



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

# NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

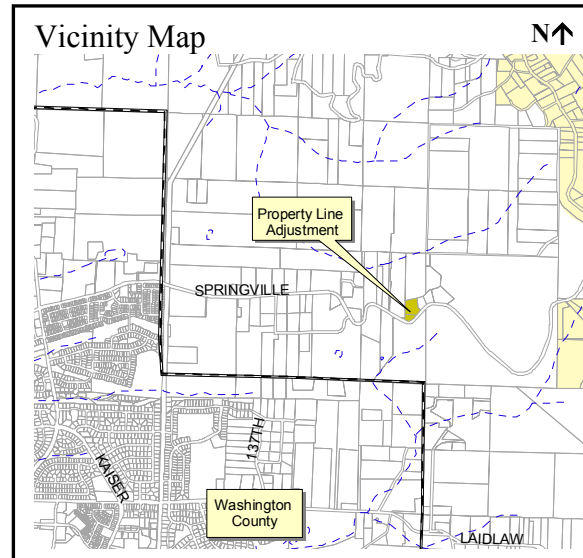
**Case File:** T2-03-062

**Permits:** Property Line Adjustment

**Location:** 12601 NW Springville Road  
Section 16D, T 1N, R 1W, TL 300 & 400  
Tax Account #'s: R961160830 &  
R994220500

**Applicant:** Paul Sedoruk  
Land Tech Incorporated  
8835 SW Canyon Lane  
Portland, OR 97225

**Owner:** Tract 1 :Gaza and Viola Burger  
7548 N Chautauqua Blvd.  
Portland, OR 97217  
Tract 2: Eldon & Ardis Burger  
12601 NW Springville Road  
Portland, OR 97231



**Summary:** Adjustment of the lot line common to properties identified as Tax Lot 300 and Tax Lot 400. The line is to be moved a distance of up to 20 feet to the north, adding approximately 3,645 square feet of area to Tax Lot 400.

**Decision:** Approved with conditions.

Unless appealed, this decision is effective Wednesday, April 28, 2004 at 4:30 PM.

Issued by:

By: \_\_\_\_\_  
Derrick Tokos, Principal Planner

For: Karen Schilling- Planning Director

Date: Wednesday, April 13, 2004

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Rick Roth, Staff Planner at 503-988-3043.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, April 28, 2004 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 33.7970 Property Line Adjustments within Land Division Ordinance Requirements; 33.2855 Dimensional Requirements in Multiple Use Agriculture District; 33.2860 Lots of Exception and Property Line Adjustments; 33.2870 Lot of Record in Multiple Use Agriculture District; and Chapter 37, Administrative Procedures

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/dscd/landuse>.

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **The applicant is to complete the procedures given in the enclosed “Applicant’s Instructions for Finishing a Property Line Adjustment.” They are also to provide their surveyor the enclosed “Surveyor’s Instructions for Finishing a Property Line Adjustment” which provides instructions for drafting required materials [MCC 33.7970(C)(2)].**

<b>Notice to Mortgagee, Lien Holder, Vendor, or Seller:</b>
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ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.
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## **FINDINGS OF FACT**

This decision is based on the findings and conclusions in the following section.

(Formatting Note: Staff as necessary to address Multnomah County ordinance requirements provides Findings referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments.

### **1. Description of the Application**

*The applicant is requesting approval of a lot line adjustment between Tax lots 300 and 400 on Tax Map 1 N 1 W 16D in Multnomah County, Oregon. The property line adjustment is being requested to match legal descriptions as described in existing deeds and to comply with the county's current setback requirements. The requested adjustment adds 5,631 square feet to tax lot 400. The Burger Family has owned tax lots 300 and 400 since before 1932, in addition the family owns tax lot 2800 and at one time owned tax lots 100 and 200. The applicant has enclosed a detailed history of the creation of tax lot 400 along with records, which establish that the existing dwellings on tax lot 300 and 400 were constructed in accordance to regulations in effect at the time of construction.*

*The applicant is not requesting a change in or expansion of an existing use, therefore certification of water service and on-site sewage disposal is not required. The Property Line Adjustment drawing included in this application shows the location of the existing well and the septic field located on Tax Lot 400. This drawing also illustrates the location of the existing dwellings and accessory structures.*

*Both lots are located in the MUA-District, which requires a minimum lot area of 20 acres for the creation of new lots. Tax lot 400 has an area of 0.34 acres, while tax lot 300, which is part of tax lot 2800, has an area of 24.21 acres. Tax lot 400 was created in 1932 and was created out of taxes lots 300 and 2800. These lots were created before the MUA-District was established in October 6, 1983 and were in compliance with the development standards at the time of their creation.*

#### *Building History*

*A search of tax records and building permits indicates the single family dwelling on tax lot 400 was built in 1932 and that an addition was permitted in 1978 (Permit Number 781313). The tax records for tax lot 300 indicates that the dwelling was built in 1966 and that a permit was issued in 2000 for the construction of a replacement drain field (Permit Number 016133). The issuance of these permits are evidence that these tax lots are lots of record and were created in conformance with the standards in effect at the time of their creation. The City of Portland, which issued both permits, will not issue permits for improvements on any lot which is not a lot of record.*

#### *Setback*

*The Lot Line Adjustment Plan included in this application shows the location of existing structures on Tax lot 300 and 400. The existing dwelling on Tax lot 300 is located over 36 feet from the nearest property line. The existing dwelling on Tax lot 400 is only 12.9 feet from N. W. Springville Road, however this dwelling was built in 1932 before setback standards were established. The existing garage on tax lot 400 was built around 1976 and encroaches into the current setback standards.*

*The applicant has adjusted the north property line to conform to the current setback standards and will ask the abutting property owner to grant him an easement once the lot line adjustment is approved. The granting of this easement will bring the garage into conformance with the current setback standard. The applicant is requesting the lot line adjustment be approved with the following conditions; that the abutting property owner grants and easements; or the existing garage be moved to be in compliance with the setback standards.*

**Staff:** County Assessment records show the properties involved in this lot line adjustment, identified as Tax Lots 300 and 400, as being approximately 1.94 and .34 acres in size, respectively (Exhibit B1). The applicant has prepared a Tentative Plan showing how the lot line common to these properties is to be adjusted. A revised copy of this plan was submitted to Land Use and Transportation Planning on April 9, 2004 (Exhibit A2). The plan shows that the garage on Tract 2 has been removed and the lot line common to the two properties, over which the garage was situated, is being moved north between 10 and 20 feet, adding approximately 3,645 square feet to Tract 2.

## **2. Site Vicinity Characteristics**

**Staff:** The properties are located in the West Hills Rural Plan area on Springville Road, off of Skyline Boulevard, and are zoned Multiple Use Agriculture (MUA-20). The properties have slope hazard overlay zoning, and a significant environmental concern overlay for habitat (SEC-H). The driveway entering the property is steep and the grade of the remainder of the property is moderately steep. Rolling forested areas lie to the west and north of the property. Exclusive farm use zoning lies directly south of the property.

Based on 1989 and 1990 assessment records, Tax Lot 2800 and Tax Lot 300 appear to be aggregated in the Exclusive Farm Use zone and may be one developable lot of record for the purposes of that district (ref: MCC 33.2675). However, as described in Section 6, the property described as Tax Lot 300 is, by itself, a lot of record within the Multiple Use Agriculture zone.

## **3. Proof of Ownership**

**MCC 37.0550: Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** The County may only process land use applications with consent from the land owner (MCC 37.0550). The property owners have signed the application form and the property owner consent form, Exhibits A1 and A4, respectively. Gaza & Viola Burger and Eldon and Ardis Burger are listed on current tax assessment records as the owners (see Exhibit B1).

## **4. Code Compliance Required To Approve Applications**

**MCC 37.0560: The County shall not approve any application for a permit or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.**

**Staff:** While some application materials indicate that there is an existing garage on the property that does not meet setback requirements, Rick Roth, with Land Use Planning staff, confirmed on a site visit on March 16, 2004 that this structure has been removed. Accordingly, setback encroachments associated with this structure, illustrated on an aerial photograph of the property (Exhibit B3), are no longer an issue. The removal of the garage is reflected on the most current Tentative Plan (Exhibit A2).

In January of 1994 the northernmost 65 feet of Tax Lot 400 was added to the property out of Tax Lot 300. This is documented in the deed for Tax Lot 300 dated January 12, 2004 (Instrument #94-06714). On January 28<sup>th</sup> of that same year, the County revised its land use codes to regulate property line adjustments of this nature (ref: Ord. #781). The 1994 conveyance did not create a separate property; rather it simply enlarged a small, substandard parcel that is again being expanded with this current lot line adjustment. The conveyance occurred two weeks prior to the date that lot line adjustments were required to be reviewed by the County and is; therefore, not a compliance problem that would preclude approval of this application under this section of the code.

## **5. Type II Case Procedures, Public Notice**

**MCC 37.0530(B)...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision.**

**Staff:** The application was submitted on October 6, 2003 and was deemed complete on [March 11](#), 2004. An "Opportunity to Comment" notice was mailed on [March 16](#), 2004 to applicant, property owners within 750 feet of the subject property, and recognized neighborhood associations. These parties were given 14-days to provide comments. [No comments were received](#). These procedures have been adhered to.

## **6. Compliance with Lot of Record Provisions in the Multiple Use Agriculture District (MCC 33.2870, 33.0005(L)(13))**

*Tax lot 300 contains over 20 acres of land and is part of the remaining parcel of land owned by the Burger Family since 1932. Tax lot 400, was sold to Gaza and Viola Burger on February 18<sup>th</sup>, 1932, this transaction is recorded in Book 171, Page 332, Multnomah County Records. On March 29<sup>th</sup>, 1976 and was sold to Eldon Burger, this sale included an additional 65-feet on the north side of the property and was recorded in Book 1095, Page 782 on April 5, 1976. Finally a Statutory Bargain and Sale Deed were recorded on May 5<sup>th</sup>, 1978 in book 1264, Page 645. Both lots are in accordance with the lot of record definition;*

*(Narrative Taken From Exhibit A3) Lot History*

*The applicant has enclosed a package of deeds and other recorded documents, which establish the creation of tax lots 300 and 400. Tax lot 400, was sold to Gaza and Viola Burger on February 18<sup>th</sup>, 1932, this transaction is recorded in Book 171, Page 332, Multnomah County Records. On March 29<sup>th</sup>, 1976 it was sold to Eldon Burger, this sale included an additional 65 feet on the north side of the property and was recorded in Book 1095, Page 782 on April 5<sup>th</sup> 1976. Finally, a Statutory Bargain and Sale Deed were recorded on May 5, 1978 in book 1264, Page 645.*

*A recorded deed for the creation of tax lot 300 has not been found because it is part of the original 33.69 acres owned by the Burger Family. According to records, the Burger Family owned tax lots 100,200,300,400 and 2800 on or before February 18th, 1932. Tax lots 300 and 2800 are the only parcel remaining from the 33.69 acre site. This conclusion is supported by the bargain and sale deed signed on January 12<sup>th</sup>, 1994 and recorded as Document Number 94-006714.*

***"(13)Lot of Record -Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a)satisfied all applicable zoning laws and (b)satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.***

***(a)"Satisfied all applicable zoning laws " shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements. "***

*Comment: The dwelling on tax lot 300 was built in 1966 and is in compliance with all current district standards. The dwelling on tax lot 400 was built in 1932 before building permits and zoning regulations were established.*

***(b)"Satisfied all applicable land division laws " shall mean the parcel or lot was created:***

***2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or***

*Comment: Tax lot 400 was created out of tax lot 300 in 1932 and the recording of this sale is documented in this application. In March of 1976 in was sold to Eldon Burger, this sale included and additional 65-feet on the north side of the property and was recorded in Book 1095, Page 782 on April 5<sup>th</sup>, 1976. Finally a Statutory Bargain and Sale Deed were recorded on May 5th, 1978 in book 1264, Page 645.*

***3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or***

*Comment: The creation of tax lot 400 is documented above.*

***5. "Satisfied all applicable land division laws " shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)***

**Staff:** Lot of Record Standards within the Multiple Use Agriculture (MUA 20) district are as listed under MCC 33.2870 and defined by the definition section under 33.0005(L)(13). They contain two major criteria for compliance. Firstly, the lot must have been divided legally, in compliance with partitioning laws. Secondly, the property must have met all zoning regulations, including minimum lot size, setbacks, and access requirements at the time it was created. The reference to a 24-acre "Tax Lot" in the applicant's narrative is somewhat misleading, as Tax Lot 2800 is not a subject of the application. Tax Lot 300 is a separate parcel and lot of record within the MUA 20 District as

described below, and is not part of Tax Lot 2800 for the purposes of County zoning and land division regulations in the Multiple Use Agriculture Zone. It should be noted that for the purposes of approving Development in the Exclusive Farm Use Zone, Tax Lot 2800 and Tax Lot 300 may be aggregated as one lot of record based on ownership requirements (see description of Tract 1, below).

#### Tract 2, Tax Lot 400

Tax Lot 400 was originally created by deed on February 18, 1932, in Book 304, Page 332 of County Records, well before any zoning laws. On April 1, 1976, additional land was added to the property with a deed recorded in Book 1096, at Page 782, bringing the acreage of Tax Lot 400 to its current acreage of 0.34 acres. The area exchange was not regulated in 1976 as the lot was not reduced below the minimum lot size in effect at the time. The only other applicable standard was that the parcel abuts a public road. The parcel abuts NW Springville Road. Therefore, Tax Lot 400 met all zoning requirements at the time of this area exchange.

The parcel qualifies as a lot of record within the MUA 20 District and is eligible for approval.

#### Tract 1, Tax Lot 300

Tax Lot 300 was originally created by three separate deeds. The first deed, recorded on May 29, 1935 in Book 304, Page 311 of the County records, describes a parcel north of Springville Road, which is the sum of the areas of current Tax Lots 100, 200, and 300. A second deed, divided off 8.38 acres of this area and was recorded on July 29, 1946, Book 1082, Page 122. This is current Tax Lot 100. Finally, on May 26, 1953 a third deed was recorded describing the current area of Tax Lot 200. (See Exhibit B2). The remaining area left on the 1935 deed after May 26, 1953 was the area now called Tax Lot 300. Therefore Tax Lot 300 was created by deed as a remainder parcel on May 26, 1953. The current deed, recorded on January 12, 1994, Document Number 94-6714 formalized a legal description for the property and shows that the parcel has not changed configuration since its creation. This deed confirms that the parcel had not changed configuration since 1953. Therefore, the parcel was created in its 1994 configuration prior to 1956 when zoning laws first came into effect and well before 1978 when land division laws came into effect. The applicant has stated that the owners have subsequently preformed a property line adjustment without approval. However, a condition of approval requires that the new descriptions match the present lot of record and this issue will therefore be corrected upon approval of the property line adjustment.

While the lot may be aggregated with Tax Lot 2800, across the road, due to EFU aggregation requirements, this would impact the development rights on Tax Lot 2800 and would bear no effect on Tax Lot 300.

The 1994 configuration of the parcel qualifies as a lot of record within the MUA 20 District and is eligible for approval.

## **7. Compliance with Land Division Criteria for Property Line Adjustments**

**A. MCC 33.7970: A property line adjustment is the relocation of a common property line between two abutting properties.**

**(1) The Planning Director may approve a property line adjustment between two properties in the Rural Area where an additional lot or parcel is not created but where one or both of the adjusted properties are below the minimum lot size established by the applicable zoning district designation. Such an adjustment shall comply with any**

**applicable zoning district standards for a Property Line Adjustment or Lot Line Adjustment.**

**Staff:** The two properties are below the minimum lot size. Both properties are legally created and comply with all applicable zoning requirements (See findings under Section 6). The two tracts are located in the Multiple Use Agriculture zoning district. This zoning requires a 20-acre minimum lot size for newly created parcels. Currently, the two tracts being recognized by the County exist as legally created separate lots. The applicant is proposing to adjust the property line between Tract 1 and Tract 2. No additional parcel will be created.

**B. MCC 33.7970(C) B. Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:**

**(1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and**

*The two tax lots are contiguous Lots of Record and will not increase the potential number of lots in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustments. The relevant approval criteria are addressed in sections 33.2860 (E)(1)(2) below.*

**Staff:** The submitted tentative plan map (Exhibit A2), demonstrates that 2 parcels exist before and after the property line adjustment. No additional lot or parcel will be created.

**C. MCC 35.7970(C)(2) Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and**

**Staff:** Tax Lot 300 and Tax Lot 400 are owned by Gaza and Viola Burger and Eldon and Ardis Burger respectively. Both property owners have consented to the property line adjustment (See Exhibit A4). Conveyance of the property and recording of this conveyance is addressed with a condition of approval.

**D. MCC 35.7970(C)(3) The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.**

**Staff:** Both properties meet all dimensional requirements except lot area as evidenced by Exhibit A2, the tentative plat map, and discussed in detail within Section 9 of this report.

**E. MCC 33.7970(C)(4) The right-of-way width between the front line of each adjusted property and the centerline of any adjacent County road shall comply with the applicable provisions of the Street Standards Ordinance as determined by the County Engineer.**

**Staff:** Tract 1 and 2 front onto NW Springville Road. After the property line adjustment is complete, both properties will retain frontage. Springville Road has a 60-foot right of way, which is sufficient to meet County requirements. No right of way dedication is necessary to comply with the provisions of the Street Standards Ordinance.

**8. Compliance with Property Line Adjustment Provisions of MUA 20 District**



- A. **MCC 33.2860(E)** Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the Planning Director may grant a property line adjustment between two contiguous lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

*The two tax lots are contiguous Lots of Record and will not increase the potential number of lots in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustments. The relevant approval criteria are addressed in sections 33.2860(E)(1)(2) below.*

**(1) No additional lot or parcel is created; and**

*The lot line adjustment is between tax lots 300 and 400 which are existing lots of records. The approval of a lot line adjustment will not result in the creation of any additional lots.*

**Staff:** As demonstrated by the tentative plan map (See Exhibit A2), the proposed property line adjustment starts with 2 parcels and ends with 2 parcels. The potential for increasing the number of lots is not affected.

- B. **MCC 33.2860(E)(2)** One of the following situations occurs:

- (a) **The lot or parcel proposed to be reduced in area is larger than 20 acres prior to the adjustment and remains 20 acres or larger in area after the adjustment, or**
- (b) **The lot or parcel proposed to be enlarged in area is less than 40 acres in area prior to the adjustment and remains less than 40 acres in area after the adjustment.**

*Tax lot 300 contains 24.21 acres and is the lot which will be reduced in area by 5,000 square feet. The loss of this area will result in tax lot 300 having an area of 24.08 acres which is more than the 20 acre minimum.*

**Staff:** The information provided by the applicant is misleading. The 1994 configuration of Tax lot 300 contains less than two acres. Situation (b) exists for Tracts 1. Tract 1 is well under 20 acres in size. Tract 1 will remain under 20-acres after adjustment. These lot areas are confirmed by Exhibit A2.

**9. Compliance with Dimensional Requirements of Multiple Use Agriculture District (MCC 33.2855)**

**(A)** Except as provided in MCC 33.2870, 33.2875, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

*Tax lot 300 contains 24.21 acres as required by this section; however, tax lot 400 contains only 0.34 acres and needs to comply with sections 33.2860 and 33.2870.*

*Tax lot 400 was created in 1932 and tax lot 300 was created before 1932, therefore is existing uses and need not comply with the purpose or permitted uses of this district.*

**(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

**(C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

*The dwelling on Tax Lot 300 is at least 36.67 feet from the nearest property and therefore is in compliance to the dimensional standards of this district. The dwelling on tax lot 400 is within 12 feet of the property line and does not comply with this section dimension standards, however lots of record are exceptions from this standard when the existing structures were constructed before the enactment of the standards.*

*The existing garage was constructed without a permit and the date on construction is unclear and the setbacks abutting the garage are not in compliance with this section. This application will adjust the north property line to meet the current rear yard standard of 30-feet; however, the property to the east is outside his control. The applicant is requesting the lot line adjustments be conditioned to comply with the dimensional standards.*

*When the lot line adjustment is approved and before recordation, the applicant will secure an easement on the property to the east or will relocate the existing garage to comply with the district standards.*

**(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.**

**(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Staff:** The tentative plan map, Exhibit A2, shows that the properties are both well below the minimum lot size of 5-acres. However, as described in Section 6, the properties are lots of record and were created before a five acre minimum was applicable. The plan shows that the residence on Tract 1 meets the setback requirements of the district. The residence on Tract 2 was built in 1932 according to the Tax Assessor. Although the home does not meet the front setback, it meets the rear setback

where the line is being moved. Since it was established prior to setback regulations, it is not subject to a front lot line setback. The garage on Tract 2 has been removed. On the site visit, staff confirmed by visual inspection that the homes do not exceed 35 feet in height. This criterion is met.

#### **10. Compliance with Access Requirements of Multiple Use Agriculture District (MCC 33.2885)**

**Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.**

**Staff:** The tax assessment map, Exhibit B2, shows both parcels currently abut NW Springville Road. The Tentative plan map, Exhibit A2, shows that upon completion of the adjustment both parcels will abut NW Springville Road. This criterion is satisfied.

#### **Conclusion**

Considering the findings and other information provided herein, this application for a property line adjustment satisfies, with conditions, applicable provisions of the Multnomah County Code.

#### **Exhibits**

**A copy of the Tentative Plan, Exhibit A2, is attached illustrating the property line adjustment approved with this decision. All other exhibits, referenced below, are included in the case record that is on file at the Land Use and Transportation Planning Office.**

##### Applicant Exhibits

- A1. Application Form
- A2. Tentative Plan Map (submitted 4/9/04)
- A3. Applicant Narrative
- A4. Property Owner Consent Form

##### Staff Exhibits

- B1. Assessment & Taxation Record
- B2. Current Tax Assessment Map
- B3. Aerial Photograph
- B4. Photographs of Dismantled Structure