



MEMORANDUM

City of Beaverton

Community Development Department

To: Interested Parties
From: City of Beaverton Planning Division
Date: December 10, 2020
Subject: Notice of Decision for EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates

Please find attached the Notice of Decision for **EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates**. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decisions for EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates 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 for the application being appealed (please note that if you wish to appeal both time extension applications two separate appeals must be filed, one for each application being appealed).
- 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 EXT2020-0004 and EXT2020-0005, is 5:00 p.m., December 22, 2020.

The complete case files including findings, conclusions, and conditions of approval, are available for review. For more information about the case file, please contact Sierra Peterson, Associate Planner, at speterson@beavertonoregon.gov or (503) 526-2652. *NOTE:* The City of Beaverton has declared a State of Emergency due to COVID-19 and the Community

Development Department offices are closed to the public until further notice, but services are provided by phone, email, and video meeting. The Community Development Department is evaluating temporary changes to processes and procedures to respond appropriately to the COVID-19 State of Emergency and is committed to ensuring that the land use review process continues to fulfill the requirements of state and local law while protecting the health and wellbeing of the community.



STAFF REPORT

DATE: December 10, 2020

TO: All Interested Parties

FROM: Sierra Peterson, Associate Planner

PROPOSAL: EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates

LOCATION: 16165 SW Scholls Ferry Road
The site is also described as Tax Lots 200 on the Washington County Tax Assessor's Map 2S105BB

SUMMARY: The applicant, Pioneer Design Group, requests a time extension of the approval for a Preliminary Subdivision for an 11-lot subdivision and Tree Plan Two to remove community trees. The original decision expired on October 8, 2020 and extension applications were submitted before the expiration date.

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 Preliminary Subdivision application LD2018-0013 and Tree Plan Two TP2018-0003. All conditions of approval still apply.

PROPERTY OWNER/APPLICANT: Brandon Leong
2904 SE 57th Avenue
Portland, OR 97206

DECISION: **APPROVAL of EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates**, subject to conditions identified at the end of this report.

Key Application Dates

<u>Application</u>	<u>Submittal Date</u>	<u>Deemed Complete</u>	<u>120-Day*</u>	<u>365-Day**</u>
EXT2020-0004	September 11, 2020	October 12, 2020	February 9, 2021	October 12, 2021
EXT2020-0005	September 11, 2020	October 12, 2020	February 9, 2021	October 12, 2021

* 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 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	R5 (Urban Standard Density)	
Current Development	This property is currently developed with a single-family house.	
Site Size	Approximately 1.99 acres	
NAC	Neighbors Southwest	
Surrounding Uses	<u>Zoning:</u>	<u>Uses:</u>
	North: R5	North: Single-Family
	South: R2	South: Townhomes
	East: R5	East: Single-Family
	West: R5	West: Elementary School

Exhibits

Exhibit 1. Materials Submitted by Staff

Exhibit 1.1 Zoning and Vicinity Map (page 6 of this report)

Exhibit 2. Materials Submitted by the Applicant

Exhibit 2.1 Submittal Package

Exhibit 3. Public Comments

Exhibit 3.1 Email received from James and Jo-Ann Pierce October 26, 2020

Exhibit 3.2 Email received from Laurie and Spencer Lowery on November 12, 2020

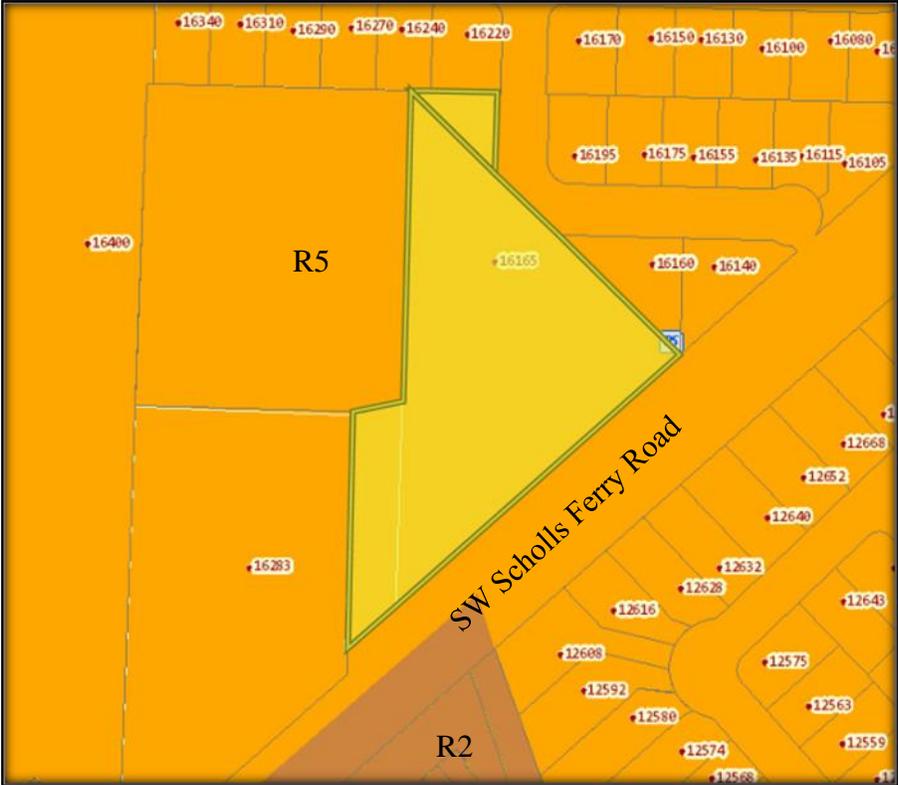
Agency Comment

No agency comments received

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Exhibit 1.1 Zoning and Vicinity Map



Public Comment Summary

Staff received two items of public comment.

Exhibit 3.1:

In an email received from James and Jo-Ann Pierce, neighbors of the property, they shared concerns about the trees that were approved to be removed from the site with the previously approved Tree Plan Two (TP2018-0003). Specifically, the trees on the Scholls Heights Elementary School site.

Staff notes that the trees proposed to be removed are located on the subject property as identified on the project notice. The trees were previously approved for removal with the original 2018 approvals for the Subdivision and Tree Plan. No trees will be removed on the Scholls Heights Elementary School property.

Exhibit 3.2:

In an email received from Laurie and Spencer Lowery, neighbors of the property, they shared that they are concerned regarding the removal of the trees on the property and additional housing units in the area.

Staff notes that the original applications for the 11-lot subdivision (LD2018-0013) and tree removals (TP2018-0003) were approved in 2018. The original approvals are valid for two years or until such time construction has started on the project. Projects approaching their expiration date can request a two-year extension (a total of two time extensions may be granted). The applicant has applied for this time extension application in order to request more time before the approvals expire. This is the first-time extension that the applicant is requesting.

The subject applications are to extend previous approvals for additional time only. The applicant is not requesting a modification to the original approvals or conditions of approval; therefore, there is no additional review as to whether to approve or deny the subdivision and tree removal requests will be done as part of the time extension applications review.

**ANALYSIS AND FINDINGS FOR
EXTENSION OF MOUNTAINSIDE ESTATES SUBDIVISION
EXT2020-0004 and EXT2020-0005**

Section 50.93 Extension of a Decision

1. ***It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.***

Facts and Findings

The applicant seeks two (2) time extensions, EXT2020-0004 for the previously approved 11-Lot Subdivision (LD2018-0013) and EXT2020-0005 for the previously approved Tree Plan Two (TP2020-0003). The approvals for LD2018-0013 and TP2018-0003 were approved on October 8, 2018 and will have expired on October 8, 2020 if the time extensions are not granted. In response to the approval criterion, the applicant states that they are seeking to market the approved development, but to date, has not secured a viable purchaser. Therefore, the applicant is requesting a Two-Year Extension of the approvals.

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

2. ***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.***

Facts and Findings

The applicant states that they are not aware of any change in applicable regulations or statutes that necessitate modification of the decision or conditions of approval. Staff finds that no changes to applicable regulations or statutes have been made that would necessitate a modification of the original decision or conditions of approval.

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

3. ***The previously approved land use decision is not being modified in design, use, or conditions of approval.***

Facts and Findings

The applicant's materials do not propose any changes to design, use, or conditions of approval. All conditions of approval of the original decisions, Preliminary Subdivision (LD2018-0013) and Tree Removal Two (TP2018-0003) remain effective for the proposed development. No modifications are approved with this Time Extension application.

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.

Based on the facts and findings presented, the Director concludes that the proposal, **EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates Subdivision** meets all the requirements.

DECISION

Based on the facts and findings presented, staff **APPROVES EXT2020-0004 and EXT2020-0005 Extension of Mountainside Estates Subdivision** to the applicable conditions identified in Attachment B, herein.

**CONDITIONS OF APPROVAL
EXTENSION OF MOUNTAINSIDE ESTATES SUBDIVISION
EXT2020-0004 AND EXT2020-0005**

EXT2020-0004 (Extension of LD2018-0013)

1. All conditions of approval from the original approval of 11-lot subdivision (LD2018-0013) remain in effect and must be complied with. 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 / SP)

EXT2020-0005 (Extension of TP2018-0003)

1. All conditions of approval from the original approval Tree Plan Two (TP2018-0003) remain in effect and must be complied with. 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 / SP)



PIONEER DESIGN GROUP, INC.

CIVIL LAND USE PLANNING SURVEY

P 503.643.8286 F 844.715.4743 www.pd-grp.com

9020 SW Washington Square Rd Suite 170

Portland, Oregon 97223

September 11, 2020

Received
Planning Division
 09/11/2020

Brianna Addotta, Assistant Planner
 City of Beaverton
 12725 SW Millikan Way
 Beaverton, OR 97076

RE: Request for Extension of Preliminary Approval – Mountside Estates 11-Lot Subdivision (LD2018-0013 & TP2018-0003).

Pioneer Project No.: 343-001

Dear Brianna:

The above reference Preliminary Plat was approved September 26, 2018. On behalf of the applicant's letter requests an extension of the preliminary approval, per Section 50.93.

40.45.15. 5. Preliminary Subdivision.

G. Expiration of a Decision. Refer to Section 50.90. Except where a phasing program is approved under Section 40.45.15.4.C.7., the filing of a Final Land Division application in accordance with Section 40.45.15.7. shall occur within two (2) years of the date of Preliminary Subdivision approval. For a phased project, the total time period for the filing of a final plat, shall not exceed five (5) years from the date of the City's final Preliminary Subdivision Approval decision. After five (5) years, unless otherwise vested, the preliminary approval shall expire. [ORD 4265; October 2003] [ORD 4487; August 2008]

RESPONSE: The Mountside Estates 11-Lot Subdivision (LD2018-0013 & TP2018-0003) was approved September 26, 2018. The preliminary approval expires September 26, 2020.

The applicant is seeking to market the approved development, but to date, has not secured a viable purchaser. Therefore the applicant is requesting a Two-Year Extension of the Preliminary approval.

H. Extension of a Decision. Refer to Section 50.93

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). [ORD 4584; June 2012]

RESPONSE: The Mountside Estates 11-Lot Subdivision (LD2018-0013 & TP2018-0003) was approved September 26, 2018. The preliminary approval expires September 26, 2020.

This application for extension has been filed prior to the expiration date of the Preliminary approval.

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. [ORD 4544; July 2010]

RESPONSE: The requested extension is for a Preliminary Subdivision approval, which is not one of the types of decisions listed as not subject to extensions.

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

RESPONSE: The applicant is requesting an Extension for 2-Years.

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. [ORD 4544; July 2010]

RESPONSE: Compliance with the approval criteria is addressed herein.

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. [ORD 4544; July 2010]

RESPONSE: The applicant will provide the required mailed public notice, per this criterion.

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: [ORD 4365; October 2005]

A. It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.

RESPONSE: The applicant has been marketing the approved development, but has yet to secure a via purchaser.

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.

RESPONSE: To the applicant's knowledge here has been no change in circumstances or the applicable regulations or Statutes, which would necessitate modification of the decision or conditions of approval since the effective date of the decision.

C. The previously approved land use decision is not being modified in design, use, or conditions of approval. [ORD 4483; June 2008]

RESPONSE: The applicant is not requesting any modifications to the approved Preliminary Plans.

CONCLUSION: Based on the Responses to the Code provisions presented herein, the applicant has demonstrated compliance with the applicable approval criteria.

Sincerely,
Pioneer Design Group, Inc.

Ben Altman
Senior Planner

Attached: Notice of Decision- LD2018-0013 & TP2018-0003
Approved Preliminary Plans

Sierra Peterson

From: James Pierce <wizardpcb@comcast.net>
Sent: Wednesday, October 21, 2020 5:21 PM
To: Sierra Peterson
Cc: joannp612@comcast.net
Subject: Mountinside Estates EXT2020-0004 and EXT2020-0005

Sierra,

My name is James Pierce and I live at 16270 SW Loon Drive. The recent notice we received today is requiring an extension on the 11 lot sub division behind our home. This also speaks to the plan to remove trees, both in the subdivision and community trees.

What I would like to request is a map of trees designated for removal. The issue is that with the removal of these trees for the sub division, it leaves a very few to handle any type of wind storm and makes our house, along with others, susceptible to damage from the remaining trees. These trees are not on any of the Loon Drive properties, but on Scholls Heights Elementary School property. Would it be possible for these to be removed if not already flagged too be removed.

Looking forward to your reply. Thank you.

James & Jo-Ann Pierce
16270 SW Loon Drive
Beaverton OR, 97007
503-746-6741 Home

Sierra Peterson

From: LowerRDH <loweryrdh@gmail.com>
Sent: Thursday, November 12, 2020 3:44 PM
To: Sierra Peterson
Subject: Extension of Mountainside Estates

Follow Up Flag: Follow up
Flag Status: Flagged

To whom it may concern,

Thank you for taking the time to read our thoughts in this matter. It won't be eloquent or long winded, just how we feel as homeowners.

We moved our family across the country 2 years ago to assist my aging parents. It was a difficult move with 3 children but an easy decision. Moving to more of a city life was an adjustment, but we found a sweet little spot we could afford near my folks. The small yard was made up for by the beautiful trees on the property just behind us. We have birds and squirrels, even owls hooting at night. Good neighbors and traffic only before and after school. What a blessing.

There is traffic EVERYWHERE we go in this area. Please do not remove the peace in our neighborhood by destroying the natural area and shoving more homes in where they won't fit. The worst of this is the homeowner who will be forced to leave his property. Please reconsider.

Thank you,
Laurie and Spencer Lowery
16220 SW Loon Dr
Beaverton, Or
Extension of Mountainside Estates
Case File # EXT2020-0004 and EXT2020-0005

Sent from my iPhone