



MEMORANDUM

TO: City Council

FROM: Anna Slatinsky, Planning Division Manager

DATE: July 11, 2018

SUBJECT: Open Record on Appeals (APP 2018-0001, APP 2018-0002) of Director's Interpretation for OBRC Beverage Container Redemption Center (DI 2017-0003)

BACKGROUND

On June 19, 2018 the Public Hearing of the appeals of DI2017-0003 was conducted and the public testimony portion of the hearing was closed, but the record for the appeal was left open according to the following schedule:

Open record period	June 20 – June 26
Rebuttal period	June 27 – July 3
Final Applicant arguments	July 4 - July 10

No new testimony or evidence may be submitted unless the Council chooses allow for an additional round of new evidence, rebuttal, and applicant final arguments. At the meeting on July 17, City Council will hear final comments from staff and city attorney, and have the opportunity to deliberate and evaluate options for taking action on the appeal.

MATERIALS SUBMITTED

Planning Division received the materials listed below during the extended open record period identified above. Letters and emails are attached to this memorandum as exhibits. To reduce the bulk of the package and conserve paper, the full record of submissions including additional supporting documentation and exhibits submitted in support of letters and emails are available on the Beaverton website at:

http://apps.beavertonoregon.gov/DevelopmentProjects/projects_byCategory.aspx?cat=DenneyWhitford/RaleighWest

In addition, one paper copy of the complete record will be available to view in person at the July 17 Council Meeting. If a Council Member desires to view a paper copy of any exhibit not provided with this memorandum, please contact Anna Slatinsky at aslatinsky@BeavertonOregon.gov.

Materials submitted during the open record period from June 20-June 26:

- Exhibit 1. Letter from Michael Robinson and Exhibits 1-18
- Exhibit 2. Letter from E. Michael Connors and Exhibits A-I
- Exhibit 3. Letter from Michael Neff and Exhibits A-K
- Exhibit 4. Email from Trisha McPherrren dated
- Exhibit 5. Letter From Holly Bridgens
- Exhibit 6. Letter from Ernie Conway

Materials submitted during the rebuttal period from June 27-July 3:

- Exhibit 7. Letter from Garrett H. Stephenson
- Exhibit 8. Letter from E. Michael Connors and Exhibits A-B
- Exhibit 9. Letter from Michael Neff and Attachments A-G
- Exhibit 10. Video from Michael Neff (online only)
- Exhibit 11. Email from Kerrie Trujillo
- Exhibit 12. Letter from Rick Skayhan

Materials submitted by the applicant as final arguments by July 10:

- Exhibit. 13 Letter from Michael Robinson

UPDATED RECOMMENDATION:

Based on the facts and findings presented in the Director's Interpretation decision, the Appeal Information, public testimony, and the Director's memoranda, the Director recommends **Denial of APP2018-0001 and APP2018-0002, subject to the proposed Conditions Of Approval in Exhibit 14.**

In addition, the director recommends that Planning Division undertake a study to determine the appropriate approach to regulating Beverage Container Redemption Centers in the future, and submit an application for a Text Amendment pursuant to Beaverton Development Code section 50.05.

NEXT STEPS

At the conclusion of the hearing on the appeal, the appellate decision making authority shall take one of the following actions:

- A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
- B. Reverse or affirm the decision under appeal, with or without conditions or changes.
 - 1. If the decision making authority takes action pursuant to Section 50.70.9.B., the decision making authority shall announce a brief summary of the basis for the decision, and that a land use order will be issued as provided in Section 50.70.10.; provided, the proceedings may be continued for the purpose of considering such land use order without taking new testimony or evidence.
 - 2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
- C. Remand the decision to the decision making authority for further proceedings consistent with the decision on appeal provided that the appellate decision making authority first determines whether the remand would conflict with the City's obligation under ORS 227.178 to issue a timely final decision. If the decision is to remand, the purpose of the remand, including any specific procedures or subjects to be addressed shall be directed to the decision making authority.