



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: T2-04-018

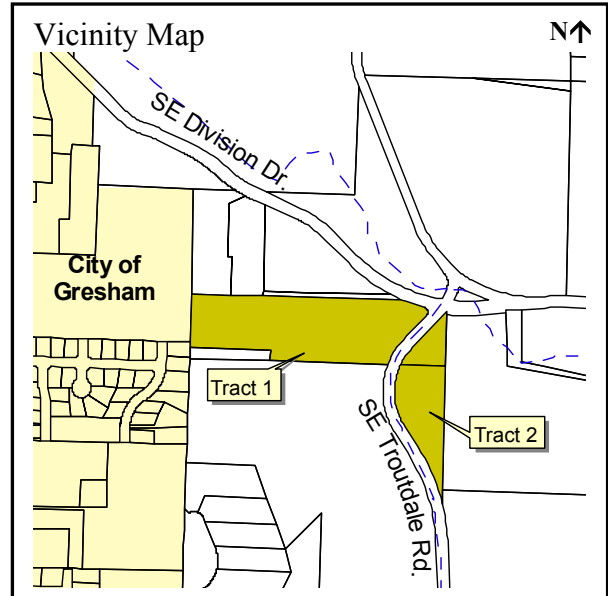
Permit: Property Line Adjustment

Location: 27530 SE Division Drive
TL 1700 and 500, Sec 12, T1S, R3E
Tax Account #R99312-1670 and
#R993120330

Applicant: All County Surveyors
PO Box 955
Sandy, OR 97055

Owners: Ron Place
27539 SE Division Dr
Gresham, OR 97030

Thomas and Connie Davis
3600 SE Troutdale Road
Gresham, OR 97080



Summary: A Property Line Adjustment between Tax Lot 500 and Tax Lot 1700 that would transfer all portions of Tax Lot 500 on the east side of Troutdale Road to Tax Lot 1700.

Decision: Approved with Conditions.

Unless appealed, this decision is effective Friday, August 6, 2004 at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Friday, July 23, 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 Don Kienholz, 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, August 6, 2004 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 36.005(L)(13) – Lot of Record; MCC 36.2660 Dimensional Requirements; 36.2670 Lot Line Adjustment; 36.2675 Lot of Record; MCC 36.3155 Dimensional Standards and Development Requirements; MCC 36.3160 Lots of Exception and Property Line Adjustments; MCC 36.3170 Lot of Record; MCC 36.7970 Property Line Adjustment (Lot Line Adjustment).

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/dbcs/LUT/land_use.

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. **Prior to Land Use Planning sign-off of the adjusted legal descriptions, the owner/applicant shall submit a separate final surveyed site plan for this case record showing all existing buildings on both tracts with the distances noted from the buildings to the proposed property lines.**

2. **The property owner, or representatives thereof, shall complete the adjustment per the attached “Applicant’s Instructions for Finishing a Property Line Adjustment,” and “Surveyor’s Instructions for Finishing a Property Line Adjustment” included as Exhibit 4. This will entail survey and monumentation of the new lot line by a registered surveyor and verification by survey of the location of the existing dwellings and other structures in relation to lot lines as required by MCC 36.7970(C).**

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.

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

Staff: The proposed Property Line Adjustment will move a common property line between Tract 1 and Tract 2 from its current location at the north end of Tract 2 to the border of SE Troutdale Road. This will transfer a small .68-acre triangular property on the east side of Troutdale Road to Tract 2. The result will be that Tract 1 is entirely on the west side of Troutdale Road and Tract 2 is entirely on the east side. The fulfillment of the Property Line Adjustment will also bring Tract 1 back as a Lot of Record in full compliance with the land division and zoning code.

2. **Site Characteristics**

Staff: The subject property is located in an area just outside of the City of Gresham. The western property line of Tract 1 is the dividing point between the UGB and the City of Gresham and unincorporated Multnomah County. The properties are situated at the intersection of SE Division Drive and SE Troutdale Road. All the properties to the west of SE Troutdale Road and in unincorporated Multnomah County, including Tract 1, are zoned Rural Residential. All the properties on the east side of SE Troutdale Road, including Tract 2, are zoned Exclusive Farm Use. Both Tracts are heavily forested. Dwellings are located on Both properties and the properties north of Tract 1. Properties to the east of Tract 2 are largely open and used for farming purposes. The property to the south of Tract 1 is a large lot owned by the Arrow Creek Owners Association and is open space for a Planned Development. Beaver Creek runs along the eastern property line of Tract 1 adjacent to SE Troutdale Road. Slopes for both properties are steep with the inclines going away from Troutdale Road on both sides of the street.

3. **Public Comment**

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. 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. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on May 25, 2004. No written comments were received.

Criterion met.

4. **Proof of Ownership**

37.0550 Initiation Of Action.

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: Multnomah County Assessment and Taxation records show Ron Place as owner of property known as 27530 SE Division Drive and Thomas and Connie Davis as owners of property known as 3600 SE Troutdale Drive. Ron Place signed the General Application form and all parties listed in on the Assessment and Taxation records signed the “Statement of Property Owner Consent” form. All County Surveyors is listed as the applicant on the General Application Form and are authorized to take action on the property.

Criterion met.

5. **Property Line Adjustments Are Allowed In The Rural Residential And Exclusive Farm Use Zoning Districts.**

A. **MCC 36.3100* RURAL RESIDENTIAL, RR**

MCC 36.3115 Uses.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.3120 through 36.3130 when found to comply with MCC 36.3155 through 36.3185.

* * *

MCC 36.3125 Review Uses.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800, or as specified for the use

(D) Property Line Adjustment pursuant to the provisions of MCC 36.3160.

Staff: A Property Line Adjustment is allowed in the Rural Residential zoning district as a Review Use.

Criterion met.

B. **MCC 36.2615 Uses.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 36.2620 through 36.2630 when found to comply with MCC 36.2660 through 36.2690.

* * *

MCC 36.2625 Review Uses.

(M) Lot Line Adjustment pursuant to the provisions of MCC 36.2670.

Staff: A Property Line Adjustment is allowed in the Exclusive Farm Use zoning district as a Review Use.

6. **The Proposed Property Line Adjustment Meets Both Zoning Districts' Dimensional Criteria**

MCC 36.3155 (Rural Residential) Dimensional Standards and Development Requirements.

All development proposed in this district shall comply with the applicable provisions of this section.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet.

* * *

MCC 36.2660 Dimensional Requirements.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet.

Staff: After the property line is adjusted, both properties would have a minimum of 50-feet or road frontage and all structures on both properties would meet the required setbacks the new property line.

Criteria met.

7. **The Proposed Property Line Adjustment Meets The Rural Residential PLA Approval Criteria**

MCC 36.3160 Lots of Exception and Property Line Adjustments.

(B) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority 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.

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

Staff: Only two parcels are involved with this adjustment, Tract 1 and Tract 2 as shown on the Tentative Plan, Exhibit 1. After the adjustment is complete, there will still only be two parcels. Therefore, no additional lot or parcel will be created.

Criterion met.

B. (2) At least one of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 5 acres prior to the adjustment and remains 5 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 10 acres in area prior to the adjustment and remains less than 10 acres in area after the adjustment.

Staff: Tract 1 is 8.75-acres prior to the adjustment and 8.07-acres after the adjustment, thus meeting the standard of (b).

Criterion met.

8. The Proposed Property Line Adjustment Meets The Exclusive Farm Use PLA Approval Criteria

MCC 36.2670 Lot Line Adjustment.

(A) An adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

A. (1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

Staff: Each tract has only one dwelling on their respective parcels prior to the adjustment and each tract has only one dwelling after the adjustment.

Criterion met.

- B. **(3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.**

Staff: The EFU portion of the property only makes up 3.39-acres total, thus the property does not meet the standards of (2) above.

This adjustment involves one parcel that is split zoned between Rural Residential (RR) and Exclusive Farm Use (EFU) (Tract 1) and a second parcel that is wholly zoned Exclusive Farm Use (Tract 2). This standard does not apply to the portion of the property zoned RR. Therefore, only Tract 2 must retain the same lot area that existed prior to the exchange. The same lot area and ground coverage of Tract 2 prior to the adjustment is included in Tract 2 after the adjustment, thus meeting this standard (Exhibit 1).

Criterion met.

8. **Compliance with Property Line Adjustment Criteria in Land Division Code**

MCC 36.7970 Property Line Adjustment (Lot Line Adjustment)

A property line adjustment is the relocation of a common property line between two abutting properties.

- A. **(A) 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 and where the existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable zoning designation.**

Staff: No additional lot is being created by this proposal. The property being reduced in size, Tract 1, is currently larger than the 5-acre minimum lot size and will remain larger than 5-acres after the transfer of the property.

Criterion met.

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

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

Staff: There are two tracts prior to the adjustment and would be two tracts after the adjustment. No new parcel will be created.

Criterion met.

2. **(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: The owners of both involved tracts have consented to the Property Line Adjustment by signing the "Statement of Property Owner Consent" form (Exhibit 2).

Criterion met.

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

Staff: The new property line will meet the respective zone dimensional requirements to all structures on each property.

Criterion met.

4. **(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 Code and Rules as determined by the County Engineer.**

Staff: Troutdale Road, the road fronting both properties, has 60-feet of right-of-way, meeting the minimum standard of 50-feet.

Criterion met.

9. **Both Tracts Will Be Lots Of Record With This Proposal**

- A. **MCC 36.0005(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.

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

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 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**
- 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**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**

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.)

MCC 36.2675 Lot of Record.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. An exception to the 19 acre minimum lot size requirement shall occur when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

(3) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

MCC 36.3170 Lot of Record.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982.**

Staff:

Tract 1

Tract 1 (as seen in exhibit 1), was created prior to zoning and is on the 1962 zoning map (Exhibit 3). It is the policy of this office to accept parcels shown on the 1962 zoning map as Lots of Record. Because the property is on the 1962 zoning map (minus a strip of land that was transferred to an adjacent property in a November 6, 1992 County approved Lot Line Adjustment), it was created prior to zoning and land partition regulations and was a Lot of Record.

On November 9, 1978, the .68-acre portion of the property east of Troutdale Road was broken off improperly (by deed in Book 1311, Page 2112), dissolving the last lawful configuration and the Lot of Record. The .68-acre property was then sold to the adjacent property owner directly to the south, who is now participating in this Property Line Adjustment to correct the improper partition.

The result of this Property Line Adjustment will take the .68-acre portion from Tract 1 and its last lawful configuration on November 8, 1978 and properly transfer it to Tract 2, the 2.71-acre property adjacent to the south that is currently in common ownership with the .68-acre property. The resulting configuration will make Tract 1 a Lot of Record after completion.

Tract 2

Tract 2 was created prior to zoning being placed on the property as is evidenced by the 1962 zoning map (Exhibit 3). It is the policy of this office to accept parcels shown on the 1962 zoning map as Lots of Record. Because the property is on the 1962 zoning map, it was created prior to zoning and land partition regulations and is a Lot of Record. After the transfer of property, Tract 2 will still be a Lot of Record.

Criteria met.

10. **Full Compliance**

MCC 37.0560 Code Compliance And Applications.

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: Currently, Tract 1 is not a Lot of Record because the .68-acre property on the east side of Troutdale Road is not part of the legal description as it should be. The .68-acre property was separated off the parent property on November 9, 1978 improperly. However, the fulfillment of the proposed Property Line Adjustment will correct the non-compliance with the zoning and land division codes by properly transferring the .68-acres to the property directly south.

Criterion met with the fulfillment of the Property Line Adjustment.

Conclusion

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the criteria for a Property Line Adjustment contained in the Zoning and Land Division codes have been met.

Exhibits

1. Tentative Site Plan
2. Statement of Property Owner Consent
3. 1962 Zoning Map
4. Applicant's Instructions for Finishing a Property Line Adjustment," and "Surveyor's Instructions for Finishing a Property Line Adjustment"