

TO: PLANNING COMMISSION

**FROM: LISA ANDERSON-OGILVIE, AICP, DEPUTY COMMUNITY DEVELOPMENT
DIRECTOR AND PLANNING ADMINISTRATOR**

DATE: AUGUST 13, 2024

**SUBJECT: RECOMMENDED REVISED CONDITIONS OF APPROVAL FOR PLANNED
UNIT DEVELOPMENT-SUBDIVISION TENTATIVE PLAN / PARTITION
TENTATIVE PLAN / URBAN GROWTH PRELIMINARY DECLARATION /
CLASS 2 ADJUSTMENT CASE NO. PUD-SUB-PAR-UGA-ADJ24-01; 700 TO
800 BLOCKS OF CREEKSIDE DRIVE SE**

BACKGROUND

On August 6, 2024, a public hearing was held before the Planning Commission to consider a proposed Planned Unit Development-Subdivision, Partition Tentative Plan, Urban Growth Preliminary Declaration, and Class 2 Adjustment for property located in the 700 to 800 Blocks of Creekside Drive SE.

After receiving testimony on the proposed development, the Planning Commission voted to close the public hearing and leave the record open for the submittal of additional testimony, pursuant to SRC 300.970(b), based upon a request received from the Creekside Estates Homeowners Association.

The record was held open until the following dates and times as follows:

- August 13, 2024, at 5:00 p.m. for the submittal of additional written testimony;
- August 20, 2024, at 5:00 p.m. for the submittal of rebuttal to any additional evidence or testimony submitted during the first seven-day open record period; and
- August 27, 2024, at 5:00 p.m. for final written argument from the applicant, unless subsequently waived by the applicant.

This supplemental report includes recommended revisions to certain conditions of approval included in the August 6, 2024, staff report in response to written comments received and public testimony provided at the August 6, 2024, public hearing.

SUPPLEMENTAL FINDINGS

Recommend Revisions to Conditions of Approval

Homeowners' Association Condition

The August 6, 2024, staff report included two recommended conditions of approval requiring: 1) The applicant to establish a separate homeowners' association and covenants, conditions, and restrictions (CC&Rs) for the perpetual maintenance and operation of the common property and facilities included within the proposed PUD-Subdivision – including the proposed new

private street (Villa Loop) and the proposed common open space area; and 2) The inclusion of the proposed PUD-Subdivision in the Creekside Homeowners Association for the purpose of requiring the development to contribute to the perpetual operation and maintenance of the private streets and other common property and facilities including with the greater Golf Club Estates at Creekside PUD.

In written comments received for the August 6, 2024, public hearing from the Creekside Estates Homeowners Association and the applicant's representative, the possibility of including the proposed PUD-Subdivision in the overall Creekside Estates HOA, without the need to establish a separate HOA specific to the proposed development, was identified.

Condition of approval No. 3 was originally recommended in the August 6, 2024, staff report based on the requirements of SRC 210.055, 205.035(f), and 803.020(b)(3), which require private streets and common private facilities within planned unit developments to be subject to a homeowners' association and CC&Rs for the purpose of ensuring their perpetual maintenance and operation; and an assumption that the new private street and open space area within the proposed PUD-Subdivision would need to be operated and maintained by a separate HOA created for the new development itself.

In response to testimony received, and based on the possibility that the proposed PUD-Subdivision can be incorporated into the overall Creekside Estates HOA without the need to establish a separate HOA, condition of approval No. 3 is recommended to be revised as follows:

Condition 3: Prior to final plat approval, the applicant shall demonstrate that either the property will be subject to the Creekside HOA's maintenance and operation provisions for common properties and facilities or submit a Homeowners' Association Agreement and Covenants, Conditions, and Restrictions (CC&R) document for review and approval by the City Attorney providing for the perpetual maintenance and operation of all common properties and facilities within the development including, but not limited to: private streets, private utilities, open spaces, and common facilities. The articles of the Homeowners' Association shall conform to the provisions of SRC 210.055(b) and SRC 803.020(b)(3).

The revised recommended condition of approval ensures that the new private street and open space within the proposed PUD-Subdivision will be maintained and provides flexibility to allow the applicant and the Creekside HOA to agree upon how that should be achieved. Condition of approval No. 4 is also recommended to remain, which ensures the proposed development will be part of the Creekside HOA for the purpose of requiring the development to contribute to the perpetual operation and maintenance of the private streets and other common property and facilities included within the overall Golf Club Estates at Creekside PUD.

Stormwater Management

The August 6, 2024, staff report included a recommended condition of approval (Condition No. 10) requiring the applicant to provide an engineered stormwater design meeting the requirements of SRC Chapter 71 and the Public Works Design Standards (PWDS) in order to

accommodate new and impervious surfaces in the private street and future impervious surfaces on all proposed lots.

During the August 6, 2024, public hearing testimony was provided from the applicant's engineer indicating that, due to the topography of the site, provision of a stormwater system fully meeting the requirements of SRC Chapter 71 and the PWDS in all locations would not be possible without the approval of a design exception. Based on the current wording of Condition No. 10, the possibility of allowing an alternative design to be approved by the City Engineer is not identified and a revision to the condition of approval was requested. In response to the testimony received, staff recommends Condition No. 10 be revised as follows:

Condition 10: Prior to final plat approval, provide an engineered stormwater design meeting the requirements of SRC 71 and the Public Works Design Standards, or receive an approved Design Exception from the City Engineer, to accommodate new impervious surfaces in the private street and future impervious surfaces on all proposed lots.

The revised recommended condition of approval provides the applicant's engineer flexibility in designing the stormwater management system to serve the proposed development in recognition of the topographic challenges associated with the site while also ensuring the adequate provision of stormwater facilities as required under SRC Chapter 71 and the PWDS.

Prepared by Bryce Bishop, Planner III

Jennifer Biberston

From: Tom Cowan Jr. <tcowanjr@mac.com>
Sent: Tuesday, August 13, 2024 1:10 PM
To: Bryce Bishop
Cc: Audrey Konold; Jim West; Bill Amos; Maria Mokrai; Margaret Gander-Vo
Subject: Creekside HOA ongoing efforts with Don Lulay
Attachments: August 9, let to residents.docx

Bryce,

The attached letter was sent to the residents of Creekside HOA. We want to confirm that we are working with Don Lulay et al and this letter confirms that fact. We have invited Don and his attorney Margaret to our next meeting to address members concerns. We hope to add to our plan concerning what will happen, when and how.

While we aren't finished and have many issues to manage, we are pleased at this point with the efforts coming from Don and Margaret.

We wanted to supply an update so you might know the status at this point.

Thank you,

Tom
Tom Cowan Jr., President
Creekside HOA
902 Sahalee Ct SE
Salem, OR 97306
503-931-9934

"I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel." — Maya Angelou

August 9, 2024

TO: Creekside Homeowners

FROM: Creekside Estates Homeowners Association Board of Directors

RE: Development of Lots along Creekside Drive in Block 700-800, PUD-SUB-PAR-UGA-ADJ24-01

Greetings!

Things have been moving rather quickly over the last few weeks as it relates to the above proposed addition to Creekside Estates. Following the public hearing on August 6th that was conducted by the City of Salem, it is appropriate that everyone is brought up to date and we believe some background will help everyone know where we came from and where we are today. There is a lot of work yet to be done but it appears we have a good understanding with the developer, Don Lulay of Don Lulay Homes, Inc.

When we were first given a heads up that something was being proposed, contact was made with the City of Salem staff to see if we could get more information, since so much was lacking; and if we could get a sit-down meeting with those involved. We were advised that since public notice had not been filed, that no, we could not get more information, and no, a meeting could not be arranged. Additionally, we were advised that no meeting could come together until after the public hearing.

The Board submitted a letter to the city outlying our concerns in response to the public hearing notice. In short order and before the public hearing, we received a response from the attorney for Creekside Golf Course, LLC, that included responses to our questions and concerns. Those responses were not necessarily what we wanted to hear. The President of the Board responded to the attorney for Creekside Golf Course to include a request for a meeting. We all knew so little it was difficult to know even the appropriate questions to ask as a good follow-up.

On Monday, August 5th, Margaret Gander-Vo, the attorney referred to above, sent an email to the Board President wanting to know if we could meet that day with the Developer, Mr. Lulay, at the building site or other location along with Margaret. We chose the building site and Audrey Konold, VP of the Board, attended a meeting with me, Tom Cowan, President.

Mr. Lulay laid out his vision of the project which was a big help. He was quick to let us know that he really wanted to be a good neighbor and that the integration of the duplexes into

Creekside Estates was a very high priority. We were able to discuss what integration means to us: the need to be subject to the ARC, to collect dues, to maintain roadways, and to address concerns as they arise, and he agreed to meet most of our concerns. And we agreed that there is a lot still to be done and it is best done together as builder and community members.

Mr. Lulay was willing to accommodate the HOA in many areas though not all. I could cover those in some detail, but it is best described in a letter to Bryce Bishop, Planner III, City of Salem from Margaret Y. Gander-Vo with Saafeld Griggs. That letter is attached for your review.

There is still a lot to do and issues to resolve as time passes. We have made great progress already by reaching some level of understanding concerning our issues. Communication is the key. A copy of this letter is being sent to Mr. Lulay and his counsel and they have been invited to our next board meeting on August 26, 2024. I believe he can best describe what is planned, how and when. Hopefully they he can attend.

The public hearing related to the proposed subdivision was held on August 6th and several homeowners who attended. Following the hearing, Audrey received some comments and concerns from those attending. Those issues included parking, landscaping down to Creekside Drive, traffic at the intersection of Creekside Drive, the new development and Golf Club Drive, and that we have a contact person to reach out to as the project proceeds. All are good points and need to be addressed.

Additionally, we have agreed in principle to work with the builder, developer, and attorney to develop the documents for this phase of Creekside along with the CC&Rs. By working together, we are most likely to get the results we can all live with and that will add The Villas addition comfortably into our community.

The timing hasn't been great. All Creekside Estates Board did not get the notice before the July board meeting. So, it became difficult to get input, and we needed to act as best we could. Additionally, with the shortened timeframe, we provided a response that seemed to reflect the priorities of the community, and the concerns expressed in the last board meeting. The same holds true for the hearing, we worked a diligently, and even then, we did not keep everyone in the loop and in a timely fashion.

In conclusion, the August 26th Board meeting will start at 5:15. Please come with questions and concerns. We will do our best to get answers.

Thank you.

Tom Cowan Jr., President

Bryce Bishop- Planner III
City of Salem- Planning Division
555 Liberty Street SE, Room 305
Salem, OR, 97301

August 10, 2024

RE: Land Use Hearing
Case # PUD-SUB-PAR-UGA-ADJ24-01

I am a Creekside resident and a homeowner on the south side of Creekside Drive...just southeast of the proposed site development. I attended the above noted Land Use Hearing on August 6, 2024 at City Hall and since the record was held open, I wanted to comment on the planned development. Based on what I saw and heard at the August 6th hearing, I was very pleased with the plans presented and the discussion that ensued. Over the years, the proposed area for development has been riddled with weeds, rodent activity and brown foliage, so I am looking forward to an improvement in this area.

The developer and the Creekside HOA should be applauded for the behind the scene work to come to a reasonable agreement on, inclusion for the new development to the Creekside HOA, compliance with existing CC&R's, requirement of ARC approval and street repairs. Due to the topography and elevation changes of this area, this is not an easy site to develop. But in my opinion, the developer has done their best to incorporate sidewalks, parking areas and appealing, single story housing designs.

One of the commissioners stated that a 4 foot wide area (tree buffer) should be provided along the sidewalk along Villa Loop (the new street servicing these lots). I totally disagree with this suggestion. These buffer areas are very uncommon in Creekside and are more appealing in flat, level areas. I, as a lot owner, would not want the headache of maintaining and irrigating these separate strips and in the future, trees planted in these buffer areas could result in sidewalk upheaval and cracking issues.

I strongly urge the Planning Commission approve the land use request and allow the development of these 11 residential lots along Creekside Drive.

Thank you for your time,

William Burich
824 Creekside Dr SE, Salem, OR 97306

Email: bjburich@msn.com



August 13, 2024

VIA ELECTRONIC MAIL: bbishop@cityofsalem.net & jbiberston@cityofsalem.net
Uploaded to PAC Portal

Bryce Bishop, Planner III
City of Salem Planning Division
555 Liberty Street SE
Salem, OR 97301

RE: PUD-SUB-PAR-UGA-ADJ24-01
Our File No: 25592-26627

Dear Bryce:

Our office represents Creekside Golf Course, LLC, an Oregon limited liability company (my "**Client**") regarding the consolidated Planned Unit Development / Subdivision Tentative Plan / Partition Tentative Plan / Urban Growth Preliminary Declaration / Class 2 Adjustment designated by the City of Salem (the "**City**") as Case No. PUD-SUB-PAR-UGA-ADJ24-01 (the "**Application**") for the 700 to 800 Blocks of Creekside Drive SE (the "**Property**"). My Client and the developer, Don Lulay Homes, Inc., an Oregon corporation (herein "**Developer**") (collectively, the "**Applicant**") are submitting this communication as Applicant's response to the comments made during the August 13, 2024, Planning Commission Hearing (the "**Hearing**").

At the Hearing, the comments and questions focused around: (1) the landscaping and trees being provided along Creekside Drive and Villa Loop; (2) involvement with the Creekside HOA; and (3) the parking associated with The Villas at Creekside (the development contemplated by the Application) (the "**Proposed Development**").

1. Landscaping and Trees

SALEM
Park Place, Suite 200
250 Church Street SE
Salem, Oregon 97301

Post Office Box 470
Salem, Oregon 97308

tel 503.399.1070
fax 503.371.2927

BEND
Vision Plaza
404 SW Columbia St
Suite 150
Bend, Oregon 97702
tel 541.693.1070

During the Hearing several comments were made regarding concerns that the Applicant wasn't providing landscaping strips along the northern side of Creekside Drive SE or along the southern curb of Villa Loop. The Applicant is not providing landscaping strips along the northern side of Creekside Drive SE because it would reduce the developable size of the proposed lots. However, the Applicant is providing street trees and will be landscaping the bank extending north from Creekside Drive SE. The Applicant has provided a rendering showing the trees and landscaping along Creekside Drive SE further below.

The Applicant is not providing landscaping strips along the southern boundary of Villa Loop, but will be providing street trees and a landscaping strip along the northern side of Villa Loop and will provide trees on each lot, providing shading of the sidewalk along Villa Loop. The rationale for this is that the Creekside community generally does not have landscaping strips and pushing the sidewalk back from Villa Loop to allow for the addition of the landscaping will impact the grading and developability of the lots. By providing trees along the sidewalk, but not within a landscaping strip, the Applicant is still providing trees that will provide shading for the adjacent sidewalks in a manner that is consistent with the surrounding development within the Creekside HOA. The Applicant has provided a rendering showing the extent of the landscaping that it will add upon development further below.

2. *Involvement with Creekside HOA*

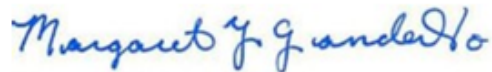
The Applicant is willing to have The Villas at Creekside incorporated into the Creekside HOA and will work with the Creekside HOA to properly incorporate the Proposed Development. The Developer will be attending Creekside HOA's next meeting and will provide the City with the documentation needed to show that it will share in the maintenance and repair obligations associated with the Creekside HOA roads as well as the proposed Villa Loop.

3. *Parking*

As mentioned at the Hearing, there is not a requirement for the Applicant to provide parking for the Proposed Development. However, each of the proposed dwelling units will have a two-car garage and a driveway, providing parking spaces for up to four cars. Additionally, there will be parallel parking along Villa Loop. The available parking will reflect the type and amount of parking provided in the remainder of the Creekside HOA.

Following your review of this record response, please don't hesitate to reach out to me directly at 503-485-4271 or margaret@sglaw.com if you have any questions or concerns prior to forwarding to the Planning Commission.

Sincerely,



MARGARET Y. GANDER-VO

margaret@sglaw.com

Voice Message #374

Enclosures

MYG :hst

cc: Client

Tom Cowan, Jr. via email to tcowanjr@mac.com

