

## NOTICE OF DIRECTOR'S DECISION

**Date:** December 12, 2022

**Application/project name:** Little Flowers Daycare Time Extension

**Application Numbers:** EXT2022-0001 / EXT2022-0002

**Proposal:** The applicant, Stewart Straus on behalf of Little Flowers Childcare Learning Center, is seeking time extensions for the decisions of previously approved Conditional Use Permit (CU2018-0013), and Design Review Two (DR2018-0081). This is the first time extension request for the project. If approved, the time extensions would extend the expiration date for the Conditional Use Permit and Design Review Two applications to November 6, 2024. No changes to the originally approved applications 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 at 985 NW 158<sup>th</sup> Avenue, Tax Lot 00100 of Washington County Assessor's Map 1N132CB. The site is zoned Residential Mixed A (RMA) and is in the Five Oaks/Triple Creek Neighborhood Association Committee area.

**Applicant:** Little Flower Childcare Learning Center

**Recommendation:** APPROVAL of EXT2022-0001 / EXT2022-0002 subject to conditions identified at the end of this report.

### Contact information:

City staff representative:	Josef Judy, Assistant Planner 503-350-3638 jjudy@BeavertonOregon.gov
Property owner/ Applicant:	Little Flower Childcare Learning Center Attn.: Savani Jayasunya 640 NW Willow Glen Place Beaverton, OR 97006
Applicant Representative:	Stewart Gordon Straus 3800 SW Cedar Hills Blvd Suite 226 Beaverton OR 9700

## Existing conditions

**Zoning:** RMA – Residential Mixed A

**Site conditions:** Existing structure is used as a family day care facility.

**Site Size:** 1N132CB00100 is 0.49 acres.

**Location:** South of NW Waterhouse Avenue, North of NW Blueridge, Dr, at 985 NW 158<sup>th</sup> Avenue, also described as Tax Lot 00100 of Washington County’s Tax Assessors Tax Map 1N132CB.

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

**Table 1: Surrounding uses**

Direction	Zoning	Uses
North	Residential Mixed A (RMA)	Residential Multifamily
South	Residential Mixed A (RMA)	Residential Multifamily
East:	Office Industrial	Office
West:	Residential Mixed B (RMB)	Residential

## Application information

**Table 2: Application summaries**

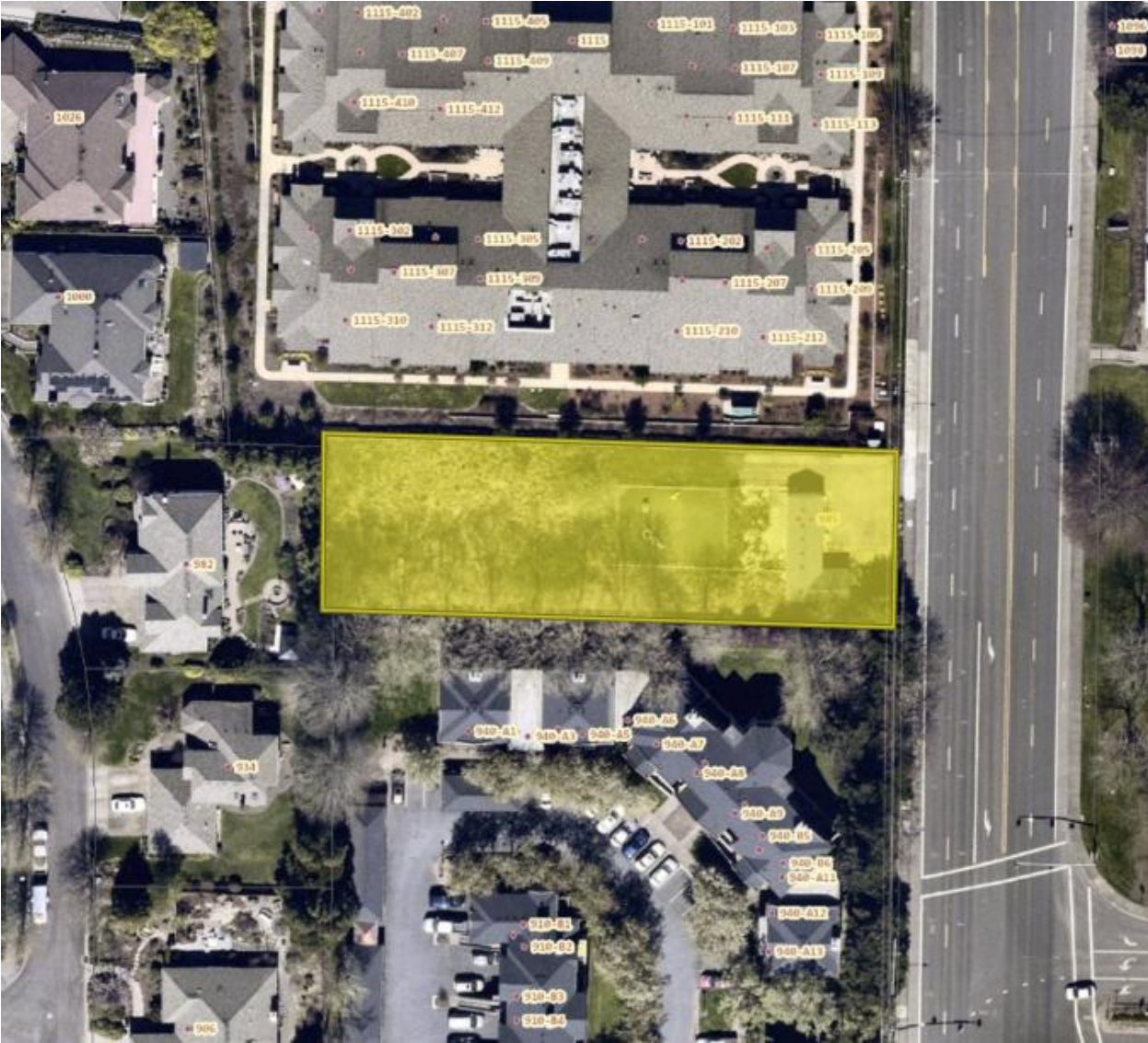
Application	Application type	Proposal summary	Approval criteria location
EXT2022-0001	Time Extension	First Time Extension (CU2018-0013)	Development Code Section 50.93
EXT2022-0002	Time Extension	First Time Extension (DR2018-0081)	Development Code Section 50.93

**Table 3: Key Application Dates**

Application	Submittal Date	Deemed Complete	120-Day	365-Day*
EXT2022-0001	September 26, 2022	Oct. 21, 2022	Feb. 18, 2021	Oct. 21, 2023
EXT2022-0002	September 26, 2022	Oct. 21, 2022	Feb. 18, 2021	Oct. 21, 2023

\* 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 4 of this report)
  - Exhibit 1.2 Zoning Map (page 5 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 EXT2022-0001

## ANALYSIS AND FINDINGS FOR EXTENSION OF A DECISION APPROVAL

**Application:** Little Flowers Daycare Time Extension

**Recommendation:** APPROVAL of EXT2022-0001

**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 Little Flowers Daycare Conditional Use Permit (CU2018-0013) was November 6, 2022. The application for extension was filed on September 26, 2022, prior to the expiration of the decision. This is the first time extension request for Little Flowers Daycare.

**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 Conditional Use Permit 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 first time extension request for CU2018-0013.

**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 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.

**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 7, and all parties of record in the original land use decision.

**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 the existing Little Flowers Learning Center was required to be shut down, impacting the applicant's ability to secure financing. The building permit had been applied for in December 2018 and was progressing, but closure of the business precluded payment of fees. Increases in construction costs due to the COVID-19 pandemic have also impacted the ability to move forward.

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. While the property has been rezoned from R2 to RMA pursuant to Ordinance No. 4822, these regulations do not necessitate a new review of the previously approved application. Additionally, no other regulations have come into effect by the City's partner agencies which would necessitate a new review of the previously approved application.

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 EXT2022-0001 Little Flowers Daycare Time Extension, subject to the applicable conditions identified in Attachment D.

# Attachment B: EXTENSION OF A DECISION EXT2022-0002

## ANALYSIS AND FINDINGS FOR EXTENSION OF A DECISION APPROVAL

**Application:** Little Flowers Daycare Time Extension

**Recommendation:** APPROVAL of EXT2022-0002

**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 Little Flowers Daycare Conditional Use Permit (DR2018-0081) was November 6, 2022. The application for extension was filed on September 26, 2022, prior to the expiration of the decision. This is the first time extension request for Little Flowers Daycare.

**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 Conditional Use Permit 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 first time extension request for DR2018-0081.

**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 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.

**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 7, and all parties of record in the original land use decision.

**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 the existing Little Flowers Learning Center was required to be shut down, impacting the applicant's ability to secure financing. The building permit had been applied for in December 2018 and was progressing, but closure of the business precluded payment of fees. Increases in construction costs due to the COVID-19 pandemic have also impacted the ability to move forward.

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. While the property has been rezoned from R2 to RMA pursuant to Ordinance No. 4822, these regulations do not necessitate a new review of the previously approved application. Additionally, no other regulations have come into effect by the City's partner agencies which would necessitate a new review of the previously approved application.

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 EXT2022-0002 Little Flowers Daycare Time Extension, subject to the applicable conditions identified in Attachment D

## **Attachment C: CONDITIONS OF APPROVAL**

### **Extension of a Decision (EXT2022-0001)**

#### A. General Conditions:

1. All construction shall be carried out in accordance with the plans submitted and approved with the Little Flowers Daycare project (CU2018-0013). All conditions of approval from the original approval for Little Flowers Daycare 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 / JJ)
2. This approval will expire November 6, 2024 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 / JJ)

### **Extension of a Decision (EXT2022-0002)**

#### A. General Conditions:

1. All construction shall be carried out in accordance with the plans submitted and approved with the Little Flowers Daycare project (DR2022-0081). All conditions of approval from the original approval for Little Flowers Daycare 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 / JJ)
2. This approval will expire November 6, 2024 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 / JJ)