



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

MEMORANDUM

TO: Board of County Commissioners
Gary Schmidt, County Administrator

FROM: Jennifer Hughes, Planning Director

DATE: April 14, 2021

RE: Waiver of Zoning and Development Ordinance Standards for Permit Implementation Deadlines

Attached is an email requesting an extension of the approval period for a conditional use permit for an expansion to the Ever Fresh Fruit Company's processing facility in the Boring area. The extension request is based on impacts of the COVID-19 pandemic on company operations.

The permit was approved in 2014 with a five-year time limit for implementation (i.e. obtaining all of the necessary permits for the approved development). As allowed by the Zoning and Development Ordinance (ZDO), a two-year time extension was granted in 2019. The ZDO does not permit any further extensions, meaning that a new conditional use application would be required in order to complete the expansion.

If the Board is interested in granting an extension in this case, and in others that may arise for similar reasons, you may wish to amend the COVID-19 emergency declaration to provide that authority. Currently (and extending through the remainder of 2021) the emergency declaration allows the waiver of ZDO provisions for commercial, industrial and institutional uses to authorize temporary uses or temporary modifications to existing developments to facilitate social distancing and other requirements of the Governor's COVID-19 related executive orders. The Board has granted several such waivers; time extension requests could be handled in the same way.

As related to the Ever Fresh Fruit Company request, the emergency declaration would first need to be amended, and then the Board could consider the extension request at a future Issues session.

From: [John Logan](#)
To: [Hughes, Jennifer](#)
Subject: Case File No. Z0439-14-C
Date: Wednesday, April 7, 2021 1:40:05 PM
Attachments: [RE Case File No. Z0439-14-C.msg](#)

Warning: External email. Be cautious opening attachments and links.

Jennifer,

Case File No. Z0439-14-C

Original approval date, April 15, 2019. Extended to April 15, 2021, on May 23, 2019.

COVID-19 has presented challenges to Ever Fresh's expansion efforts. I am writing to you to inquire about whether a supplemental extension would be considered based upon COVID-19 impacts.

In the spring of 2020, due to uncertain economic times, Ever Fresh looked into less expensive options to the approved plant expansion (mentioned above) only to come up empty. The less expensive options would not have fixed our long-term plans. As you can imagine, this burned a lot of valuable time on our side that was needed to get the building plans done in time and get the plans into the county with the ample review timeframe to complete the project. In addition to running out of time as previously mentioned, Ever Fresh didn't feel comfortable that we would weather the COVID-19 storm until late 2020.

This time last year our revenue declined as suppliers and buyers dealt with uncertain circumstances and fluctuating markets. In an abundance of caution for our bottom line and to ensure our ability to sustain 100 plus local staff and employees, we determined commencing our project during a pandemic was not advisable. As we collectively move beyond the past year's challenges, we have retained all our employees and our financial outlook has rebounded. We are hopeful some leniency can be granted regarding our permit, which will allow us to create additional local jobs and help our community thrive again.

Many deadlines in all areas of life are being extended for periods or dates uncertain due to the uncertainty of the pandemic world we live in. I know that Rick's and Clay's cut and dried answers in the email attached are according to code. We respectfully request that the County considers the unprecedented economic uncertainty of the current pandemic world and entertain our request for an extension of time.

With all that the last year has brought, this email is an effort to avoid the timely process on Ever Fresh's and Clackamas County's staff of reapplying. With a two-year extension, ideally, we could be to permitting by the end of 2022.

Thank you for your consideration.

John Logan
Chief Financial Officer
Ever Fresh Fruit Company
SQF Food Safety Code Certified

35855 SE Kelso Road
Boring, Or 97009
503-668-8026, Ext. 226
Direct: 503-218-4511

www.everfreshfruit.com



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