



September 8, 2020

Jennifer Kaden, Associate Planner
City of Hood River

Subject: Applicant's written rebuttal
Project: Adams Creek Cohousing, 1419 SE Sherman Ave, 03N10E35AA Tax Lot 4900

Dear Jennifer,

Please accept this letter as the applicant's written rebuttal to evidence already in the record. We are not submitting any new evidence.

In the interest of brevity, the applicant chooses not to respond to the many comments from concerned neighbors that are beyond the scope of the Hood River Municipal Code or the specific criteria of the quasi-judicial Site Plan Review procedure.

In a few instances below, we have emphasized previously issued City staff summaries to provide a concise summary of key issues for the benefit of the Planning Commission.

- 1) **Conditions of Approval (COA).** Several opponents in their letters or verbal testimony refer to the quantity of *Draft Conditions of Approval* as indicating a "plan that is not well conceived." Some of the opponents have suggested that the Planning Commission should review these items one-by-one. In the interest of efficient use of time during the Hearing, the applicant provides this rebuttal.

Of the 72 itemized conditions under Section V. of the staff report, a vast majority are simply reminders of the building permit submittal requirements. In other words, the same "conditions" apply to any project in the City of Hood River – even projects that are not required to go through Site Plan Review. In the experience of the applicant's architect, it is unusual for a jurisdiction to list these items under the heading of conditions of approval. The quantity of the conditions speaks more to the thoroughness of the staff review than it does to the completeness of the application.

For illustration, here are several examples:

- Condition 28 (and many others) is a reminder of the requirements outlined in the Hood River Engineering Standards. This condition applies to any development in the City of Hood River.
- Condition 31 is a reminder that fees will be assessed for utility connections. This condition and the many others that reiterate normal procedures applies to any development.
- Condition 35 is a reminder that a Geotechnical Report is to be submitted with the building permit application. This applies to any development in the state of Oregon.
- Condition 69 states that mailboxes must be approved by the United States Postal Service. While the applicant appreciates the reminder, this condition is not unique to the proposed development.
- Condition 11 states that any new fences shall meet the objective height and placement criteria of the zoning code. The applicant has not proposed any fences. However, this is a good reminder that the plans are preliminary. The applicant may choose to install a fence to benefit an adjacent neighbor, or to screen mechanical equipment, or to address a new condition of approval requested by the Planning Commission. This is not the City Planner's final review. Any refinements to the design must comply with the zoning code and be in substantial conformance with the approved Site Plan Review.

- 2) **Stormwater facilities.** In rebuttal to the neighbors’ and City concerns about the Preliminary Stormwater Plan, the applicant provided updated stormwater and grading information on August 25. See the August 31 letter from the City Engineer stating that the preliminary concept of stormwater management has been deemed feasible.
- 3) **Wetlands and waterways.** In rebuttal to the neighbors’ concerns regarding impacts to wetlands and waterways, the applicant provided a clarification statement on August 25. See the September 1 staff summary reiterating the staff report findings and condition of approval #67 (requiring adherence to state and federal permitting processes for construction activity near wetlands and waterways).
- 4) **Building 1.** In rebuttal to various comments regarding the length, height, and compatibility of Building 1, the applicant directs the Commission’s attention to the September 1 staff summary.

The first row in the table quotes the Fire Chief’s response to the suggestion of moving dwelling units from Building 1 to Buildings 2 & 3 as “not workable.”

The second row in the table references the staff report for building height and design. The applicant’s interpretation is that methods for addressing “scale” and “compatibility” of new structures are built in to the zoning code by way of standards for maximum building height, minimum setbacks, and the multifamily design criteria of HRMC 17.16.050.G (e.g. variety of materials, offsets, canopies, pitched roofs, and other features intended to provide visual interest and to break up long façades).

In summary, the location, size, and design of Building 1 is necessary. It provides needed housing density, accommodates fire department access, addresses multiple requirements of the zoning code, avoids disruption to the wetlands and waterways, and maximizes preservation of significant trees.

- 5) **Offsite Improvements and Design Exceptions.** In rebuttal to neighbors’ varied concerns about required offsite improvements (e.g. Adams Creek Place and new sidewalks), the applicant restates their willingness to work with impacted neighbors, the City Engineer, the Fire Chief, and other City bureaus to discuss creative design solutions. The goal is to balance the intent for safe public facilities while minimizing unintended impacts to specific neighbors due to existing non-standard streets, necessary utility easements, and other unique site conditions. A good example of this is the alignment of Adams Creek Place as it turns to meet unimproved Hazel Avenue. Treating this unique condition as if it were a standard street intersection necessitates the removal of several significant trees. Through dialogue with the neighbors and the City Engineer, the applicant would strive to find an innovative solution that is in the best interest of all parties.

As clearly stated in the September 1 staff summary, the “City Engineer has exclusive authority to review and approve or deny Design Exceptions at time of construction permits.” For additional context, the applicant provides the following excerpt from page 8 of the City of Hood River Engineering Standards:

These Standards are not intended to limit the creativeness and ingenuity, nor substitute for the competent work of the Design Engineer. However, these Standards are intended to provide uniformity in the design and construction of safe public facilities in a manner allowing economical future maintenance. Therefore, any proposed exception to these standards is expected to provide a better or at least comparable result, in every way consistent with sound engineering practices as determined by the City Engineer.

- 6) **Pedestrian connection to Andy's Way.** In the September 1 staff summary, the Planner proposed a revised condition of approval #25. The applicant takes exception to this revision as it places further public burden on the cohousing community and places the project in greater opposition to the desires of its neighbors.

To be clear, the applicant is willing to preserve and improve the historic pedestrian connection along the property line. The applicant's preference is to maintain the trail as a natural path with mulch or similar pervious natural material. We believe this preserves the intent of the neighborhood connection and respects the desired landscaped buffer and natural conditions of the site. As both the applicant and neighbors are concerned about additional paved surfaces, we feel the natural condition should be preserved where possible. The cohousing community respects the existing unofficial neighborhood connection as well as the city's initiative to further develop connections through neighborhoods.

If a hardscape connection is needed, the applicant is willing to provide access through the parking drive aisle to landscaped steps and a path aligned with the end of Andy's Way. The applicant prefers the first option, but this access is a feasible alternative. It's the applicant's understanding that the original condition of approval provided for either option.

The applicant's rebuttal over this revision is as follows:

- a) The current site plan provides a six-foot buffer between the neighboring property and the planned garage and carport parking structures. A natural path and adequate landscape buffer can easily reside within the six-foot area. However, the staff request for five feet of hard surface path leaves only one foot for a landscape buffer.
- b) Per the city engineer's report and other conditions of approval, the cohousing community is required to construct +/- 745 linear feet of off-site public sidewalk. In addition, the applicant is granting thousands of square feet of private property to public dedications and public easements and constructing a public water main connection from Eugene to Sherman. All of this is a significant burden on the project. The applicant finds it troublesome that the City would further ask, as a late revision, for an additional +/- 150 lineal feet of easement and constructed hardscape.
- c) The applicant has worked diligently to address the City's and neighbors' concerns around stormwater management. This revision further exacerbates these tough conditions by adding impervious surface and its associated stormwater detention.
- d) The applicant has repeatedly met with concerned neighbors as noted in the record of outreach that was submitted previously. The number one concern expressed from Andy's Way and Katie's Lane neighbors was the connection and that providing it would promote trespassing. The applicant feels trapped between the City's desire for a neighborhood connection and the private property rights of its neighbors. The applicant would like to acknowledge that the neighboring HOA has the right and most likely will erect a fence to prevent trespassing. If this project is required to construct a permanent hardscaped path to fenced dead end, the burden is not only significant financially, but is also irreversible.
- e) The cohousing community members have concerns – similar to Katie's Lane HOA – about taking on liability for public access across the property. The applicant would like to reserve the right to negotiate the access easement for terms of indemnity, and termination if nuisance or other unlawful activities occur.

The applicant asks the Commission to revise this condition of approval one of two ways:

Option 1. Revise the condition back to the original terms with acknowledgement that a well-maintained softscape natural path is in keeping with the neighborhood and site. This would match many of the current connections Hood River residents utilize as they traverse city parks.

Option 2. Construct the condition of approval contingent on the City receiving a reciprocal easement from Katie's Lane HOA. This would ensure that the burden, financial and physical, born by the applicant is not simply blocked and wasted by a fence or contributing to unlawful trespassing on neighboring property. If the City can obtain such easement by the time the applicant submits or obtains the building permit, we would be happy to provide the requested connection.

The applicant thanks the Planning Commission, City Staff, and concerned neighbors for their continued engagement with this project. We look forward to sharing a brief oral argument to the Commission on September 21 and providing any clarifications necessary to support their deliberations.

Sincerely,

The Adams Creek Cohousing community
Joren Bass, UD+P
Seth Moran & Michael Flowers, MFA
Carlos Garrido, HRK