



MULTNOMAH COUNTY
LAND USE PLANNING DIVISION
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/dscd/landuse>

NOTICE OF DECISION

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

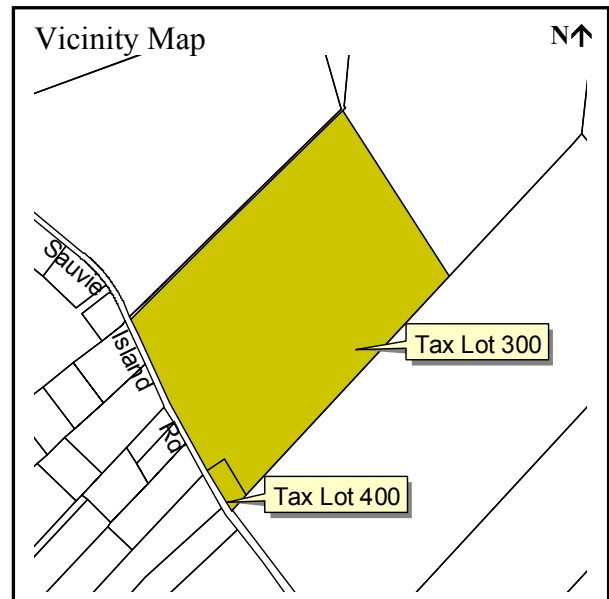
Case File: T2-04-035

Permit: Property Line Adjustment

Location: 20426 & 20230 NW Sauvie Island Road
Tax Lots 300 & 400, Sec 08, T2N R1W,
Willamette Meridian
Tax Account Nos. R971080110 &
R971080050

Applicant: Brian Bowman, Administrator
Bailey Nurseries, Inc.
9855 NW Pike Road
Yamhill, OR 97148

Owners: Bailey Nurseries, Inc.
9855 NW Pike Road
Yamhill, OR 97148
&
Merilyn Adams
20230 NW Sauvie Island Road
Portland, OR 97231



Summary: Property Line Adjustment between Tax Lots 300 and 400, exchanging an equal amount of property in an Exclusive Farm Use zone.

Decision: Approved with Conditions.

Unless appealed, this decision is effective July 21, 2004 at 4:30 PM.

Issued by:

By: _____
Beverly Bruesch, Planner

For: Karen Schilling - Planning Director

Date: Wednesday, July 7, 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 Beverly Bruesch, 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 July 21, 2004, at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 37 Administration and Procedures; MCC 34.2660: Exclusive Farm Use District, Dimensional Requirements, MCC 34.2670: Exclusive Farm Use District, Lot Line Adjustment; MCC 34.2675: Exclusive Farm Use District; Lot of Record; and MCC 34.7970: Sauvie Island/Multnomah Channel Rural Plan Area, 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 MCC 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. This approval is based on material submitted by the applicant and supplemental material provided by the County included as part of this document as Exhibits 1 to 16. The proposed property line adjustment shall be completed as shown and described in the application materials submitted by the applicant. No additional lot or parcel shall be created through this process (MCC 37.7970(C)(1)).
2. The applicant shall complete the procedures provided in the “Applicant’s Instructions for Finishing a Property Line Adjustment”, including retaining a State of Oregon licensed surveyor to complete the procedures in the “Surveyor’s Instructions for Finishing a Property Line Adjustment” (these instructions are included as Exhibits 15 and 16, respectively). This will entail survey and monumentation of the adjusted lot lines by a licensed surveyor that verifies that the dimensional standards of MCC 34.2660(C) and MCC 34.7970(C) are met. The property owner, or representatives thereof, shall submit copies of the new survey map and legal descriptions for each adjusted lot to Multnomah County Land Use Planning for verification that the adjusted properties conform to the approved Tentative Plan Map (Exhibit 1) and meet applicable zoning requirements and all conditions of approval. If the submitted documents conform to the approved Tentative Plan Map (Exhibit 1), zoning requirements, and conditions of approval, staff will sign, date, and stamp the map and legal descriptions. After Multnomah County staff approval, a deed or deeds must be prepared that convey the exchanged area from one property owner to the other. The deed(s) and stamped maps and legal descriptions must then be taken to the Multnomah County Recorder’s office for filing and recording, and the survey must be filed with the County Surveyor’s office in accordance with Oregon Revised Statute (ORS) 209.250.
3. The applicant shall include a survey of the rear yard dimension for the northernmost out-building on Tax Lot 400 that demonstrates that it is at least 30 feet from the rear property line. If necessary, the applicant will need to adjust the rear property line to meet the 30-foot rear yard requirement to comply with MCC 34.2660(C), prior to approval/sign off by Multnomah County Land Use Planning of the new survey map and legal descriptions.
4. When the process is complete, no additional lot or parcel shall be created (MCC 34.7970(C)(1)), and an equal amount of property will have been exchanged between the two subject properties, and each of the reconfigured lots will retain the same lot area that existed prior to the exchange (MCC.2670(A)(3)).
5. This approval will automatically become void if, within two years of the date of the final decision, the final deed descriptions have not been approved by the Planning Director and recorded with County Recorder (MCC 37.0690).

Note: The Planning Director’s policy is for the case planner to provide zoning approval of the final Plan on an appointment basis. Please contact Beverly Bruesch at 503-988-3043 to set a time for zoning approval.

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 AND CONCLUSIONS

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

Staff Report Formatting Note: To addresses Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold font**. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings and conclusions follow the "Staff" label. The exhibits are attached following the Findings and Conclusions narrative.

I. **DESCRIPTION OF THE PROPOSAL**

Staff: The proposal is to adjust the common property line between Tax Lots 300 and 400, exchanging an equal amount of property as shown on Exhibit 1. The subject properties are located on Sauvie Island in an Exclusive Farm Use (EFU) district.

II. **PROOF OF OWNERSHIP**

Staff: County Assessment records show Bailey Nurseries, Inc. as the owner of Tax Lot 300, Section 8, T2N, R1W, Willamette Meridian. County Assessment records show Marilyn P. Adams as the property owner of Tax Lot 400, Section 8, T2N, R1W, Willamette Meridian. Both property owners have consented to the proposed property line adjustment (see copy of signed consent form presented as Exhibit 4).

III. **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, April 27, 2004, and was deemed complete on May 26, 2004. An "Opportunity to Comment" notice was mailed on June 1, 2004 to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject properties, giving 14 days to respond. No comments were received.

IV. **CODE COMPLIANCE REQUIRED TO PROCESS 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: Based on a review of aerial photography (Exhibits 14a and 14b), the northernmost out-building on Tax Lot 400 appears to have a rear yard setback that is less than the 30-foot minimum required in an EFU district by MCC 34.2660(C). (The other structures on both

subject properties appear to meet the setback requirements.) As a condition of approval, the applicant must include a survey of the rear yard dimension for the northernmost out-building on Tax Lot 400 that demonstrates that it is at least 30 feet from the rear property line. If necessary, the applicant will need to adjust the rear property line to meet the 30-foot rear yard requirement to comply with MCC 34.2660(C), prior to approval/sign off by Multnomah County Land Use Planning of the new survey map and legal descriptions.

There are no other known Code compliance issues for the subject properties.

In summary, the parcels are in compliance with the applicable provisions of the Multnomah County Code, or will be in compliance with the Code as a result of the property line adjustment as conditioned.

V. DIMENSIONAL REQUIREMENTS – EXCLUSIVE FARM USE DISTRICT

MCC 34.2660(A) Except as provided in MCC 34.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.

Staff: Both of the subject lots are smaller than the 80-acre minimum lot size and, as discussed in the findings for MCC 34.2670(A) below, meet the definition of a Lot of Record referenced in MCC 34.2675.

MCC 34.2660(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length – 50 feet

Staff: The northernmost out-building on Tax Lot 400 appears to have a rear yard setback that is less than the 30-foot minimum required in an EFU district by MCC 34.2660(C). (The other structures on both subject properties appear to meet the setback requirements.) The property line adjustment will increase the rear yard dimension for all structures on Tax Lot 400. As a condition of approval, the applicant must include a survey of the rear yard dimension for the northernmost out-building on Tax Lot 400 that demonstrates that it is at least 30 feet from the rear property line. If necessary, the applicant will need to adjust the rear property line to meet the 30-foot rear yard requirement to comply with MCC 34.2660(C), prior to approval/sign off by Multnomah County Land Use Planning of the new survey map and legal descriptions.

Other yard dimensions on Tax Lots 300 and 400 will not change. The front lot line lengths will not change for either property.

The dimensional requirements for an EFU district are met as conditioned.

VI. LOT LINE ADJUSTMENT – EXCLUSIVE FARM USE DISTRICT

MCC 34.2670(A) An adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

MCC 34.2670(A)(1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

MCC 34.2670(A)(2) The dimensional requirements of MCC 34.2660 (A) and (C) are met; or

MCC 34.2670(A)(3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.

Staff: The subject properties are contiguous Lots of Record as required by MCC 34.2670(A). Pursuant to MCC 34.2675, a Lot of Record must meet the definition standards in MCC 34.0005, in addition to the applicable definition standards in MCC 34.2675. As discussed below, both lots were in compliance with the applicable zoning and land division laws in place at the time of their creation (MCC 34.0005(12), Definitions, Lot of Record).

For Tax Lot 300, there is a 1960 Warranty Deed (Exhibit 5) that describes the lot in its current configuration and size (60.81 acres). The 1962 zoning map for the lot (Exhibit 13) shows that it was in the Agricultural (F-2) District which had a two-acre minimum lot size. Thus, the property met the F-2 minimum lot size requirement. Tax Lot 300 is a Lot of Record.

Tax Lot 400 is described on 1938 and 1989 property deeds (Exhibits 6 and 7) in its current configuration and size (0.85 acres). In 1938, there was no minimum lot size standard. Tax Lot 400 is a Lot of Record.

No relocation of dwellings is proposed as part of the subject lot line adjustment; thus MCC 34.2670(A)(1) will be met.

Pursuant to MCC 34.2670(A)(3), the reconfigured lots will retain their same lot areas (Tax Lot 300 would remain at 60.81 acres and Tax Lot 400 would remain at 0.85 acre in size). This will be confirmed by Multnomah Count Land Use Planning prior to approval of the new survey map and legal descriptions that are required to finish a property line adjustment.

In summary, the property line adjustment will occur between contiguous Lots of Record, will not involve any relocation of dwellings, and will result in each lot retaining its current lot area. The standards under MCC 34.2670(A) are met.

VII. PROPERTY LINE ADJUSTMENT (LOT LINE ADJUSTMENT) STANDARDS – SAUVIE ISLAND/MULTNOMAH CHANNEL RURAL PLAN AREA

MCC 34.7970(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: This criterion does not apply since neither of the subject lots would be reduced in size.

MCC 34.7970(B) 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: No additional lot or parcel is proposed. Both of the subject parcels have lot areas smaller than the 80-acre minimum lot size standard for an EFU district and will remain under the 80-acre minimum. The proposal has been found to comply with the zoning district standards under Sections V and IV of these findings. A condition of approval will require the proper procedure for finalizing a property line adjustment be followed, ensuring no new parcels are created.

MCC 34.7970(C) Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:

MCC 34.7970(C)(1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: No additional lot or parcel is proposed. A condition of approval will require the proper procedure for finalizing a property adjustment be followed ensuring no new parcels are created.

MCC 34.7970(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: County Assessment records show Bailey Nurseries, Inc. as the owner of Tax Lot 300 and show Marilyn P. Adams as the owner of Tax Lot 400. Brian Bowman, on behalf of Bailey Nurseries, Inc., and Marilyn P. Adams have both signed the form consenting to the property line adjustment as described in this decision (Exhibit 4).

MCC 34.7970(C)(3) The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.

Staff: The proposed property line adjustment as shown on the submitted Tentative Plan Map (Exhibit 1) complies with the dimensional requirements of the EFU zoning district, as demonstrated in the findings under Section V of this decision.

MCC 34.7970(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 Code and Rules as determined by the County Engineer.

Staff: As shown on Exhibit 1, the lot lines proposed to be adjusted will not alter the right-of-way width of Sauvie Island Road.

MCC 34.7970(D) The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director.

Staff: The applicant has followed the procedures and used the forms provided by the Planning Director. Conditions of Approval will require that the Planning Director's direction continue to be followed for finishing the property line adjustment.

VIII. CONCLUSION

Staff: Considering the findings and other information provided herein, this application for a property line adjustment, as conditioned, meets the applicable Multnomah County Land Division and Zoning Ordinance requirements.

IX. EXHIBITS

Exhibits Submitted by the Applicant

Exhibit 1	Tentative Plan Map
Exhibit 2	Assessment and Taxation Map
Exhibit 3	General Application Form
Exhibit 4	Statement of Property Owner Consent
Exhibit 5	1960 Deed - Tax Lot 300
Exhibit 6	1938 Deed - Tax Lot 400
Exhibit 7	1989 Deed - Tax Lot 400
Exhibit 8	Certification of On-Site Sewage Disposal – Tax Lot 300
Exhibit 9	Certification of On-Site Sewage Disposal – Tax Lot 400

Exhibits Provided by County

Exhibit 10	Assessment Record - Tax Lot 300
Exhibit 11	Assessment Record - Tax Lot 400
Exhibit 12	Current Zoning Map
Exhibit 13	1962 Zoning Map
Exhibit 14	a. Aerial Photograph (1" = 400')
	b. Aerial Photograph (1" = 100')
Exhibit 15	Applicant's Instructions for Finishing a Property Line Adjustment
Exhibit 16	Surveyor's Instructions for Finishing a Property Line Adjustment