designation change. Since the property currently has a plan designation of Low Density Residential (L), the required findings for adequacy of services under policy 6 above have already been made. However, the**

**current zoning does not allow for development at the densities allowed by the (L) plan designation. The requested rezone simply makes the zoning consistent with the underlying plan designation, and allows for implementation of the Comprehensive Plan.**

Since the zone change has to be consistent with the Comprehensive Plan, there are several comprehensive plan policies that are applicable including Growth Management Policy 1: Future Moratorium Policy.

**Growth Management Policy 1 states that:**

1. *Future Moratorium Policy: Enact a moratorium on development upon determining that any or all of the following conditions exist:*
  - (a) *Veneta's Sewage Treatment Facilities are at capacity, or the Council determines that the facilities shall reach capacity and it is reasonable to place limitations on development.*
  - (b) *Veneta's Water System Facilities are at capacity, or the Council determines that the facilities shall reach capacity and it is reasonable to place limitations on development.*

**Adoption of a moratorium is a stand alone action of the City Council and Policy 1 is not an applicable criterion for the current request.**

## **RECOMMENDED FINDINGS**

The City does not have specific criteria related to zone changes either in adopted land use regulations or the comprehensive plan. The following Comprehensive Plan policies may apply to zone changes:

### *VENETA COMPREHENSIVE PLAN*

#### *I. BACKGROUND*

##### *C. CITIZEN INVOLVEMENT*

##### *RESPONSIBILITIES RELATED TO CITIZEN INVOLVEMENT*

*1. The City Council makes all major decisions related to land use planning and community development for the City of Veneta. Decisions requiring City Council action include but are not limited to the following:*

- A. Adoption of a Program for Citizen Involvement.*
- B. Amendment to the Veneta Comprehensive Land Use Plan.*
- C. Adoption of and amendment to ordinances implementing the Comprehensive Plan.*

*2. The City Council will provided a written record for public dissemination of the rationale used in all land use and other planning policy decisions.*

**With approval of these final orders, the City Council makes a final decision regarding the requested rezone. These findings constitute the required rational for this land use decision.**

*Planning Commission*

*1. The Planning Commission is appointed by the City Council to review land use planning issues and to make recommendations to the City Council on these issues.*

*2. The Planning Commission makes recommendations to the City Council on such issues as:*

- A. The Program for Citizen Involvement*
- B. Updating or amending the Comprehensive Plan*
- C. Updating or amending the zoning, subdivision, and other implementation ordinances.*

*3. The Planning Commission will provide a written record for public dissemination of the rationale used in recommending land use and other planning policy decisions.*

**The Planning Commission has made a recommendation to the City Council regarding this matter. These findings constitute the required rational for this land use decision.**

III. PLAN ELEMENTS AND POLICIES

A. *GROWTH MANAGEMENT ELEMENT*

*4. Designate the Urban Service Development Area as the primary development area within Veneta. When water and sewer services become available, facilitate an easy transition of plan designations from rural residential to residential, commercial, industrial, or public/semi-public.*

**It is clear from this policy that even lands with a plan designation of Rural Residential are slated for eventual transition to other designations which allow development within the UGB to occur at urban densities in conformance with statewide planning goals. The subject property currently has a plan designation of Low Density Residential (L) and therefore, does not require a “transition” from rural residential.**

**There seems to be confusion over what the terms “sewer service area” and “urban service area” mean. The Comprehensive plan uses these terms interchangeably throughout the document. The narrative statement for Element IV(A) provides guidance in interpreting what these terms collectively refer to.**

*In Veneta, the urban service boundary is the priority development area (Phase I and Phase II) which can be served with public sewers. The urban service boundary encompasses all commercial and industrial properties in the city, with the exception of the Highway 126 east commercial area. The urban service area is less than the total city limits area and will change as the sewer system is expanded. Lands inside the urban service boundary are identified as the Phase I and II Development Area. Land in the Phase III Development area will essentially remain rural until such time when conversion to urban densities is feasible and needed.*

**A map of Priority Development Areas is found in the Comprehensive Plan on page 19. This map clearly shows the Urban Service Boundary encompassing the subject property, which is designated a Phase II priority development area.**

**It is clear that the property is not required to have currently existing sewer service to be rezoned, only that it be capable of being serviced. Many properties in the City, including those already zoned SFR do not have existing sewer service. In order to subdivide, the applicant must bring sewer to the property in a method acceptable to the City. According to both the City Engineer and Veneta Public Works, the applicant has proposed three acceptable methods for providing sewer service to the property with the caveat that lift systems be privately maintained.**

*6. Make the following findings of fact in order to permit conversion of rural residential lands to other plan designations:*

- (1) Water: The City water supply and distribution system are adequate to provide service to the property proposed for conversion to urban densities.*
- (2) Sewer: The City sewer treatment and collection system are adequate to provide service to the property for conversion to urban densities.*
- (3) Streets: The neighborhood streets and drainage system are adequate to handle additional traffic and storm drainage.*

**These three criteria apply only to changes of plan designation, not to rezones such as is being requested here.**

## ***B. RESIDENTIAL LAND AND HOUSING ELEMENT***

### ***POLICIES***

- 2. Provide a variety of residential neighborhoods including rural residential with large lots, traditional single-family subdivisions with standard lots, areas with a mix of housing types, and mixed-use neighborhoods where commercial and residential are blended such as in the downtown area.*

**The term “rural residential” as used in Policy C2 is not intended to identify a specific planning or zoning classification, but rather, is used to describe a general development pattern similar to the use of the term “traditional single family subdivisions”. This is a policy statement which has been implemented through related policies such as not requiring minimum densities as many other cities do. Above the minimum for the zone, lot sizes are largely determined by the developer’s needs and market forces.**

**The subdivision currently proposed for the subject parcel directly reflects the implementation of this policy by proposing lots which far exceed the minimum lot size for the SFR8000 zone. Such development is in contrast to the vast majority of housing developments in Veneta, and provides a greater variety of residential neighborhoods as stated in Policy C2.**

3. *Encourage development of vacant lands within the sewer service area on the west side of Veneta as a first priority.*

**A map of Priority Development Areas is found in the Comprehensive Plan on page 19. This map clearly shows the Urban Service Boundary encompassing the subject property, which is designated a Phase II priority development area. Approving the requested rezone encourages development of this property as required.**

11. *Increase residential densities where water and sewer facilities are available so that services and utilities can be provided economically.*

**Although water and sewer service are not currently available to the property, adjacent development are likely to extend services to the property in the near future. The pace and density of development along these new lines does not create an undue maintenance burden, but rather, allows logical extension of existing services to new areas. Extension of these services is preferable to developments with wells and septic systems as would be required under the current zoning. Additional wells and septic systems within the City increase the risk to the City’s water supply according to the City’s Drinking Water Protection Plan.**

12. *Allow increased densities in the priority development areas (areas with city sewer service) through professionally prepared planned developments. Allow flexibility in lot size using the variance process.*

**The proposed rezone allows for increased density in a Phase II Priority Development Area which is capable of being served with City sewer.**

#### *E. UTILITIES*

2. *Protect groundwater from the potential of contamination through improperly abandoned wells and protect city water from contamination by private wells by requiring proof of proper abandonment/isolation of private wells at the time of any development action on property with one or more private wells.*
3. *Encourage use of city water and wastewater services by requiring all new development to connect to the city water supply when practical.*

**Extension of City services is preferable to developments with wells and septic systems as would be required under the current zoning. Additional wells and septic systems within the City increase the risk to the City's water supply according to the City's Drinking Water Protection Plan. Approving the requested rezone encouraged new development on City water and wastewater.**

#### IV. COMPREHENSIVE PLAN MAP AND LAND USE DESIGNATIONS

##### NARRATIVE:

*The Comprehensive Plan map is a graphic designation of future land use in Veneta. Specific development decisions should be checked against the individual plan element. If a conflict appears between plan policies and the Comprehensive Plan map, the plan policies shall prevail. Land use designations in the Plan are the basis for the zoning map and shall be referred to in updating or revising the zoning map.*

*The Comprehensive Plan map depicts three boundaries which define the jurisdictional area and service boundaries of the plan:*

- *Urban growth boundary (UGB);*
- *Urban service boundary;*
- *City limits.*

*A comprehensive plan's jurisdiction extends out to the UGB. In Veneta, the UGB is the same as the city limits. In Veneta, the urban service boundary is the priority development area (Phase I and Phase II) which can be served with public sewers. The urban service boundary encompasses all commercial and industrial properties in the city, with the exception of the Highway 126 east commercial area. The urban service area is less than the total city limits area and will change as the sewer system is expanded. Lands inside the urban service boundary are identified as the Phase I and II Development Area. Land in the Phase III Development area will essentially remain rural until such time when conversion to urban densities is feasible and needed.*

##### PLAN DESIGNATIONS:

##### LOW DENSITY RESIDENTIAL (L)

##### *Purpose of Plan Designation:*

- *Provide areas suitable and desirable for primarily single-family uses with provisions for associated public service uses, planned developments, and limited multiple-family use under controlled conditions on lots incapable of division to city standards.*

- *Ensure that residents are provided with a low density single-family residential area.*
- *Allow up to seven (7) units per net acre. Planned Developments may qualify for a density bonus of up to fifteen (15) living units per net acre in the Single Family Residential (SFR) zone.*
- *Require minimum lot sizes shall of 6,000 square feet and 8,000 square feet on steep slopes. Larger lots may be established by the Planning Commission if it determines that development hazards or constraints exist or if the Planning Commission finds larger lot sizes will be more compatible with surrounding residential areas.*

**A map of Priority Development Areas is found in the Comprehensive Plan on page 19. This map clearly shows the Urban Service Boundary encompassing the subject property, which is designated a Phase II priority development area.**

**It is clear that the property is not required to have currently existing sewer service to be rezoned, only that it “can be served with public sewers”. Many properties in the City, including those already zoned SFR do not have existing sewer service. In order to subdivide, the applicant must bring sewer to the property in a method acceptable to the City. The findings clearly state that the applicant has proposed three acceptable methods for providing sewer service to the property with the caveat that any lift system be privately owned and maintained.**

**Since the plan designation is stated as the “basis of the zoning map”, it is necessary for the zoning and plan maps to be consistent. In this case, the plan designation allows densities up to 7 units per net acre, and even up to 15 units per acre for planned developments, and states minimum lot sizes of 6000 and 8000 square feet on steep slope areas. The current zoning only allows for 1 unit per acre at 43,560 square feet and is therefore inconsistent with the (L) plan designation. The requested rezone will put in place a zone designation of SFR8000 which correctly implements the (L) plan designation.**

**Clearly, development of the property with 1 acre lots on septic systems which may be allowed under the current (RR) zoning does not meet the intent of allowing up to 7 units per net acre, or the stated minimum lot sizes of 6000-8000 square feet. VLDO Section 4.01(1) states the purpose of the current RR zone as:**

*(2) Purpose. To maintain areas outside the City's service boundary for limited rural development within the carrying capacity of the natural resources until conversion to urban residential uses.*

**This property is clearly within the urban service boundary, and therefore, should not be zoned RR as such zoning of is contrary to the purpose of the RR zone stated above. Even so, it is clear that the RR zone in general is considered temporary and that conversion to other, more intensely developable classifications is expected. To retain lands within the UGB in a rural residential status indefinitely is contrary to the comprehensive plan and statewide planning goals.**

## **STAFF RECOMMENDATIONS**

Based on the information above and the recommended findings for the requested zone change stated below, staff recommends that the Planning Commission recommend approval of the request to the City Council.

## **POSSIBLE ACTIONS BY THE PLANNING COMMISSION**

**The Commission may:**

- a. Recommend approval of the zone change based on the information in the staff report and proposed findings.
- b. Recommend approval with modifications to the recommended findings.
- c. Recommend denial of the zone change based on specific findings and supporting facts.
- d. Continue deliberations on the zone change if more information is needed.

## **EXHIBITS (\*see previous packet or meeting handouts)**

- A. Application including maps and narrative \*
- B. Public Comment
  1. Devon Trottier et. al., dated November 27, 2007\*
  2. Perry Burdon, dated December 3, 2007
  3. Goal 1 Coalition on behalf of Mona Linstromberg, dated December 3, 2007
  4. Mona Linstromberg, December 3, 2007\*
  5. Perry Burdon and Devon Trottier dated December 7, 2007
- C. Map of Urban Service Area