

NOTICE OF DECISION

PLANNING DIVISION
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ADMINISTRATIVE DECISION FOR CLASS 1 TIME EXTENSION

CASE NO.: SPR-ADJ-DAP-DR22-17EXT1
AMANDA NO.: 24- 108772-PLN
DATE OF DECISION: May 7, 2024
LOCATION: 4700 Block Battle Creek Road SE, Salem OR 97302
APPLICANT: Brandie Dalton, Multi-Tech Engineering

REQUEST

A Class 1 Extension to extend the approval for a Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit and Class 1 Design Review Case No. SPR-ADJ-DAP-DR22-17) by two years.

The subject property is approximately 12.87 acres in size, zoned RM-II (Multiple Family Residential-II) and located in the 4700 Block of Battle Creek Road SE (Marion County Assessor map and tax lot number(s): 083W11D / 00601).

BACKGROUND

On May 19, 2022, the Planning Administrator approved with conditions a Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review, SPR-ADJ-DAP-DR22-17. On April 25, 2024, the applicant submitted a request to extend the approval of the Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach and Class 1 Design Review for a period of two years. The Class 3 Site Plan Review approval shall remain valid until June 4, 2026.

FINDINGS

1. Approval for the Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review was granted on May 19, 2022. Pursuant to Salem Revised Code (SRC Chapter 300), all approvals of land use actions shall expire automatically unless development has commenced, or a time extension has been granted. Where the decision involves work for which a building permit is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a building permit has been issued. Unless otherwise extended, the approval of the land use action shall automatically expire if the approval has expired as set forth in Table 300-3, and all required building permits issued for the land use action have expired.

Development permits have been received and issued for multifamily apartments, so development has commenced for this project. As the permits have yet to be finalized, the applicant has requested a two-year extension, which would extend the expiration period to June 4, 2026.

2. Under the City's Unified Development Code, extension requests are classified under one of the following two classes:

- **Class 1 Extension.** A Class 1 Extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application; or
- **Class 2 Extension.** A Class 2 Extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

Because there have not been changes to the standards and criteria used to approve the original application, this extension request is classified as a Class 1 Extension.

3. Summary of Record

The following items are submitted to the record and are available: 1) All materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports; and 2) Any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public.

All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 24 108772.

4. Class 1 Time Extension Approval Criteria

SRC 300.850(b)(4)(A) establishes the following approval criterion which must be met in order for a Class 1 Time Extension to be approved:

A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.

Finding: The original application for a Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit and Class 1 Design Review was submitted on October 27, 2021, and reviewed for compliance with approval criteria set forth in SRC Chapter 220, 250, 804, and 225. Only the Class 2 Adjustment, Class 2 Driveway Approach Permit and Class 1 Design Review are being extended at this time.

SRC Chapter 804, was changed as part of amendments in December 2022 (Ordinance No. 22-22). The development code revisions were not intended to invalidate existing land use decisions that were approved under prior code standards or preclude such previously approved land use decisions from being extended when there is time remaining under their original approval. To that end, the adopted ordinances includes the following requirement for the review of extension requests of land use applications.

Engrossed Ordinance Bill No 11-22, Section 3, provides that land use applications submitted and/or approved prior to the effective date of the ordinance that would require a Class 2 extension approval as a result of changes to standards or criteria included in this ordinance

or Engrossed Ordinance 22-22 may, notwithstanding the applicability and approval criteria for Class 2 extensions included under SRC 300.850(b)(2)(B) and SRC 300.850(b)(4)(B), receive Class 1 extension approval provided the decision has not expired and there are remaining extensions available. Therefore, a Class 1 Extension is applicable.

Because SPR-ADJ-DAP-DR22-17 was approved on May 19, 2022 prior to the effective date of either ordinance, the decision has not expired; and because this is the first extension request for the Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review where, pursuant to SRC 300.850(b) - Table 300-3, up to a maximum of two two-year extensions are allowed, the requested extension meets the requirements of Section 4 of Ordinance Bill No. 11-22 and may be approved notwithstanding SRC 300.850(b)(4)(B). The applicant is requesting one two-year extension, which would extend the expiration date to June 4, 2026. This approval criterion is met.

DECISION

Based on the requirements of SRC 300.850(b)(4)(A), the proposed Class 1 Extension complies with the requirements for an affirmative decision. The Class 1 Extension to extend the approval of the Class 2 Adjustment, Class 2 Driveway Approach Permit and Class 1 Design Review, which is a part of a consolidated application (SPR-ADJ-DAP-DR22-17), is hereby APPROVED.

The extension shall be valid through June 4, 2026.



Olivia Dias, Current Planning Manager,
on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

cc: Alan Kessler, GIS