

Generally, the recent staff report points to several issues not previously identified in the June 13, 2022, staff report. Moving targets are hard to hit. Does staff admit to overlooking potential non-compliance issues in the first report?

Clover submits the following objections to the following findings and conclusions by staff:

#21 Application is not consistent with the requirements of 26.20.050.J.4. Public Access

4. The minimum width of public access easements shall be 15 feet, unless the city determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

In this case the subject easement is 16 feet wide. However, the easement is centered on the property line shared with the hotel to the north. Criteria #4 does not preclude the easement from encroaching onto other parcels, it only regulates the easement itself. The easement conforms the 15 foot minimum width. The 8-foot-wide pathway is the maximum width available without causing undue hardship on this narrow site. Benton County AFN 2006-024259 is evidence the City of Richland reduced the subject easement from 60 feet to 16-feet in width, 8 feet of which is within the subject parcel. The easement reduction is conditioned upon the construction of an eight-foot-wide public pathway, which this project offers. Substantial hardship would be incurred by the requirement to go back and record an expanded easement further encumbering the property. The hardship includes loss of current civil and architectural design costs and the time lost in the two years it has taken to get to the June 10, 2024, public hearing. Providing the proposed 8-foot-wide pathway matches the City's widest public sidewalk standard and should be deemed adequate to provide public access along the side of the building before connecting to the wider public pathway, also located within this parcel.

Staff's contention on this aspect was not presented in the June 13, 2022 staff report, nor during the several prior consultations conducted for the purpose of addressing all deficiencies.

The site does not have direct access to the river shore.

#26 The proposal is not consistent with RMC 26.30.040(F)(2) because we count that part of the private parcel encumbered with a public access easement toward meeting the public open space requirement.

Nowhere in the code is this exclusion stated. It is onerous and unfair for the property owner to bear the loss of land use for public access and to be simultaneously restricted from benefitting from the public use of the property. Staff's interpretation is unreasonably punitive, causing a detriment to private development rights. The applicant objects to finding #26 which includes no supporting reasoning or basis.

#30 The project does not adequately restore ecological functions of aquatic environments [26.30.090(D) RMC].

This criterion calls for restoration of ecological functions of aquatic environments. Nowhere in the code is the term “in-water-work” used for this requirement. In fact, asking the project to cause disruption to the riverbank substrate is prohibited by RMC 26.20.010(B)(4)(d) regardless of its restoration intent.

The vegetation management plan by Parametrix includes substantial riparian vegetation restoration by way of plantings and concrete debris removal. The direct beneficial effects of riparian vegetation on aquatic environments are explained *ad nauseum* in a variety of scientific papers and articles by credible sources. Three such publications are provided by the applicant at the hearing.

Further, the benefit of removing invasive plants and replacing them with native species should not be overlooked. The Department of Ecology has extensive publications and several programs emphasizing the ecological importance of replacing invasive plant species with native species. This feature of the restoration plan has a direct beneficial effect on the ecological functions of the aquatic environment along the water’s margin where much of the biological activity occurs. The vegetative diversity and composition of riparian areas has a disproportionally high effect on shallow water aquatic environments as compared to the main stream channel (thalweg).

#34 non-conformance with 26.50.040.

Based on the language of the finding, we presume the reasoning for the negative finding links back to the restoration of ecological functions in aquatic environments as a condition of multi-family development.

#35

#37 the public interest will suffer substantial detrimental effect as a result of the project.

Which effects are these exactly? This statement implies that all the existing multi-family developments along the shoreline in this area cause a substantial detrimental effect on the public. The proposal is consistent with the current multi-family development pattern in the vicinity.

#38 inconsistent with the SMP & zoning regulations.

Individual reasons were previously addressed.

Request 31 units as condition

The proposal is consistent with the current multi-family development pattern in the vicinity.