

## NOTICE OF DIRECTOR'S DECISION

**Date:** December 15, 2021

**Application/project name:** 158th and Jay Apartments Second Time Extension

**Application Numbers:** EXT2021-0006 / EXT2021-0007 / EXT2021-0008

**Proposal:** The applicant, Beaverton 158th, LLC, is seeking a time extension for the previously approved Design Review Two (DR2017-0043), Tree Plan Two (TP2017-0007) and Replat One (LD2017-0007). These applications have received one previous time extension which extended the expiration date to July 19, 2021. This request for a second time extension, if approved, would extend the expiration date of the original approval by an additional two (2) years, to July 19, 2023. If approved, this would be the second and final time extension request. Staff also notes that the applicant is eligible for the additional COVID expiration tolling provision found in Section 50.90.5 of the Development Code. No changes to the originally approved application are being proposed. All critical facilities required for this development were evaluated during the review of the original applications referenced above. All conditions of approval still apply.



**Proposal location:** The site is located east of SW 160<sup>th</sup> Avenue, west of SW 158<sup>th</sup> Avenue and north of SW Jay Street, at 1340 SW 160<sup>th</sup> Avenue, also described as Tax Lots 1000, 1100, and 1200 of Washington County's Tax Assessors Tax Map 1S105CB. The site is zoned Station Community—Multiple Use District (SC-MU) and is within the boundaries of the Five Oaks/Triple Creek NAC.

**Applicant:** Beaverton 158<sup>th</sup>, LLC

**Recommendation:** APPROVAL of EXT2021-0006 / EXT2021-0007 / EXT2021-0008 subject to conditions identified at the end of this report.

**Contact information:**

City staff representative: Elena Sasin, Associate Planner  
503-278-1482  
esasin@BeavertonOregon.gov

Property owner/  
Applicant: Beaverton 158<sup>th</sup>, LLC  
Attn.: Xin Yuan  
8630 SW Scholls Ferry Road #188  
Beaverton, OR 97008

## Existing conditions

**Zoning:** Station Community – Multiple Use (SC-MU)

**Site conditions:** Vacant

**Site Size:** 1S105CB01200 is 0.80 acres, 1S105CB01100 is 0.34 acres and 1S105CB01000 is 0.64 acres.

**Location:** East of SW 160<sup>th</sup> Avenue, west of SW 158<sup>th</sup> Avenue and north of SW Jay Street, at 1340 SW 160<sup>th</sup> Avenue, also described as Tax Lots 1000, 1100, and 1200 of Washington County’s Tax Assessors Tax Map 1S105CB.

**Neighborhood Association Committee:** Five Oaks / Triple Creek NAC

**Table 1: Surrounding uses**

Direction	Zoning	Uses
North	Station Community – High Density (SC-HDR) and Station Community – Multiple Use (SC-MU)	Multifamily and Commercial
South	Station Community – Multiple Use (SC-MU)	Commercial
East:	Unincorporated Washington County	Office
West:	Station Community – High Density (SC-HDR)	Residential

## Application information

**Table 2: Application summaries**

Application	Application type	Proposal summary	Approval criteria location
EXT2021-0006	Time Extension	Second Time Extension (DR2017-0043)	Development Code Section 50.93
EXT2021-0007	Time Extension	Second Time Extension (TP2017-0007)	Development Code Section 50.93

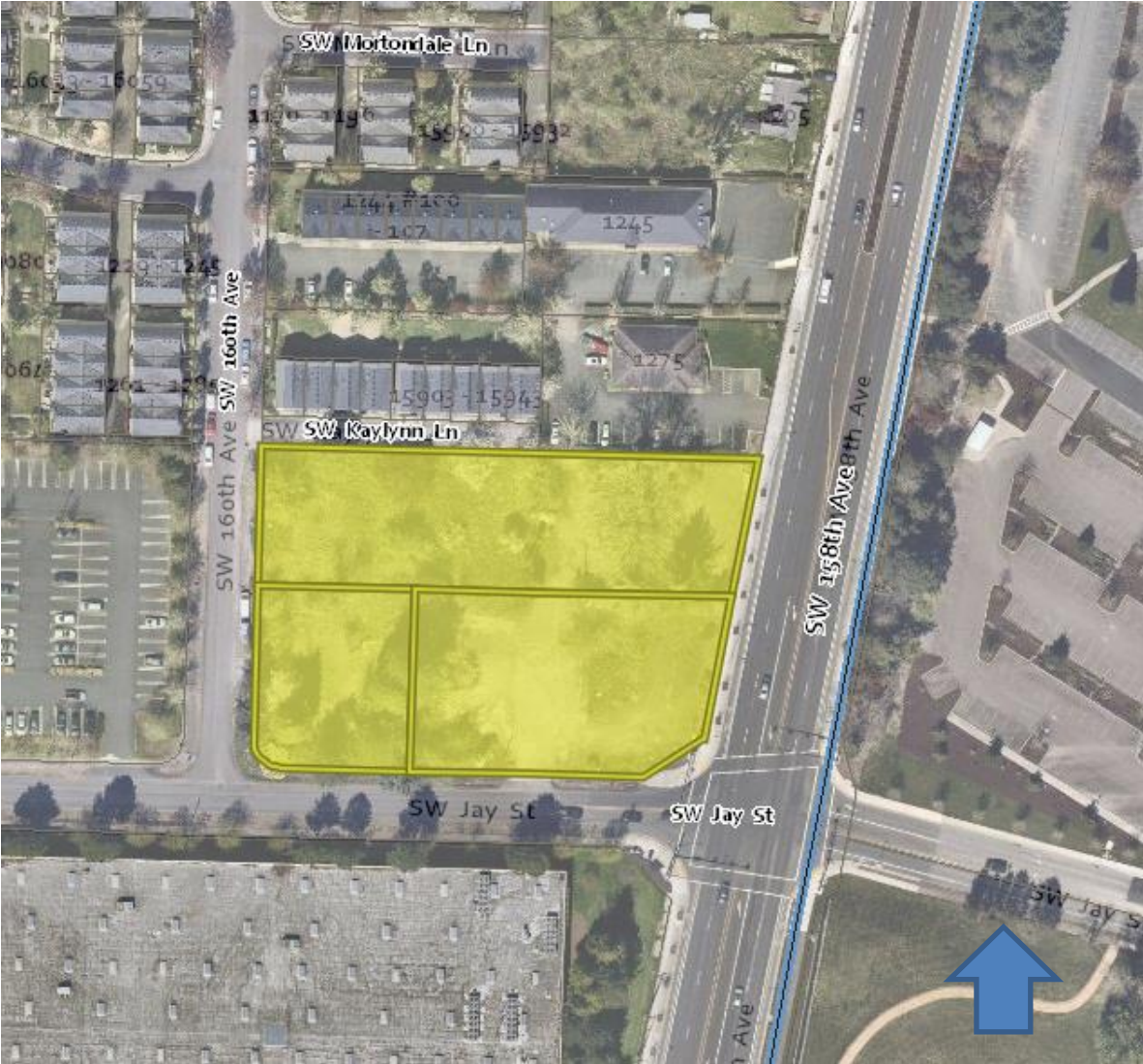
Application	Application type	Proposal summary	Approval criteria location
EXT2021-0008	Time Extension	First Time Extension (LD2017-0007)	Development Code Section 50.93

**Table 3: Key Application Dates**

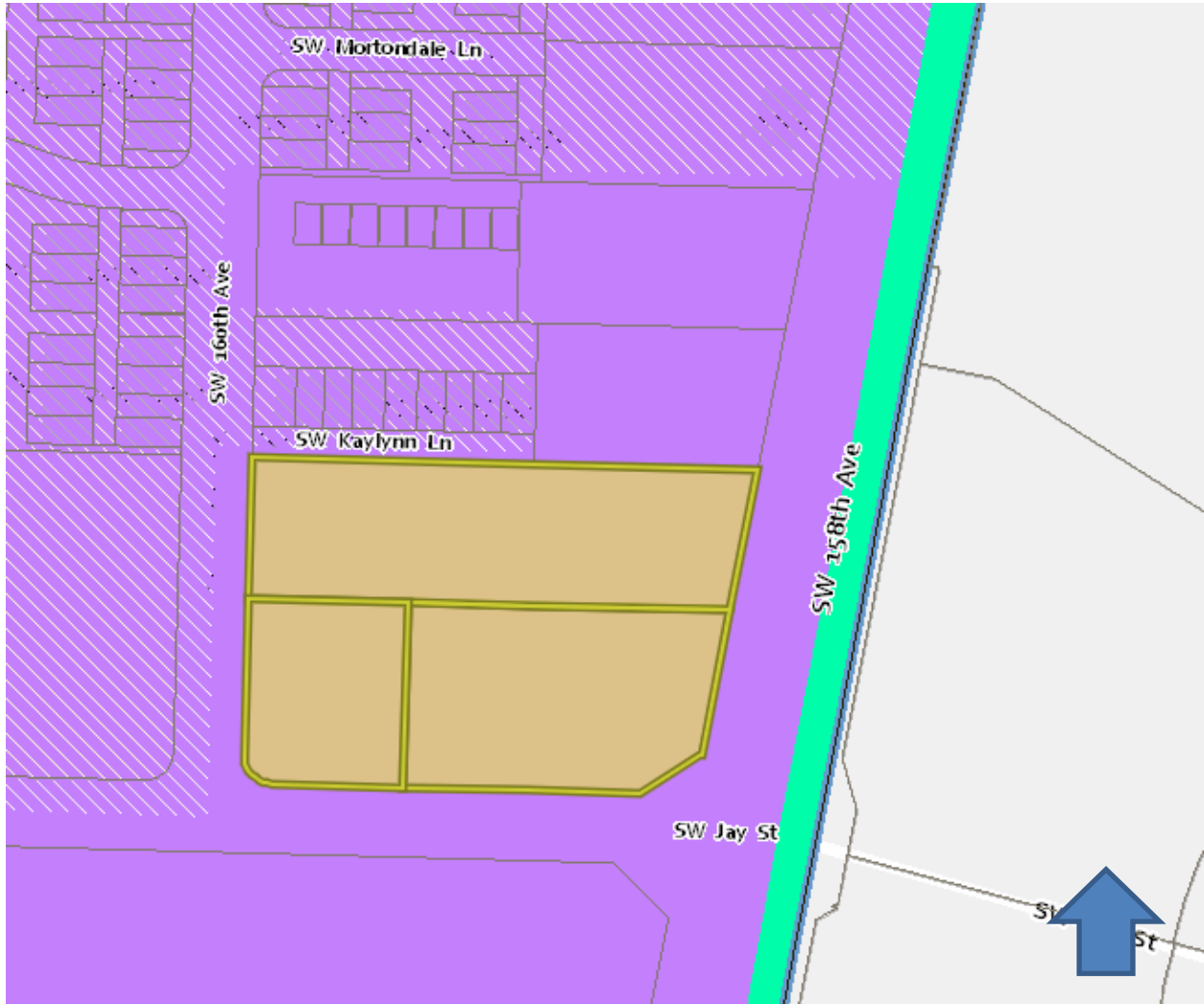
Application	Submittal Date	Deemed Complete	120-Day	365-Day*
EXT2021-0006	June 11, 2021	Oct. 26, 2021	Feb. 23, 2021	Oct. 26, 2022
EXT2021-0007	June 11, 2021	Oct. 26, 2021	Feb. 23, 2021	Oct. 26, 2022
EXT2021-0008	June 11, 2021	Oct. 26, 2021	Feb. 23, 2021	Oct. 26, 2022

\* 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.

**Exhibit 1.1: Vicinity Map**



## Exhibit 1.2: Zoning Map



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## Exhibits

- Exhibit 1. Materials submitted by Staff
  - Exhibit 1.1 Vicinity Map (page 3 of this report)
  - Exhibit 1.2 Zoning Map (page 4 of this report)
- Exhibit 2. Materials submitted by the Applicant
  - Exhibit 2.1 Submittal Package
- Exhibit 3. Public Comment
  - No public comments received.

# Attachment A: EXTENSION OF A DECISION EXT2021-0006

## ANALYSIS AND FINDINGS FOR EXTENSION OF A DECISION APPROVAL

**Application:** 158<sup>th</sup> and Jay Apartments Second Time Extension

**Recommendation:** APPROVAL of EXT2021-0006

**Finding:** The Director finds the applicable Time Extension approval criteria have been met subject to the conditions identified at the end of the report.

### Section 50.93 Extension of a Decision

#### Section 50.93.1

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).

#### Finding:

The expiration date of the 158<sup>th</sup> and Jay Street Apartments DR2017-0043 is July 19, 2021. The application for extension was filed on June 11, 2021, prior to the expiration of the decision. This is the second time extension request for 158<sup>th</sup> and Jay Street Apartments.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

#### Section 50.93.2

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.

#### FINDINGS:

The applicant's requested time extension is for a Design Review Two application. This application is not listed in Section 50.93.2 as an application not subject to extensions of time.



**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.3**

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

#### **FINDINGS:**

This is the second time extension request for DR2017-0043. No other time extensions will be granted for this application.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.4**

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.

#### **FINDINGS:**

This is the second 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.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.5**

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.

#### **FINDINGS:**

Public notice for this time extension was mailed to the following: the applicant/property owner, Five Oaks/Triple Creek NAC Chair, all property owners within a three-hundred-foot radius of the subject site (in accordance with Section 50.40), Washington County Department of Land Use and Transportation, Chairs of CPO 6 and CPO 1, and all parties who submitted written testimony for the previously approved 158<sup>th</sup> and Jay Street Apartments project.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

## Section 50.93.6

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.

### FINDINGS:

The applicant states that due to reasons associated with COVID-19 pandemic, they have not been able to move the project forward. Specifically, the applicant refers to government closures, consulting engineering firms dealing with staffing shortages, working from home mainly, general contractors with increasing material costs and banks and institutional lenders suspending lending for 6 months as unforeseen factors that contributed to the delay that are outside the applicant's control.

Staff concurs that the COVID-19 pandemic and subsequent recession, construction delays, and cost increases show it was not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.

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 approval 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.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval the criterion is met.

## CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, the Director Approves EXT2021-0006 158<sup>th</sup> and Jay Apartments Second Time Extension, subject to the applicable conditions identified in Attachment D.

# Attachment B: EXTENSION OF A DECISION EXT2021-0007

## ANALYSIS AND FINDINGS FOR EXTENSION OF A DECISION APPROVAL

**Application:** 158<sup>th</sup> and Jay Apartments Second Time Extension

**Recommendation:** APPROVAL of EXT2021-0007

**Finding:** The Director finds the applicable Time Extension approval criteria have been met subject to the conditions identified at the end of the report.

### Section 50.93 Extension of a Decision

#### Section 50.93.1

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).

#### Finding:

The expiration date of the 158<sup>th</sup> and Jay Street Apartments TP2017-0007 is July 19, 2021. The application for extension was filed on June 11, 2021, prior to the expiration of the decision. This is the second time extension request for 158<sup>th</sup> and Jay Street Apartments.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

#### Section 50.93.2

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.

#### FINDINGS:

The applicant's requested time extension is for a Tree Plan Two application. This application is not listed in Section 50.93.2 as an application not subject to extensions of time.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.3**

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

#### **FINDINGS:**

This is the second time extension request for TP2017-0007. No other time extensions will be granted for this application.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.4**

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.

#### **FINDINGS:**

This is the second 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.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.5**

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.

#### **FINDINGS:**

Public notice for this time extension was mailed to the following: the applicant/property owner, Five Oaks/Triple Creek NAC Chair, all property owners within a three-hundred-foot radius of the subject site (in accordance with Section 50.40), Washington County Department of Land Use and Transportation, Chairs of CPO 6 and CPO 1, and all parties who submitted written testimony for the previously approved 158<sup>th</sup> and Jay Street Apartments project.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

## Section 50.93.6

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.

### FINDINGS:

The applicant states that due to reasons associated with COVID-19 pandemic, they have not been able to move the project forward. Specifically, the applicant refers to government closures, consulting engineering firms dealing with staffing shortages, working from home mainly, general contractors with increasing material costs and banks and institutional lenders suspending lending for 6 months as unforeseen factors that contributed to the delay that are outside the applicant's control.

Staff concurs that the COVID-19 pandemic and subsequent recession, construction delays, and cost increases show it was not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.

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 approval 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.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval the criterion is met.

## CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, the Director Approves EXT2021-0007 158<sup>th</sup> and Jay Apartments Second Time Extension, subject to the applicable conditions identified in Attachment D.

# Attachment C: EXTENSION OF A DECISION EXT2021-0008

## ANALYSIS AND FINDINGS FOR EXTENSION OF A DECISION APPROVAL

**Application:** 158<sup>th</sup> and Jay Apartments Second Time Extension

**Recommendation:** APPROVAL of EXT2021-0008

**Finding:** The Director finds the applicable Time Extension approval criteria have been met subject to the conditions identified at the end of the report.

### Section 50.93 Extension of a Decision

#### Section 50.93.1

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).

#### Finding:

The expiration date of the 158<sup>th</sup> and Jay Street Apartments LD2017-0007 is July 19, 2021. The application for extension was filed on June 11, 2021, prior to the expiration of the decision. This is the second time extension request for 158<sup>th</sup> and Jay Street Apartments.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

#### Section 50.93.2

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.

#### FINDINGS:

The applicant's requested time extension is for a Replat One application. This application is not listed in Section 50.93.2 as an application not subject to extensions of time.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.3**

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

#### **FINDINGS:**

This is the second time extension request for LD2017-0007. No other time extensions will be granted for this application.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.4**

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.

#### **FINDINGS:**

This is the second 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.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

### **Section 50.93.5**

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.

#### **FINDINGS:**

Public notice for this time extension was mailed to the following: the applicant/property owner, Five Oaks/Triple Creek NAC Chair, all property owners within a three-hundred-foot radius of the subject site (in accordance with Section 50.40), Washington County Department of Land Use and Transportation, Chairs of CPO 6 and CPO 1, and all parties who submitted written testimony for the previously approved 158<sup>th</sup> and Jay Street Apartments project.

**Conclusion:** Therefore, the Committee finds that the criterion is met.

## Section 50.93.6

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.

### FINDINGS:

The applicant states that due to reasons associated with COVID-19 pandemic, they have not been able to move the project forward. Specifically, the applicant refers to government closures, consulting engineering firms dealing with staffing shortages, working from home mainly, general contractors with increasing material costs and banks and institutional lenders suspending lending for 6 months as unforeseen factors that contributed to the delay that are outside the applicant's control.

Staff concurs that the COVID-19 pandemic and subsequent recession, construction delays, and cost increases show it was not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.

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 approval 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.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval the criterion is met.

## CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, the Director Approves EXT2021-0008 158<sup>th</sup> and Jay Apartments Second Time Extension, subject to the applicable conditions identified in Attachment D.



## **Attachment D: CONDITIONS OF APPROVAL**

### **Extension of a Decision (EXT2021-0006)**

#### A. General Conditions:

1. All construction shall be carried out in accordance with the plans submitted and approved with the 158<sup>th</sup> and Jay Street Apartments project (DR2017-0043). All conditions of approval from the original approval for 158<sup>th</sup> and Jay Street Apartments remain in force 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 / ES)
2. This approval will expire July 19, 2023 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. (Planning / ES)

### **Extension of a Decision (EXT2021-0007)**

#### A. General Conditions:

1. All construction shall be carried out in accordance with the plans submitted and approved with the 158<sup>th</sup> and Jay Street Apartments project (TP2017-0007). All conditions of approval from the original approval for 158<sup>th</sup> and Jay Street Apartments remain in force 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 / ES)
2. This approval will expire July 19, 2023 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. (Planning / ES)

### **Extension of a Decision (EXT2021-0008)**

#### A. General Conditions:

1. All construction shall be carried out in accordance with the plans submitted and approved with the 158<sup>th</sup> and Jay Street Apartments project (LD2017-0007). All conditions of approval from the original approval for 158<sup>th</sup> and Jay Street Apartments remain in force 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 / ES)
2. This approval will expire July 19, 2023 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. (Planning / ES)