



# MEMORANDUM

City of Beaverton

Community Development Department

**To:** Interested Parties  
**From:** City of Beaverton Planning Division  
**Date:** December 22, 2017  
**cc:** EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007  
Fred Meyer Fuel & New Commercial Building First Time Extension  
(CU2015-0007 / DR2015-0042 / LD2015-0007 / LD2015-0015)  
**Subject:** *Notice of Decision for a First Time Extensions of Previously Approved Applications for Fred Meyer Fuel & Commercial Building.*

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Please be advised that the decision for EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 First Time Extension for Fred Meyer Fuel & New Commercial Building has been issued and is available on the City's website at <http://apps.beavertonoregon.gov/DevelopmentProjects/>. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decision for EXT2017-0005 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 is final, unless appealed within twelve (12) calendar days following the date of the decision. The procedures for appeal of a Type 2 Decision are specified in Section 50.65 of the Beaverton Development Code. The appeal shall include the following in order for it to be accepted by the Director:

- A. The case file number designated by the City.
- B. The name and signature of each appellant.
- C. Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.
- D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
- E. The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
- F. The appeal fee of \$250.00, as established by resolution of the City Council.

The appeal closing date for EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 First Time Extension for Fred Meyer Fuel & Commercial Building is **4:30 p.m., Wednesday, January 3, 2018.**

The complete case file including findings, conclusions, and conditions of approval, if any, are available for review. The Director's Decision is available online at <http://apps.beavertonoregon.gov/DevelopmentProjects/>. The full case files may be reviewed

at the Beaverton Planning Division, Community Development Department, 4<sup>th</sup> Floor, Beaverton Building, 12725 SW Millikan Way between 7:30a.m. and 4:30p.m., Monday through Friday, except holidays. For more information about the case file, please contact Jana Fox, Associate Planner, at (503) 526-3710.



**NOTICE OF DIRECTOR'S DECISION**

**DATE:** December 22, 2017

**TO:** All Interested Parties

**FROM:** Jana Fox, Associate Planner *JCF*

**PROPOSAL:** EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 Fred Meyer Fuel & Commercial Building First Time Extension

**LOCATION:** The subject site is located at the southwest corner of SW Canyon Road and the Highway 217 access road. Tax Lots 500 and 1100 on Washington County Tax Assessor's Map 1S115AB.

**SUMMARY:** The applicant is seeking a first time extension for a previously approved Replat Two (LD2015-0007), Preliminary Fee Ownership Partition (LD2015-0015), Design Review Three (DR2015-0042), and Conditional Use (CU2015-0007) that authorized a new fuel station and commercial building. No changes to the originally approved proposal are included with this time extension application. If approved, this time extension request will extend the expiration date of the prior approvals to December 2, 2019.

All critical facilities required for this development were evaluated during the review of the original applications. All conditions of approval still apply.

**PROPERTY OWNER:** Metropolitan Life Insurance Company  
Leland Low  
425 Market Street, Suite 1050  
San Francisco, CA 94105

**PROPERTY OWNER & APPLICANT:** Fred Meyer Stores, Inc.  
Don E. Forrest  
3800 SW 22<sup>nd</sup> Avenue  
Portland, OR 97202

**APPLICANT'S REPRESENTATIVE:** Mackenzie  
Lee Leighton  
1515 SW Water Avenue, Suite 100  
Portland, OR 97214

**RECOMMENDATIONS:**

**APPROVAL of EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 Fred Meyer Fuel & Commercial Building First Time Extension, subject to conditions identified at the end of this report.**

**BACKGROUND FACTS**

**Key Application Dates**

<u>Application</u>	<u>Submittal Date</u>	<u>Deemed Complete</u>	<u>Final Written Decision Date</u>	<u>240-Day*</u>
EXT2017-0004	November 2, 2017	November 21, 2017	March 21, 2018	July 19, 2018
EXT2017-0005	November 2, 2017	November 21, 2017	March 21, 2018	July 19, 2018
EXT2017-0006	November 2, 2017	November 21, 2017	March 21, 2018	July 19, 2018
EXT2017-0007	November 2, 2017	November 21, 2017	March 21, 2018	July 19, 2018

\* Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

**Existing Conditions Table**

<b>Zoning</b>	Regional Center-East (RC-E)	
<b>Current Development</b>	Vacant &	
<b>Site Size &amp; Location</b>	21.5 Acres	
<b>NAC</b>	Central Beaverton	
<b>Surrounding Uses</b>	<u>Zoning:</u> North: RC-E  South: RC-E  East: RC-E  West: RC-E	<u>Uses:</u> North: Commercial  South: Commercial  East: Highway 217  West: Commercial

## DESCRIPTION OF APPLICATION AND TABLE OF CONTENTS

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<b><u>Attachment B:</u></b> Conditions of Approval	9
 <b><u>Exhibits</u></b>	
<b>Exhibit 1 - Public Comment</b> None Received	



**ANALYSIS AND FINDINGS FOR  
EXTENSION OF TIME FOR PREVIOUSLY APPROVED APPLICATIONS**

**Section 50.93      Extension of a Decision**

1. *An application to extend the expiration date of a decision made pursuant to this Code may be filed only before the decision expires as provided in Section 50.90 or before the decision expires as provided in the appropriate subsection of the specific application contained in Chapter 40 (Applications).*

**Facts and Findings**

The expiration date of CU2015-0007 / DR2015-0042 / LD2015-0007 / LD2015-0015 is December 2, 2017. The applications for extension were filed on November 2, 2017.

**Therefore, staff finds that this requirement is met.**

2. *The following land use decisions are not subject to extensions of time: Director's Interpretation (Section 40.25), Home Occupation (Section 40.40), Loading Determination (Section 40.50), Parking Requirement Determination (Section 40.55.15.1), Shared Parking (Section 40.54.15.2), Use of Excess Parking (Section 40.54.15.3), Sign (Section 40.60), Solar Access (Section 40.65), Temporary Mobile Sales (Section 40.80.15.1), Temporary Non-Mobile Sales (Section 40.80.15.2), and all Zoning Map Amendment (Section 40.97) applications.*

**Facts and Findings**

This is an extension for a Conditional Use, Design Review, and two Land Division applications, which are not listed in Section 50.93.2 as an application not subject to extensions of time.

**Therefore, staff finds that this requirement is met.**

3. *A land use decision may be extended no more than two (2) times.*

**Facts and Findings**

This is the first request to extend the expiration date for this application.

**Therefore, staff finds that this requirement is met.**

4. *Extension of a land use decision for an application not listed in Section 50.93.2 may be granted for a period of time not to exceed two (2) years, will be subject to a Type 2 review procedure, and must be found to be consistent with the approval criteria listed in Section 50.93.6.*

### Facts and Findings

This is the first application for a time extension and has been processed according to the procedure for a Type 2 application, as specified in Chapter 50 of the City of Beaverton Development Code.

**Therefore, staff finds that this requirement is met.**

5. *Extension requests shall provide mailed public notice to those parties identified in Section 50.40.2. In addition, the notice shall be mailed to the parties of record contained in the initial land use decision and any prior extension of time decision.*

### Facts and Findings

Public notice for this time extension was mailed to: the applicant/property owner, Central Beaverton NAC Chair, all property owners within a three hundred foot radius (in accordance with Section 50.40.2), and all parties of record from the initial land use decision.

**Therefore, staff finds that this requirement is met.**

6. *In order to approve an extension of time application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied.*
  - A. *It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.*
  - B. *There has been no change in circumstances or the applicable regulations or Statutes likely to necessitate modification of the decision or conditions of approval since the effective date of the decision for which the extension is sought.*
  - C. *The previously approved land use decision is not being notified in design, use, or conditions of approval.*

### Facts and Findings

According to the applicant, "since obtaining land use approval, the co-applicants have prepared for and submitted plans for permitting and site construction, including preparation for installing substantial public works improvements. However, resolution of ownership issues related to the siting of the proposed underground fuel tanks and distribution lines serving the fueling facility has demanded additional time to negotiate a workable solution." Additional time is needed to fully address these issues. The applicant has made progress by submitting and continuing with review of site development and building permit applications, the issues related to ownership and fuel tanks are outside the control of the applicants who do not control one of the parcels involved in the land division. The applicant requires additional time to implement a solution to these issues. Staff finds that it was not practicable to commence development within the time allowed,

however the applicant has taken steps to move forward with development.

Staff finds that no significant changes have occurred to the applicable regulations that would result in the modification of the decision or the conditions of approval. The properties continue to be zoned Regional Center-East (RC-E) and this request to extend the expiration date of the original approvals contains no proposals to make any changes to the approved plans. No other regulations have come into effect by the City's partner agencies which would necessitate a new review of the previously approved PUD.

The applicant does not propose any changes or modifications to the previously approved Planned Unit Development, or conditions of approval.

**Therefore staff finds that the approval criteria are met.**

**SUMMARY OF FINDINGS:** For the reasons identified above, staff finds that the request for Extension of a Decision approval is supported within the approval criteria findings, noted above, for Chapter 50, Section 50.93 of the Development Code.

Staff has provided findings, and recommended conditions of approval to meet the necessary technical requirements identified in Section 40.03 of the Development Code. Based on the facts and findings presented, the Director concludes that the proposal, **EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 Fred Meyer Fuel & Commercial Building First Time Extension** meets the requirements.

## **RECOMMENDATION**

Based on the facts and findings presented, staff recommends **APPROVAL** of **EXT2017-0004 / EXT2017-0005 / EXT2017-0006 / EXT2017-0007 Fred Meyer Fuel & Commercial Building First Time Extension** subject to the conditions identified in Attachment B.



**CONDITIONS OF APPROVAL FOR EXT2017-0003**

1. All construction shall be carried out in accordance with the plans submitted and approved with CU2015-0007 / DR2015-0042 / LD2015-0007 / LD2015-0015. All conditions of approval from the original approval for the Fred Meyer Fuel & Commercial Building application remain in force and must be complied with before building permits, site development permits, final plats or building occupancy permits, as applicable, can be obtained. No changes to the previously approved plans are permitted by this approval. Any changes to the approved plans will require new land use approval. (Planning Div/ JF)
  
2. This approval will expire December 2, 2019. (Planning Div/ JF)

