



MEMORANDUM

City of Beaverton

Community Development Department

To: Interested Parties
From: City of Beaverton Planning Division
Date: May 13, 2019
Subject: Notice of Decision for EXT2019-0002, EXT2019-0004 and EXT2019-0005
158th and Jay Apartments First Time Extension

Please find attached the notice of decision for EXT2019-0002, EXT2019-0004 and EXT2019-0005, 158th and Jay Apartments First Time Extension. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decision for EXT2019-0002, EXT2019-0004 and EXT2019-0005 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:

- The case file number designated by the City.
- The name and signature of each appellant.
- Reference to the written evidence provided to the decision-making authority by the appellant that is contrary to the decision.
- 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.
- 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.
- The appeal fee of \$250.00, as established by resolution of the City Council.

The appeal closing date for EXT2019-0002, EXT2019-0004 and EXT2019-0005 158th and Jay Apartments First Time Extension is 4:30 p.m., May 27, 2019.

The complete case files including findings, conclusions, and conditions of approval, if any, are available for review. The case files may be reviewed at the Beaverton Current Planning Division, Community Development Department, 4th Floor, City Hall, 12725 SW Millikan Way between 7:30 a.m. and 4:30 p.m. Monday through Friday, except holidays. For more information about the case file, please contact Sierra Davis, Associate Planner at (503) 526-2652

NOTICE OF DIRECTOR'S DECISION

DATE: May 13, 2019

TO: All Interested Parties

FROM: Sierra Davis, Associate Planner

PROPOSAL: EXT2019-0002, EXT2019-0004 and EXT2019-0005 158th and Jay Apartments First Time Extension

LOCATION: 1340 SW 160th Avenue
The site is also described as Tax Lots 1000, 1100, 1200 on the Washington County Tax Assessor's Map 1S105CB

SUMMARY: The applicant, Doug Circosta, Architect LLC, is seeking a time extension for a previously approved Design Review Two (DR2017-0043), Tree Plan Two (TP2017-0007) and Replat One (LD2017-0007). The applicant is requesting a time extension due to needing more time to obtain project financing. The approvals for the Design Review, Tree Plan and Replat One would have expired on July 19, 2019. The request for a time extension, if approved, would extend the expiration date of the original approval by two (2) years, to July 19, 2021. No changes to the originally approved application are being proposed.

No changes to the originally approved designs are proposed with this application. All critical facilities required for this development were evaluated during the review of the original applications referenced above. All conditions of approval still apply.

PROPERTY OWNER: Beaverton 158th LLC
8630 SW Scholls Ferry Road, Ste. 188
Beaverton, OR 97005

APPLICANT'S REPRESENTATIVE: Doug Circosta, Architect LLC
14670 SW Forest Drive
Beaverton, OR 97007

DECISION: **APPROVAL of EXT2019-0002, EXT2019-0004 and EXT2019-0005 158th and Jay Apartments First Time Extension**, subject to conditions identified at the end of this report.

Key Application Dates

Application	Submittal Date	Deemed Complete	120-Day*	365-Day**
EXT2019-0002	February 19, 2019	April 3, 2019	August 1, 2019	April 3, 2020
EXT2019-0004	March 12, 2019	April 3, 2019	August 1, 2019	April 3, 2020
EXT2019-0005	March 12, 2019	April 3, 2019	August 1, 2019	April 3, 2020

* Pursuant to Section 50.25.8 of the Beaverton Development Code, the City will reach a final decision on an application within 120 calendar days from the date that the application was determined to be complete or deemed complete unless the applicant agrees to extend the 120 calendar day time line pursuant to subsection 9 or unless State law provides otherwise.

** The total of all extensions may not to exceed 365 calendar days from the date the application was deemed complete. This is the latest date by which a final written decision on the proposal can be made.

Existing Conditions Table

Zoning	Station Community – Multiple Use (SC-MU)	
Current Development	Detached single family homes and a commercial business	
Lot Size	1.78 acres	
NAC	Five Oaks/Triple Creek	
Surrounding Uses	<u>Zoning:</u> North: Station Community – High Density (SC-HDR) / Station Community – Multiple Use (SC-MU) South: Station Community – Multiple Use (SC-MU) East: Unincorporated Washington County West: Station Community – High Density (SC-HDR)	<u>Uses:</u> North: Multifamily / Commercial South: Retail East: Office West: Residential/ Parking Lot

Public Comments Received:

No public comments received.

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**ANALYSIS AND FINDINGS FOR
158th and Jay Apartments First Time Extension
EXT2019-0002, EXT2019-0004 and EXT2019-0005**

Section 50.93 Extension of a Decision

1. *An application to extend the expiration date of a decision made pursuant to the Development 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 Design Review Two (DR2017-0043), Tree Plan Two (TP2017-0007) and Replat One (LD2017-0007) is July 19, 2019. The applications for extension were filed on February 19, 2019 and March 12, 2019.

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 Design Review Two, Tree Plan Two, and Replat One applications, which are not listed in Section 50.93.2 as applications 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 modified in design, use, or conditions of approval.*

Facts and Findings

According to the applicant, “due to economic and construction costs, the owner needed more time to obtain project financing.” The applicant pursued Site Development and Building applications since the land use applications have been approved. The Site Development review is in process, however, the Building applications have expired. Additional time is needed to fully address the financial 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 Station Community – Multiple Use (SC-MU) 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 applications.

The applicant does not propose any changes or modifications to the previously approved project or conditions of approval.

Therefore, staff finds the proposal meets the criterion for approval.

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 Section 50.93 of the Development Code.

Staff has provided findings, and recommended conditions of approval that show how this proposal meets 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, **EXT2019-0002, EXT2019-0004 and EXT2019-0005 158th and Jay Apartments First Time Extension meets all the requirements.**

DECISION

Based on the facts and findings presented, staff **APPROVES EXT2019-0002, EXT2019-0004 and EXT2019-0005 158th and Jay Apartments First Time Extension** subject to the applicable conditions identified in Section B, herein.

**CONDITIONS OF APPROVAL
LEE 2-LOT PARTITION SECOND TIME EXTENSION
EXT2018-0002**

1. All construction shall be carried out in accordance with the plans submitted and approved with Design Review Two (DR2017-0043), Tree Plan Two (TP2017-0007) and Replat One (LD2017-0007). All conditions of approval from the original approval for the 158th and Jay Apartments permit remain in force and must be complied with prior to submittal of the Final Plat application. No changes to the previously approved plans are permitted with this approval. Any changes to the approved plans will require new land use approval. (Planning / SD)
2. This approval will expire July 19, 2021 unless the approvals are enacted through issuance of a full Site Development permit and adequate construction, pursuant to Section 50.90 of the City of Beaverton Development Code. No additional time extensions may be granted for Design Review Two (DR2017-0043), Tree Plan Two (TP2017-0007) and Replat One (LD2017-0007), pursuant to Section 50.93. (Planning / SD)