

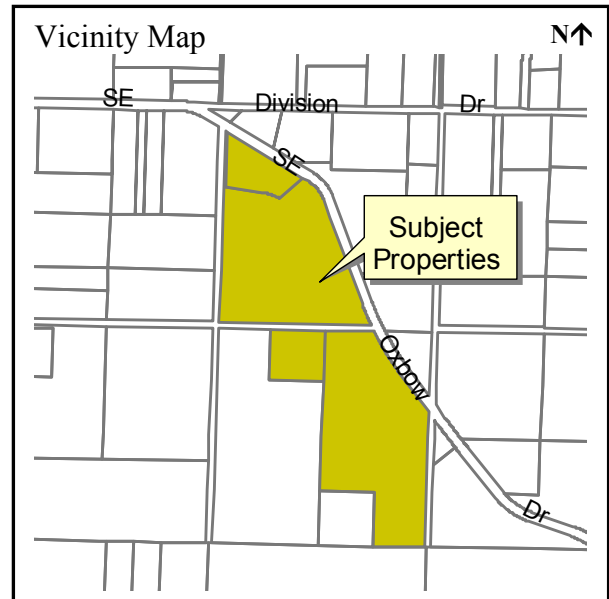


MULTNOMAH COUNTY
LAND USE PLANNING DIVISION
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/dscd/landuse>

NOTICE OF DECISION

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

Case File: T2-04-064
Permit: Property Line Adjustment
Location: 30720 SE Oxbow Drive (2.4-acre lot)
T1S R4E, Sec. 8CA, Tax Lot 900
Alt. Account No. R75170-2390
&
31140 SE Oxbow Drive (32.2-acre lot)
T1S R4E Sec. 8, Parcel 1 of Partition Plat
2004-84
Alt. Account No. R64984-3330
Applicant: Jeffrey R. Campbell, Corporate Secretary
MacGregor Land Company
4500 SW Kruse Way, Suite 100
Lake Oswego, OR 97035
Owners: Stephen and Amy Salaz
30720 SE Oxbow Drive
Troutdale, OR 97060
&
MacGregor Land Company
4500 SW Kruse Way, Suite 100
Lake Oswego, OR 97035



Summary: Property Line Adjustment between properties described as T1S R4E Section 8CA, Tax Lot 900 and T1S R4E Section 8, Parcel 1 of Partition Plat 2004-84, creating 18.0-acre and 16.6-acre parcels. The southern property line of Tax Lot 900 (northern property line of Parcel 1 of Partition Plat 2004-84) is to be moved approximately 1,200 feet south to match the alignment of an existing unimproved road right-of-way.

Decision: Approved with Conditions.

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

Issued by:

By: _____
Beverly Bruesch, Planner

For: Karen Schilling - Planning Director

Date: Monday, August 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 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 September 6, 2004, at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 36 – West of Sandy River Rural Plan Area:

General Provisions:

MCC 36.0005(L)(13) – Definitions, “Lot of Record”

Zoning Districts:

MCC 36.2060 – Commercial Forest Use, Dimensional Requirements

MCC 36.2070 – Commercial Forest Use, Lot Line Adjustment

MCC 36.2075 – Commercial Forest Use, Lot of Record

MCC 36.2660 – Exclusive Farm Use, Dimensional Requirements

MCC 36.2670 – Exclusive Farm Use, Lot Line Adjustment

MCC 36.2675 – Exclusive Farm Use, Lot of Record

MCC 36.3155 – Rural Residential, Dimensional Standards and Development Requirements

MCC 36.3160 – Rural Residential, Lots of Exception and Property Line Adjustments

MCC 36.3170 – Rural Residential, Lot of Record

Land Divisions:

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 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 11. 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 36.7970(C)(1)).
2. In accordance with MCC 36.7970(C)(2), the property owners 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 10 and 11, respectively). This will entail survey and monumentation of the adjusted lot lines by a licensed surveyor that verifies that the dimensional standards of MCC 36.2060, 36.2660, and 36.3155 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 2) and meet applicable zoning requirements and all conditions of approval. If the submitted documents conform to the approved Tentative Plan Map (Exhibit 2), 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. In accordance with MCC 36.2070(A)(1), to ensure that it is clear in the deed record that Tract 2 is limited to only one single-family dwelling, the owners shall record a covenant for the CFU portion of Tract 2. The covenant shall specify the new legal description of Tract 2, but clarify that the restriction is limited to the CFU zone of that tract.

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 Lot 900 and Parcel 1 of Partition Plat 2004-84, creating an 18.0-acre parcel (Tract 1) and a 16.6-acre parcel (Tract 2) as shown on the Tentative Plan Map. As shown on Exhibit 2, the southern property line of Tax Lot 900 (northern property line of Parcel 1 of Partition Plat 2004-84) is to be moved approximately 1,200 feet south to match the alignment of an existing unimproved road right-of-way.

Tax Lot 900 is located in a Rural Residential (RR) zoning district and Parcel 1 of Partition Plat 2004-84 is located in Commercial Forest Use (CFU) and Exclusive Farm Use (EFU) zoning districts (see Exhibit 9). The Property Line Adjustment will result in Tract 1 being in both CFU and EFU zoning districts and Tract 2 being in both CFU and RR zoning districts.

II. **PROOF OF OWNERSHIP**

Staff: County Assessment records show Stephen L. and Amy J. Salaz as the owners of Tax Lot 900, Section 8CA, T1S, R4E. County Assessment records show MacGregor Land Company as the property owner of Parcel 1 of Partition Plat 2004-84. Both property owners have consented to the proposed property line adjustment (see copy of signed consent form presented as Exhibit 3).

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, July 28, 2004, and was deemed complete on August 3, 2004. An "Opportunity to Comment" notice was mailed on August 4, 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: There are no other known Code compliance issues for the subject properties. This criterion is met.

V. DIMENSIONAL REQUIREMENTS – COMMERCIAL FOREST USE

MCC 36.2060(A) Except as provided in MCC 36.2065, 36.2070, 36.2075, and 36.2080, the minimum lot size shall be 80 acres.

Staff: Both of the proposed tracts will be within the CFU zoning district and will be smaller than the 80-acre minimum lot size and, as discussed in Sections XI and XII below, meet the definition of a Lot of Record in the CFU zone pursuant to MCC 36.0005(L)(13) and 36.2075. This criterion is met.

MCC 36.2060(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

Staff: Neither property is of a size that is relevant to this criterion; the lots are below the minimum lot size for the base zoning districts and will remain under the minimum lot size with the property line adjustment. This criterion is met.

MCC 36.2060(C) Minimum Forest Practices Setback Dimensions from Tract Boundary - Feet:

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Forest practices setback dimensions shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Exceptions to forest practices setback dimensions shall be pursuant to MCC 36.2110, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 36.2105(A)(5)(c)2.

MCC 36.2060(D) The minimum forest practices setback 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 yard requirements not otherwise established by ordinance.

MCC 36.2060(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: Since no structures currently exist in the CFU zone, the property line adjustment will not affect existing setback dimensions in the CFU zone. This criterion is met.

VI. DIMENSIONAL REQUIREMENTS – EXCLUSIVE FARM USE

MCC 36.2660(A) Except as provided in MCC 36.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.

Staff: The proposed Tract 1, part of which will be within the EFU zoning district, will be smaller than the 80-acre minimum lot size, and as discussed in Sections XI and XIII below, meet the definition of a Lot of Record in an EFU zone pursuant to MCC 36.0005(L)(13) and 36.2675. The criterion is met.

MCC 36.2660(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

Staff: Neither property is of a size that is relevant to this criterion; the lots are below the minimum lot size for the base zoning districts and will remain under the minimum lot size with the property line adjustment. This criterion is met.

MCC 36.2660(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: Since no structures exist in the EFU zone, the property line adjustment will not affect setback dimensions in the EFU zone. This criterion is met.

VII. DIMENSIONAL REQUIREMENTS – RURAL RESIDENTIAL

MCC 36.3155(A) Except as provided in MCC 36.3160, 36.3170, 36.3175 and 36.4300 through 36.4360, the minimum lot 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.

Staff: The proposed Tract 2, part of which will be within the RR zoning district, will exceed the minimum lot size for this district. This criterion is met.

MCC 36.3155(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.

Staff: Neither property is of a size that is relevant to this criterion; the lots are below the minimum lot size for the base zoning districts and will remain under the minimum lot size with the property line adjustment. This criterion is met.

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: As shown on the Tentative Plan Map, the existing structures meet the minimum front, side and rear yard dimensions for a RR zone. The proposed property line adjustment will result in an increase to the rear yard dimension of the existing structures. This criterion is met.

VIII. LOT LINE ADJUSTMENT – COMMERCIAL FOREST USE

MCC 36.2070(A) An adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

Staff: The subject properties are contiguous Lots of Record (see Staff discussions in Sections XI and XII regarding a Lot of Record in a CFU zone). This criterion is met.

MCC 36.2070(A)(1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;

Staff: In 2002, a Conditional Use Permit for a single template dwelling on the original eight tract lots that made up Parcel 1 of Partition Plat 2004-84 was issued. (Subsequently, in May 2004, the eight lots were replatted into one Lot of Record – Parcel 1 of Partition Plat 2004-84). The proposed property line adjustment will not increase the number of dwellings allowed on Parcel 1 of Partition Plat 2004-84 (Tract 1). The template dwelling will remain with Tract 1.

The proposed Tract 2, which will include a part of Parcel 1 of Partition Plat 2004-84 plus Tax Lot 900 will have both RR and CFU zoning. Tax Lot 900 is currently developed with a single-family residence and is within the RR zoning district, which allows for one dwelling on a five-acre lot. Based on the Conditions of Approval in the Decision for T3-01-011, the remainder of Tract 2 is not eligible for a new dwelling. To ensure that it is clear in the deed record, a condition of this decision is to require that the covenant be recorded again for the CFU portion of Tract 2. The covenant shall specify the new legal description of Tract 2, but clarify that the restriction is limited to the CFU zone of that tract.

In summary, the number of dwellings on the subject lots will not be increased as a result of the property line adjustment. This criterion is met.

MCC 36.2070(A)(2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;

Staff: The approximately 16 acres of CFU that will be shifted from Parcel 1 of Partition Plat 2004-84 to the new Tract 2 and the remaining 18-acres in the new Tract 1 will each be large enough to allow for the continuation of forest harvest uses. This criterion is met.

MCC 36.2070(A)(3) The new lot line is in compliance with the dimensional requirements of MCC 36.2060 (C) through (E); and

Staff: As discussed in Section V above, since there are no structures currently in the CFU zoning district, the property line adjustment will not affect setback dimensions in this zoning district. This criterion is met.

MCC 36.2070(A)(4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use.

Staff: Tax Lot 900 is developed with a residence that was constructed in 1962 and is occupied by the property owner. This residence is the neither a Health Hardship mobile home or a dwelling for housing help required to carry out a farm or forest use. This criterion is met.

IX. LOT LINE ADJUSTMENT – EXCLUSIVE FARM USE

MCC 36.2670(A) An adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

MCC 36.2670(A)(1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

Staff: Only one dwelling exists on Tax Lot 900, and no dwellings are located on Parcel 1 of Partition Plat 2004-84, which includes the area zoned EFU. Therefore, this criterion is met.

MCC 36.2670(A)(2) The dimensional requirements of MCC 36.2660 (A) and (C) are met; or

Staff: As discussed in Section VI above, since there are no structures currently in the EFU zoning district, the property line adjustment will not affect setback dimensions in this zoning district. This criterion is met.

MCC 36.2670(A)(3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.

Staff: As shown on the Tentative Plan Map (Exhibit 2) and the Current Zoning Map (Exhibit 9), the amount of EFU zoned area within Parcel 1 of Partition Plat 2004-84 will not be altered by the property line adjustment; the property line to be adjusted is located between the RR and CFU zones. The line will be adjusted to form the northern property boundary for Tract 1 along the northern edge of the EFU-zoned portion of the lot. This criterion is met.

X. LOT LINE ADJUSTMENT – RURAL RESIDENTIAL

MCC 36.3160(B) 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.

MCC 36.3160(B)(1) No additional lot or parcel is created; and

MCC 36.3160(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

Staff: The Tentative Plan Map (Exhibit 2) shows that no additional lots will be created as part of the property line adjustment. Parcel 1 of Partition Plat 2004-84 will be reduced in size from about 32.2 acres in size to 16.6 acres in size to create Tract 1. Tax Lot 900, which is 2.4 acres in size, will be added to 15.6 acres from Parcel 1 of Partition Plat 2004-84 to create Tract 2 which will be about 18.0 acres in size. This criterion is met.

(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: The purpose of this code criterion is to avoid creating a lot that is larger than the minimum lot size allowed in the RR zoning district (5 acres). The Tentative Plan Map (Exhibit 2) and Current Zoning Map (Exhibit 9) show that the RR portion of the lots subject to this property line adjustment is 2.4 acres in size and will remain 2.4 acres in size. This criterion is met.

XI. LOT OF RECORD

MCC 36.2005(L)(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.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

Staff: Tax Lot 900 is described in its current configuration and size (2.4 acres) in a 1967 warranty deed – it was referred to as “Part of Lot 18 Section Line Fruit Tracts” (see Exhibit 4). In 1967, this property 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, and it meets the Lot of Record criterion under MCC 36.2005(L)(13)(a). The dated and signed deed was recorded with Multnomah County on August 28, 1967, and thus satisfied the applicable land division laws and meets the Lot of Record criterion under MCC 36.2005(L)(13)(b)(2). There is no “acknowledged unincorporated community boundary” intersecting the subject properties, thus, MCC 36.2005(L)(13)(c) does not apply. Tax Lot 900 is a Lot of Record and these criteria are met.

Parcel 1 of Partition Plat 2004-84 is described in its current configuration and size (32.229 acres) on Partition Plat 2004-84 that was recorded in 2004 (see Exhibit 5). This parcel was created through a Category 3 Land Division that was approved by the Multnomah County Planning Director on May 4, 2004 (Case No. T2-04-006) and by the Partition Plat that was recorded on July 27, 2004. In accordance with MCC 36.2005(L)(13)(a), the parcel was found to be “...in full compliance with all zoning minimum lot size, dimensional standards, and access requirements” in the May 4, 2004 Decision that approved the creation of the lot. Also, it satisfied the applicable land division laws that applied to the CFU and EFU zones, and thus it met the criterion in MCC 36.2005(L)(13)(b)(1). There is no “acknowledged unincorporated community boundary” intersecting the subject properties, thus, MCC 36.2005(L)(13)(c) does not apply. Parcel 1 of Partition Plat 2004-84 is a Lot of Record and these criteria are met.

XII. LOT OF RECORD – COMMERCIAL FOREST USE

MCC 36.2075(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:

MCC 36.2075(A)(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

MCC 36.2075(A)(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. There shall be an exception to the 19 acre minimum lot size requirement 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. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record [examples are found in MCC 36.2075(A)(2)(b)3].

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

MCC 36.2075(A)(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Staff: In accordance with MCC 36.2075(A)(3), Parcel 1 of Partition Plat 2004-84, a portion of which is zoned CFU, was lawfully created by a partition plat approved on May 4, 2004 and recorded on July 27, 2004 (Exhibit 5). This criterion is met.

XIII. LOT OF RECORD – EXCLUSIVE FARM USE

MCC 36.2675(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:

MCC 36.2675(A)(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

MCC 36.2675(A)(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. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record [examples are found in MCC 36.2675(A)(2)(b)3].**
 - 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or**

MCC 36.2675(A)(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

MCC 36.2675(A)(4) 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.**

Staff: In accordance with MCC 36.2675(A)(3), Parcel 1 of Partition Plat 2004-84, a portion of which is zoned EFU, was lawfully created by a partition plat approved on May 4, 2004 and recorded on July 27, 2004 (Exhibit 5). This criterion is met.

XIV. LOT OF RECORD – RURAL RESIDENTIAL

MCC 36.3170(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.

MCC 36.3170(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

MCC 36.3170(C) Except as otherwise provided by MCC 36.3160, 36.3175, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

MCC 36.3170(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
- (2) An area of land created by the foreclosure of a security interest.
- (3) An area of land created by court decree.

Staff: Tax Lot 900 is described in its current configuration and size (2.4 acres) in a 1967 warranty deed – it was referred to as “Part of Tax Lot 18 Section Line Fruit Tracts (see Exhibit 4). In 1967, this property was in the Agricultural (F-2) District which had a two-acre minimum lot size. The dated and signed deed was recorded with Multnomah County on August 28, 1967. In accordance with MCC 36.3170(A)(2), the creation of the lot met the zoning and land division laws for a F-2 zone that were enacted on July 10, 1958 (see Finding for MCC 36.2005(L)(13)(a) and (b)). Tax Lot 900 is smaller in size than the minimum standard found in MCC 36.3155(A). The residential use is an allowed use pursuant to MCC 36.3120(A) and, with the exception of minimum lot size, meets the dimensional requirements of MCC 36.3155. These criteria are met.

XV. PROPERTY LINE ADJUSTMENT (LOT LINE ADJUSTMENT) STANDARDS – WEST OF SANDY RIVER RURAL PLAN AREA

MCC 36.7970 A property line adjustment is the relocation of a common property line between two abutting properties.

MCC 36.7970(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 is not applicable because the parcel to be reduced in size (Parcel 1 of Partition Plat 2004-84) is currently smaller in size than the minimum lot size of 80 acres for a CFU zone.

MCC 36.7970(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: The Tentative Plan (Exhibit 2) shows that, no additional lot or parcel will result from the property line adjustment. Tax Lot 900 is smaller than the 5-acre minimum lot size for a RR zoning district, and Parcel 1 of Partition Plat 2004-84 is smaller than the 80-acre minimum lot size for CFU and EFU districts. The proposal has been found to comply with the zoning district standards (see Sections V through XIV 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. This criterion is met.

MCC 36.7970(C) Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:

MCC 36.7970(C)(1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: The Tentative Plan (Exhibit 2) shows that no additional lot or parcel is proposed. A condition of approval will require the proper procedure for finalizing a property line adjustment be followed, ensuring no new parcels are created. This criterion is met.

MCC 36.7970(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 Stephen L. and Amy J. Salaz as the owners of Tax Lot 900, Section 8CA, T1S, R4E. County Assessment records show MacGregor Land Company as the property owner of Parcel 1 of Partition Plat 2004-84. Both property owners have consented to the proposed property line adjustment (see copy of signed consent form presented as Exhibit 3). As a condition of approval, the property owners shall complete the procedures for finalizing a property line adjustment which include having a deed or deeds prepared, reviewed, and recorded that convey the exchange area from one property owner to the other. This criterion is met.

MCC 36.7970(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 2) complies with the dimensional requirements of the CFU, EFU, and RR zoning districts, as demonstrated in the findings under Sections V to VII of this decision. This criterion is met.

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 Code and Rules as determined by the County Engineer.

Staff: Oxbow Drive is designated by the County as a Rural Collector, which is a paved, two-lane lane road with a 60-foot minimum right-of-way. No additional right-of-way is required as a result of the property line adjustment. This criterion is met.

MCC 36.7970(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. This criterion is met.

XVI. CONCLUSION

Staff: In summary, the parcels are in compliance with the applicable provisions of the Multnomah County Code. 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.

XVII. EXHIBITS

Copies of the exhibits are available for review in Case File T2-04-064, at Multnomah County, Land Use and Transportation, 1600 SE 190th Avenue, Gresham, Oregon.

Exhibits Submitted by the Applicant

Exhibit 1	General Application Form
Exhibit 2	Tentative Plan Map
Exhibit 3	Statement of Property Owner Consent
Exhibit 4	Deed & Survey Documents - Tax Lot 900
Exhibit 5	Partition Plat 2004-84 Recorded Survey and Description

Exhibits Provided by County

Exhibit 6	Assessment and Taxation Maps
Exhibit 7	Multnomah County Property Record - Tax Lot 900
Exhibit 8	Multnomah County Property Records - Partition Plat 2004-84 Properties
Exhibit 9	Current Zoning Map
Exhibit 10	Applicant's Instructions for Finishing a Property Line Adjustment
Exhibit 11	Surveyor's Instructions for Finishing a Property Line Adjustment