



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

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

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.

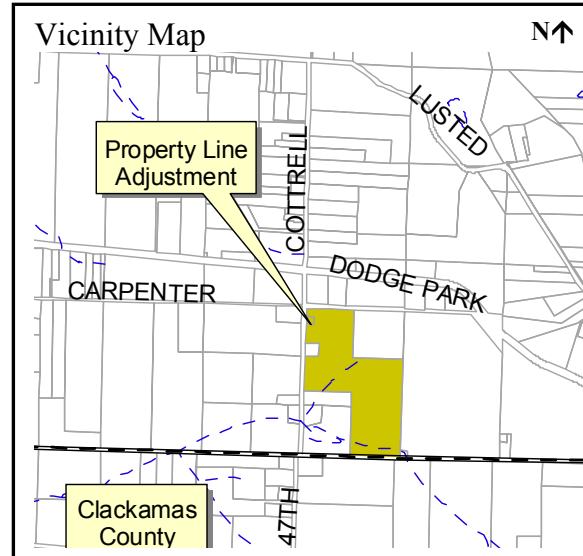
Case File: T2-04-001

Permits: Property Line Adjustment

Location: 7800 SE Cottrell Road, TL 700 & 100
Sec. 22AC, T1S, R4E, W.M.
Tax Account #'s 94220140; 994220500

Applicant: Wayne Felton
1357 NE 25th St.
Gresham, OR 97030

Owner: Tract 1: Russel & Eva Roberts; 34828 SE
Carpenter Lane; Gresham, OR 97080
& Tract 2 : Blayne K. Felton; 7800 SE
Cottrell Road; Boring, OR 97009



Summary: A request to adjust the property line between Tax Lot 100 and Tax Lot 700, adding a 30 by 100 foot area at the south end of Tax Lot 700.

Decision: Approved with conditions.

Unless appealed, this decision is effective [Friday, February 27, 2004](#) at 4:30 PM.

Issued by:

By: _____
Rick Roth, Planner

For: Karen Schilling- Planning Director

Date: [Friday, February 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 Friday, February 27, 2004 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 36.7970 Property Line Adjustments within Land Division Ordinance Requirements; 36.2855 Dimensional Requirements in Multiple Use Agriculture (MUA 20) District; 36.2860 Lots of Exception and Property Line Adjustments 36.2870 Lot of Record in MUA 20 District; 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.

The applicant shall complete the procedures provided in the enclosed “Applicant’s Instructions for Finishing a Property Line Adjustment,” and in the enclosed “Surveyor’s Instructions for Finishing a Property Line Adjustment” [MCC 36.7970(D)].

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

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. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments.

1. Description of the Application

Staff: Tract 1 (Tax Lot 100) is currently occupied by a 1730 square foot home, four green houses and six additional out buildings. Tract 2 (Tax Lot 700) is currently occupied by one 1400 square foot single family residence, built in 1900. The adjustment will move the south lot line of Tract 2 30-feet to the south south, resulting in an addition of 3,300 square feet or .08-acres to Tract 2. Tract 1 will be decreased from 34.91 -acres to 34.84-acres in size.

Tract 2 (Tax Lot 700) will be increased from 0.25 acres to 0.33 acres in size. The south side setback for the dwelling will be increased from approximately 18-feet to 48- feet.(See Exhibit A2).

2. Site Vicinity Characteristics

Staff: The properties are located in the West of Sandy Rural Plan Area at Cottrell Road and Carpenter Lane and are zoned Multiple Use Agriculture (MUA 20). The area surrounding both homes can be characterized as farm land. Tax Lot 700 is currently being used as a nursery.

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). Both property owners have signed the property owner consent form, Exhibit A3, and are listed as the current owners on tax assessment records (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: On a site visit on [February 3, 2004](#), staff did not identify any potential code compliance issues and there is nothing in County records to suggestion a code compliance problem. Therefore, this property line adjustment can be approved consistent with MCC 37.5060.

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 [January 12, 2004](#) and was deemed complete upon submission. An “Opportunity to Comment” notice was mailed on [January 29, 2004](#) to the 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 36.2870, 36.0005(L)(13))

Staff: Lot of Record standards within the MUA 20 district are as listed under MCC 36.2870 and defined by the definition section under MCC 36.0005(L)(13). They contain two major criteria for compliance. Firstly, the property 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.

Tax Lot 700 was placed in its present configuration after a property line adjustment, Case File# LE 5-89, a final County land use decision. The current legal description matches what was approved with this decision.

Tax Lot 100 was placed in its present configuration following a property line adjustment, Case File # LE 5-95, a final County land use decision. The current legal description matches what was approved in this decision.

While there is some question whether Tax Lot 100 existed as a separate parcel at the time, the 1989 decision specifically determined that the property was eligible for adjustment. That decision is final and cannot be revisited at this time.

Considering the above, each parcel qualifies as a lot of record within the MUA 20 District and is eligible for permit approval.

7. Compliance with Dimensional Requirements of Multiple Use Agriculture District (MCC 33.3155)

A. MCC 36.3155(A) Except as provided in MCC 36.2860, 36.2870, 36.2875 and 36.4300 through 36.4360, the minimum lot size for new parcels or lots shall be 20 acres.

B. MCC 36.3155 (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.

Staff: The site plan map, Exhibit A2 shows that front, side and rear setbacks for Tract 1 are satisfied. This map also shows that except for the front lot line setback, all setbacks are met. The front setback is 28-feet as indicated on the site plan map, or two feet short of the 30-foot minimum. However, tax assessment records, Exhibit B1, indicate that the home was originally established in 1900, prior to any County setback requirements. Staff confirmed the age of the structure by visual inspection on February 3, 2004. Therefore the 28-foot setback does not present a compliance issue in this case. Since the front lot line is not being moved, it is not a subject of this application and therefore, the dimensional requirement for the front lot line need not be met.

The site plan also demonstrates that the existing home, and porch meet setback requirements. On a site visit on [February 3, 2004](#), staff confirmed by visual inspection that the home and garage do not exceed 35-feet in height. Finally, the front lot lengths for Tract 1 and Tract 2 will be 130 and 635-feet respectively as shown on the site plan map, Exhibit A2. This criterion is met.

C. MCC 36.3155 (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.

Staff: Cottrell Road and Carpenter Lane both have a 60-foot right of way, which is sufficient to meet County requirements for a local rural road as described in Table 2.2.1 of the Multnomah County Design Standards Manual. No right of way dedication is necessary as the right-of way width is sufficient to serve the area.

8. Compliance with Access Requirements of Multiple Use Agriculture District (MCC 36.2855)

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 SE Cotrell Road. Tract 1 also abuts Carpenter Lane. The Tentative plan map, Exhibit A2, shows that upon completion of the adjustment both parcels will abut SE Cotrell Road Avenue and Tract 1 will also abut Carpenter Lane. This criterion is satisfied.

9. Compliance with Land Division Criteria for Property Line Adjustments

- A. MCC 36.7970: 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 7 & 8). The two tracts are located in the MUA 20 zoning district. This zoning requires a 20-acre minimum lot size for newly created parcels. Currently, the two tracts exist as separate parcels. The applicant is proposing to adjust the property line between Tract 1 and Tract 2 as shown in Exhibit A2. No additional parcel will be created.

- B. MCC 36.7970(C) 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

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: Russell Roberts and Blayne Felton, owners of Tract 1 and Tract 2 respectively, have consented to the adjustment on the property owner consent form, [Exhibit A3](#). A condition of approval to complete the adjustment as outlined by County procedures requires that then new descriptions be recorded with the County Recorder.

- 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: Please see findings under Section 8. Note that all setback dimensions will be met except that the front lot line of Tract 1 will be 28-feet as shown on the Tentative Plan Map, Exhibit A2. Because the front lot line setback will remain unaltered, the front lot line setback need not be altered to conform with the dimensional requirements of the district.

- E. MCC 36.7970(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 fronts onto Carpenter Lane. Tract 2 fronts onto Cottrell Road. After the property line adjustment is complete, both properties will retain frontage. Both Cottrell Road and Carpenter Lane have a 60-foot right of way. These right of way widths are sufficient to meet County requirements for a local rural road as described in Table 2.2.1 of the Multnomah County Design Standards Manual. No right of way dedication is necessary to comply with the provisions of the Street Standards Ordinance.

10. Compliance with Property Line Adjustment

Provisions of Multiple Use Agricultural District

- A. MCC 36.2860 (B) 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 of Record 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.**

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

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

- B. MCC 35.3160(B)(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.**

Staff: Situation B exists for Tract 2. Tract 2 is well under 40 acres in size and will remain so. The lot area calculations are confirmed by Exhibit A2.

Conclusion

Based on findings and other information provided above, this application for a Property Line Adjustment satisfies, with conditions, the Multnomah County Zoning Code requirements.

Exhibits

Applicant Exhibits

- A1. Application Form
- A2. Tentative Plan Map
- A3. Property Owner Consent Form

Staff Exhibits

- B1. Assessment & Taxation Record
- B2. Current Tax Assessment Map
- B3. Aerial Photograph

