

**BEFORE THE PLANNING COMMISSION FOR
THE CITY OF BEAVERTON, OREGON**

After recording return to:
City of Beaverton, City Recorder:
12725 SW Millikan Way
P.O. Box 4755
Beaverton, OR 97076

IN THE MATTER OF A REQUEST FOR APPROVAL) ORDER NO. 2932
OF AN APPEAL OF ORGANIC MILK EXCHANGE.) APP2023-0001 ORDER APPROVING
) THE APPEAL OF A DESIGN REVIEW TWO
) (DR2022-0098) APPLICATION.

The matter came before the Planning Commission on April 12, 2023, on a request to appeal the Director’s Decision to approve a Design Review Two application to redevelop an existing industrial site. The subject site is located at 5051 SW Western Avenue, Tax Lots 200 and 300 on Washington County Tax Assessor’s Map 1S114CB.

The appellant contended that staff erred in conditioning the issuance of revised site development permit (SD2019-0021) prior to the issuance of the project’s building permit (B2022-5071), as required per Condition 24 in the Organic Milk Exchange Director’s Decision, dated March 9, 2023. The applicant requested the Planning Commission remedy the decision by revising the condition of approval and approving the Design Review with the amended conditions of approval.

Pursuant to Ordinance 2050 (Development Code) Section 50.80, the Planning Commission conducted a public hearing and considered testimony and exhibits on the subject proposal.

The Commission, after holding the public hearing and considering all oral and written testimony, adopts the Director's Decision dated March 9, 2023, and the Staff Memorandum to the Planning Commission dated April 5, 2023, including the revised conditions of approval in Exhibit APP2.2, and the findings contained therein, as applicable to the approval criteria contained in Sections 40.03 and 40.20.15.2.C of the Development Code.

Therefore, **IT IS HEREBY ORDERED** that **APP2023-0001** is **APPROVED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Director's Decision dated March 9, 2023, and as amended per Exhibit APP 2.2 in the Staff Memorandum to the Planning Commission dated April 5, 2023, and the findings contained therein, subject to the conditions of approval as follows:

A. Prior to issuance of the site development permit revision, the applicant shall:

1. Ensure the associated land use applications (PD2022-0003 and SDM2022-0004) have been approved. (Planning Div. / AH)
2. Submit a revised site plan illustrating the frontage along SW 5th Street. The revised site plan must illustrate compliance with the Collector Street standards in the Engineering Design Manual (EDM), including streetlights, sidewalks, and planter strip, except for the portions of street frontage not located adjacent to the existing retaining wall which are approved for a modified sidewalk standard in SDM2022-0004. (Planning Div. / AH)
3. Provide a revised site plan that does not include outward swinging doors into the vehicular circulation areas located along the eastern façades of the new building additions, unless they are protected by bollards or other physical barriers.

4. Provide a revised landscape plan that includes one tree for every 30 lineal feet within the B2 buffer.
5. Provide a revised landscape plan that contains only trees included on the city's approved street tree list. Alternatively, the applicant may provide written confirmation from the city arborist that the trees proposed on the landscape plan, date stamped February 17, 2023, are acceptable. (Planning Div. / AH)
6. Submit the required plans, application form, fee, and other items needed for a complete site development permit application per the applicable review checklist. (Site Development Div. / KJ)
7. Retain a professional engineer to design and monitor the construction for any work governed by Beaverton Municipal Code 9.05.020, current standards in place per the City Engineering Design Manual and Standard Drawings, Beaverton Development Code (Ordinance 2050, 4010 +rev.), and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. Construction completed under the DR2018-0162 land use approval will be subject to the Clean Water Services Design and Construction standards in place at the time (April 2017, Resolution and Ordinance 2017-05). Site modifications proposed in this land use approval are subject to the current standards in place per the Clean Water Services District Design and Construction Standards (Resolution and Ordinance 2019-22). (Site Development Div. / KJ)
8. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions utilizing the process set out in the Beaverton Development Code, and the City Engineering Design Manual; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div. / KJ)
9. Have the applicant for the subject property guarantee all City-owned and maintained public improvements, grading, storm water management facilities, and driveway paving by submittal of a City-approved security. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for

amount, equivalent to 100 percent or more of estimated construction costs. (Site Development Div. / KJ)

10. Submit to the City a copy of issued permits or other approvals needed from the Oregon Department of Transportation Rail Division for work within 500 feet of the rail crossing area. (Site Development Div. / KJ)
11. Submit a geotechnical and if needed environmental report with the site development permit application for review and approval. The report shall include an assessment of the soil and any toxic contaminants, ground/surface water issues, any needed clean-up action, remediation methods, Oregon Department of Environmental Quality requirements, disposal regulations, and construction worker safety measures. It shall be prepared by a professional engineer or registered geologist and rules of the Oregon Department of Environmental Quality (DEQ). (Site Development Div. / KJ)
12. Have obtained approvals needed from the Clean Water Services District for storm system connections as a part of the City's plan review process. These submittals will go to City for processing to Clean Water Services. (Site Development Div. / KJ)
13. Submit a completed 1200-C Permit (DEQ/CWS/City Erosion Control Joint Permit) application to the City. The applicant shall use the standard plan format per requirements for sites 5 acres or larger adopted by DEQ and Clean Water Services.
14. Provide construction plans and a drainage report demonstrating compliance with City surface water management requirements per City 2019 Engineering Design Manual, Resolution 4542, Section 530. Demonstrate compliance with CWS Resolution and Order 2019-22 for quantity control for conveyance capacity, hydromodification and quality treatment. Fee-in-lieu can be requested if development meets criteria set forth in City EDM Sections 190, table 530.1, and 530.1.A.4 and CWS Design & Construction Standards Section 4.03.7.a and 4.04.2.a. Construction completed under DR2018-0162 land use approval is subject to Clean Water Services Design and Construction standards in place at the time (April 2017, Resolution and Ordinance 2017-05). (Site Development Div. / KJ)
15. Provide a drainage analysis of the subject site prepared by a professional engineer meeting the standards set by the City. The

analysis shall identify all contributing drainage areas and plumbing systems for this project with the site development permit application. The analysis shall also delineate all areas for this project that are inundated during a 100-year storm event, including the safe overflow conveyance from proposed constructed stormwater management facilities. In addition, the analysis shall delineate any mapped FEMA floodplains and flood ways. (Site Development Div. / KJ)

16. The site plans shall clearly show the 100-year flood limits on each plan that contains elevation information. The flood conveyance and storage of the project area at each 1-foot contour must be preserved or enhanced with cut/fill balance and a zero-rise certification by a registered professional engineer to the City of Beaverton standard. (Site Development Div. / KJ)
17. Provide an engineering analysis of the grading and construction work proposed within the 100-year floodplain as necessary to allow for a public notice to be published in a local newspaper by the City for the proposed floodplain modifications. The applicant's engineer shall certify in writing that the project as designed will meet the requirements of City Code and Clean Water Services Design & Construction standards as they refer to the 100-year floodplain, prior to this notice being sent. The public notice and a 10-day appeal period shall occur after final approval of the site development permit plans by the City. (Site Development Div. / KJ)
18. Submit a grading plan showing building pad elevation and minimum finished floor elevation (FFE). The 100 year/emergency overflow path of the stormwater management facility shall be shown on the plans. Grading shall direct stormwater to a conveyance system or existing natural drainage. (Site Development Div. / KJ)
19. Pay any required storm water system development charges (storm water quality, quantity, hydromodification, and overall system conveyance) for the new impervious area proposed. (Site Development Div. / KJ)
20. Submit an owner-executed, notarized, City/CWS standard private stormwater facilities maintenance agreement, with maintenance plan and all standard exhibits, ready for recording with Washington County Records. (Site Development Div. / KJ)
21. Submit to the City a Stormwater Management Worksheet for the

proposed project's net new impervious area proposed for any common areas and private streets prepared by the applicant's engineer, architect, or surveyor. (Site Development Div. / KJ)

22. Provide plans for the placement of underground utility lines within the site, and for services to the proposed site. No overhead services shall remain on the site. If existing utility poles along existing street frontages must be moved to accommodate the proposed improvements, the affected lines must be either undergrounded or a fee in lieu of undergrounding paid per Section 60.65 of the Development Code. (Site Development Div. / KJ)
23. Submit ODOT ADA curb ramp design checklist and standard detail DET1720 and DET1721 showing level of design detail for every public sidewalk ramp proposed with this development. Maximum designed ramp slope shall be 7.5%, maximum designed cross slope, flat landing or turning space shall be 1.5%. Two directional ADA ramps shall be provided at all corners of all intersections, regardless of curb type. See ODOT standard drawings RD754, RD155, RD756, RD757, RD758 and RD759 for ramp details. (Site Development Div. / KJ)

B. Prior to building permit issuance, the applicant shall:

24. Make provisions for installation of all mandated erosion control measures to achieve City inspector approval at least 24 hours prior to call for foundation footing form inspection from the Building Division. (Site Development Div. / KJ)
25. Have a professional architect, engineer, or surveyor submit plans and specifications to the City Engineer and City Building Official verifying that all at-risk elements of the new construction (in particular gate controllers, mechanisms, and electrical system) are either elevated or floodproofed as appropriate per City Code, FEMA requirements, IBC Appendix G (Flood-resistant Construction), and ASCE/SEI 24-05, and as determined by the City Floodplain Administrator and City Building Official. As the floodplain elevations change throughout the site, individual floodplain elevations will be identified on plans. (Site Development Div. / KJ)

C. Prior to final inspection and final occupancy permit, the applicant shall:

26. Obtain the issuance of site development permit revision from the Site Development Division. (Site Development Div. / KJ)
27. Dedicate property along the site's frontage of SW 5th Avenue consistent with the applicant's submitted site plan (see applicant's civil drawing sheet C0.4) to achieve a half-street width of approximately 38.36' to accommodate the necessary roadway and sidewalk improvements along the three-lane collector. (BDC 40.03.1, and 60.55.10 and 30) (Transportation / KM)
28. Dedicate property along the site's frontage to SW Western Avenue consistent with the applicant's submitted site plan (see applicant's civil drawing sheet C0.4) to achieve a half-street width of 36' consistent with the approved plans for the Western Avenue CIP project (see city case file no. PTF2019-0003 et al). (BDC 40.03.1 and 60.55.10) (Transportation / KM)
29. Submit public water easement and dedication of right-of-way, executed and ready for recording when required, to the city. City will require approval of legal description and form prior to execution. (Site Development Div. /KJ)
30. Have the landscaping completely installed or provide for erosion control measures around any disturbed or exposed areas per Clean Water Services standards. (Site Development Div. / KJ)
31. Have substantially completed the site development improvements as determined by the City Engineer. (Site Development Div. / KJ)
32. Have placed underground all affected, applicable existing overhead utilities and any new utility service lines within the project and along any existing street frontage as determined at permit issuance. (Site Development Div. / KJ)
33. Install or replace, to City specifications, all sidewalks which are missing, damaged, deteriorated, or removed by construction. (Site Development Div. / KJ)
34. Have obtained a Source Control Sewage Permit from the Clean Water Services District (CWS) and submitted a copy to the City

Building Official if an Industrial Sewage permit is required, as determined by CWS. (Site Development Div. / KJ)

35. Have a professional architect, engineer, or surveyor submit a certification on Federal Emergency Management Agency (FEMA) standard form, to the City Building Official, verifying that the lowest finished floor is at least one foot above base flood elevation (BFE) 206.0 feet, NAVD-88 and higher or flood-proofed to one foot above the BFE. (Building / KM)

D. Prior to release of performance security, the applicant shall:

36. Have completed the site development improvements and verify that the location and width of proposed rights of way and easements are adequate for the completed infrastructure, per adopted City standards. The project shall meet all outstanding conditions of approval as determined by the City. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div. / KJ)
37. Submit any required easements, executed and ready for recording, to the City. City will require approval of legal description and form prior to execution. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet City standards. (Site Development Div. / KJ)
38. Provide a post-construction cleaning, system maintenance, and any proprietary stormwater treatment system recharge/replacement servicing report per manufacturer's recommendations for the site's proprietary storm water treatment systems by a qualified maintenance provider as determined by the City Engineer. Additional service report will be required per maintenance schedule and until the maintenance and planting period is complete. (Site Development Div. / KJ)
39. A 2-year Maintenance Security will be required at 25 percent of the cost to construct City-owned and maintained public improvements, grading, storm water management facilities, and driveway paving. The security approval by the City consists of a review by the City

Attorney for form and the City Engineer for amount. It will be released 2 years after project acceptance following the correction of any identified defects. (Site Development Div. / KJ)

Motion **CARRIED**, by the following vote:

AYES: Nye, Akkal, Ellis, Glenewinkel, Lawler, Winter.
NAYS: None.
ABSTAIN: None.
ABSENT: McCann.

Dated this 20th day of April, 2023.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 2932 an appeal of this decision should be made to the State of Oregon Land Use Board of Appeals (LUBA) as provided in ORS 197.805 through ORS 197.860. A notice of intent to appeal shall be filed not later than 21 calendar days after notice of decision is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Mailing of notice on April 28, 2023, results in an appeal deadline of May 19, 2023.

PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:

APPROVED:

AARON HARRIS
Senior Planner

JENNIFER NYE
Chair

ANNA SLATINSKY
Planning Division Manager