

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

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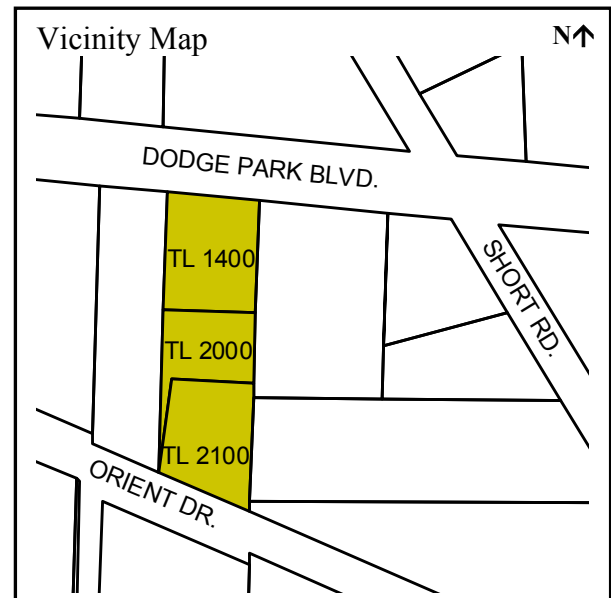
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## NOTICE OF DECISION

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

**Case File:** T2-04-073**Permit:** Property Line Adjustment**Location:** 29404 SE Dodge Park Blvd & 29329 SE Orient Drive  
TL 1400, 2000 & 2100, Sec 19AC, T 1S, R4E, W.M.  
Tax Account #R99419-0730, R99419-1910 & R99419-1570**Zoning:** **Tax Lot 1400:** Orient Rural Center Residential (OR)  
**Tax Lots 2000 & 2100:** Orient Commercial Industrial (OCI)**Owner/** James Zeller**Applicant:** 15001 NE Rose Parkway  
Portland, OR 97230

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**Summary:** Property line adjustment between Tract 1 consisting of Tax Lot 1400 & 2000 (combined) and Tract 2 consisting of Tax Lot 2100. Tax Lot 1400 is in the Orient Residential (OR) zoning district and both Tax Lot 2000 & 2100 are in the Orient Commercial-Industrial (OCI) zoning district.-**Decision:** Approved with conditions.

Unless appealed, this decision is effective Monday, October 11, 2004, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Monday, September 27, 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 Lisa Estrin, 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 Monday, October 11, 2004 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC):

*General Provisions:* 36.0005(L)(13) Definitions – Lot of Record; and

*Orient Rural Center Residential:* 36.3425(C) Review Uses – Property Line Adjustment, 36.3455 – Dimensional Standards and Development Standards, 36.3460(B) - Property Line Adjustments and 36.3470 - Lot of Record; and

*Orient Commercial-Industrial:* 36.36.3550 – Dimensional Standards and Development Requirements, 36.3560 Property Line Adjustments, 36.3570: Lot of Record; and

*Land Divisions:* 36.7970 Property Line Adjustments

*Administration and Procedures:* Chapter 37, specifically 37.0530(B) - Type II Decision Process, 37.0550 – Initiation of Action, 37.0560 – Code Compliance.

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](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. Owners of both properties involved in the property line adjustment shall record a conveyance or conveyances conforming to the approved property line adjustment. [MCC 36.7970(C)(2)]
2. 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.

**FINDINGS:** Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

**S. E. DODGE PARK BLVD (CO. RD. NO. 1305)**

**TAX LOT 1300**

**TAX LOTS SQ. FOOTAGE**

TAX LOT 2000 = 16604 S.F.
TAX LOT 2100 = 25373 S.F.
TAX LOT 1400 = 25538 S.F.
REMAINDER BOOK 1722, PAGE 859-860 = 42142 S.F.

**LEGEND**

- P.P. = POWER POLE
- O.L. = OVERHEAD LINE
- W.V. = WATER VALVE
- W.M. = WATER METER
- E.M. = ELECTRIC METER
- L.P. = LIGHT POLE

**ORIENT DRIVE**

**Detailed Map Features:**

- Proposed Tract 1 (Tax Lot 2000):** Located north of Proposed Tract 2. It contains a "RESIDENT" house and a "SEPTIC" tank. Its boundaries are defined by S.85°34'30"E 104.50' to the west, S.85°34'30"E 148.85' to the north, and 176.21' to the east. It also has a 150.00' segment along its northern boundary.
- Proposed Tract 2 (Tax Lot 2100):** Located south of Proposed Tract 1. It contains a "CONCRETE STORAGE AREA". Its boundaries include S.87°47'02"E 143.11' to the north, S.87°47'02"E 138.11' to the east, and S.80°05'25"E 153.83' to the south. It shares a western boundary with Tax Lot 1300.
- Tax Lot 1300:** Situated to the west of the proposed tracts. Its eastern boundary is shared with the proposed tracts and is divided into segments of 434.45', 307.11' (shared), 242.53', 146.31', 112.17', and 140.00'. Other boundaries include S.80°17'56"W 400.00' to the west, S.80°17'56"E 401.68' to the north, and S.80°05'25"E 153.83' to the south.
- Other Features:** The map shows several "OVERHEAD LINES", a "WOOD L.P.", a "6 FOOT CHAIN-LINK FENCE", a "GATE", and a "6' HIGH C-I FE.". An "ADJACENT DRIVE" is shown at the top left, and a "3' HIGH WOOD-SHED FENCE" runs along the southern boundary of the proposed tracts.

1.00 *Administration and Procedures*  
1.01 **TYPE II CASE PROCEDURES**

**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 August 20, 2004 and was deemed complete as of September 8, 2004. An "Opportunity to Comment" notice was mailed on September 10, 2004 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

1.02 **Proof of Ownership**

**MCC 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:** The proposed project is located on Tax Lot 1400, 2000 and 2100, Section 19AC, Township: 1 South, Range: 4 East. Assessment & Taxation records show that the land is owned by James Zeller. Mr. Zeller has designated himself the applicant and has signed the General Application Form. (Exhibit A.1). *This criterion has been met.*

1.03 **MCC 37.0560 Code Compliance And Applications.**

**Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, 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) A permit or other approval, including building permit applications, may be authorized if:**

**(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**

**(2) It is necessary to protect public safety; or**

**(3) It is for work related to and within a valid easement over, on or under an affected property.**

**(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or**

**repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.**

**Staff:** The subject properties of the property line adjustment consist of Tax Lots 1400 and 2000, 2N2W19AC for Tract 1 and Tax Lot 2100, 2N2W19AC for Tract 2. In 1982, Tax Lot 2000 was broken out in deed form from Tax Lot 1400. County Land Division and Zoning regulations at the time were not met. This property line adjustment application will reconsolidate Tax Lot 2000 with Tax Lot 1400 then transfer Tax Lot 2000 to Tax Lot 2100. Provided the property line adjustment is completed as proposed the land division violation on Tract 1 will be corrected.

The area of Tract 1 known as Tax Lot 1400 contains a single family dwelling with attached garage, asphalt driveway, septic system for the dwelling. The single family dwelling was constructed in 1959 and appears to be in its lawful configuration. The asphalt driveway and septic system are associated with the house and can be assumed to be lawful due to the dwellings age.

As part of staff's review of the historical records for the lumber mill operations and the associated property, staff identified the following issues that require additional review through a Verification of a Nonconforming Use Determination before they can be deemed lawfully established uses:

- Use of the southwest corner of Tax Lot 1400 for the lumber yard access and operations is questionable (See Exhibit A.12) as the property was never zoned M-3 and a conditional use permit allowing the expansion of the lumber yard onto this property has not been found.
- The area of Tract 1 known as Tax Lot 2000 contains the lumber yard operation and a 32 ft wide by 70 ft long covered storage area. Staff reviewed the building permit records for the lumber yard and did not find permits for this structure (Exhibit B.8).
- The area of Tract 2 known as Tax Lot 2100 has a 6 ft tall chain link fence and is utilized for lumber yard operations. Prior to 1985-1986, Tax Lot 2100 had a restaurant structure and parking lot for the business. No evidence has been found that the expansion of the lumber yard onto Tax Lot 2100 has been approved.

Nothing in this decision for the property line adjustment legalizes or creates a grandfathered/nonconforming use for any and all uses not lawfully established on any of the subject tax lots.

## 2.00 ***GENERAL PROVISIONS***

### 2.01 **MCC 36.0005 Definitions**

**As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.**

**(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.)**

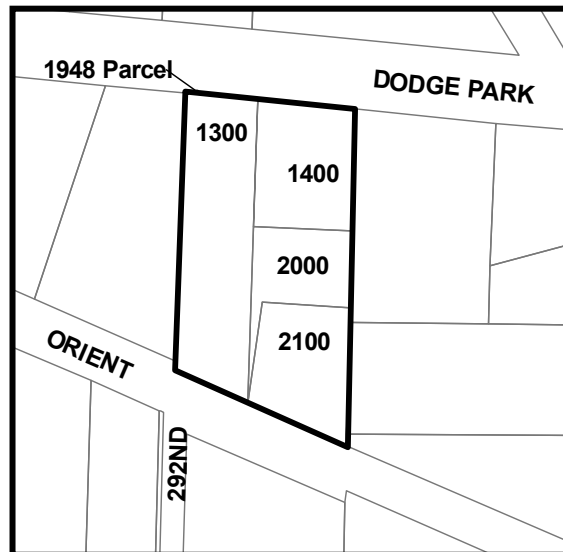
**(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.**

- 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:** The applicant has submitted in the following deeds to support that 2 legal Lots of Records exist:

- Warranty Deed Filed 10/3/1948 (Book 973, Page 166 & 167)
- Warranty Deed Filed 12/5/1955 (Book 1759, Page 28)
- Land Contract for Tax Lot 2100 Filed 9/18/1969 (Book 698, Page 706 & 707)
- Property Survey #30543 of a Portion of Tax Lot 73 Filed 10/24/1969
- Warranty Deed Filed 6/10/1982 (Book 1600, Page 1069 & 1070)
- Warranty Deed Filed 7/1989 (Book 1722, Page 859)

The Warranty Deed filed in October 1948, describes a 2.5 acre tract of land which consists of today's Tax Lots 1300, 1400, 2000 & 2100, 1S4E19AC. The following illustration is to help understand the original lot configuration before zoning:



The warranty deed recorded in December 1955 shows a Mr. & Mrs. Howatt selling Tax Lot 1300 (See above illustration) to the Larsens, leaving a 1.50 acre parcel (Tax Lots 1400, 2000 & 2100 combined). In July 1958, the County first applied zoning to the Orient Area. The subject property was zoned Suburban Residential from 1958 to 1965. In September 1965, the area of property known as Tax Lot 2000 was zoned Light Manufacturing (M-3). The areas contained in Tax Lot 1400 and 2100 remained Suburban Residential until October 5, 1977 when it was rezoned Rural Center.

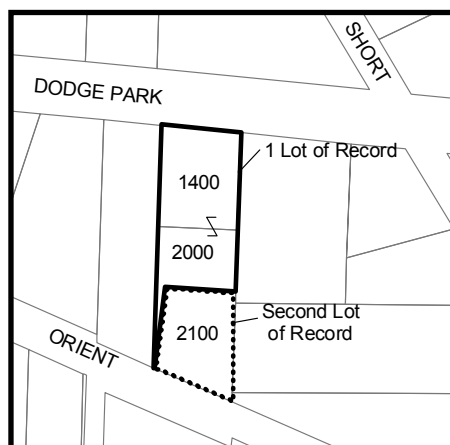
In September 1969, Katherine Duffy sold to Mr. & Mrs. Taber through a Land Contract (Exhibit A.6) the property known as Tax Lot 2100, 1S4E19AC. The new parcel was/is 0.50 acres (21,780 sq. ft) in size. Survey #30543 delineating this property was filed with the County Surveyor in October 1969. The remainder parcel (Tax Lot 1400 & 2000 combined) was reduced to 1 acre in size. The zoning at the time was Suburban Residential which allowed 20,000 sq. ft lots if approved public water was available, an approved individual sewage disposal system was allowed and the property had approved public access. Both parcels are located within the Pleasant Home Water District. During discussions with the County Sanitarian Mike Ebeling, he indicated that an on-site sewage disposal system probably would have been approved if requested for a 0.5 acre parcel in 1969. The 1 acre parcel had an existing septic system for the dwelling constructed in 1959. The parcel, known as Tax Lot 2100, fronts onto Orient Drive. The remainder parcel fronted onto Dodge Park Blvd. The SR zone required a minimum average lot width of 70 feet and a minimum lot depth of 100 feet. Tax Lot 2100 has a minimum lot width of 128 feet and a minimum lot depth of 146.25 ft. The remainder parcel has a width of 143 ft along Dodge Park Blvd and an average lot depth of approximately 360 feet. So, based upon these findings, it appears that the creation of Tax Lot 2100 from the remainder parcel (Tax Lot 1400 & 2000 combined) in 1969 created 2 lawful parcels and was in compliance with the applicable zoning regulations at the time.

On October 6, 1977 Multnomah County rezoned the area contained Tax Lots 1300, 1400, 2000 and 2100 and beyond from either M-3 or SR to Rural Center (RC). The minimum lot size was



modified to 1 acre to reflect the changes under the County's Periodic Review process and State laws. In 1982, the previous property owner sold to Mr. Zeller, the portion of the remainder parcel known as Tax Lot 2000. This Warranty Deed (Exhibit A.8) is the first time in the evidence that a legal description had described Tax Lot 2000 only. Tax Lot 2000 is 16,604 sq. ft (0.38 acres) in size. As stated above, the minimum lot size in the RC zone was/is 1 acre. Also, the RC zone required *Any lot in this district shall abut a street, or shall have other access determined by the hearings Council to be safe and convenient for pedestrians and passenger and emergency vehicles.* While Tax Lot 2000 has a single point touching Orient Drive, the intent of the code was for access availability, which is not feasible through this triangular flag pole to the lot. Staff was unable to find any determination that an alternate access is safe and convenient. In addition, since November 1978, the creation of a new parcel designed as flag lot has been a Type III Land Division. No evidence of a Land Division application has been submitted by the applicant and none has been found by staff. Based upon the above information, Tax Lot 2000 separate from Tax Lot 1400 is not a legally created parcel in compliance with applicable zoning regulations at the time.

*Based upon the above finding and illustrated below, it has been determined the property contained within Tax Lot 2100 and the property contained in Tax Lot 1400 and 2000, combined are two separate lots of record.*



### 3.00 ***Orient Rural Center Residential (OR)***

#### 3.01 **MCC 36.3425 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.**

#### **(C) Property Line Adjustment pursuant to the provisions of MCC 36.3460**

**Staff:** The proposed property line adjustment has been reviewed and processed as a Type II decision. An adjustment of the property line is allowed as a Review Use and has met the provisions of MCC 36.3460 as discussed below.

#### 3.02 **MCC 36.3455 Dimensional Standards and Development Requirements.**

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

**(A) Except as provided in MCC 36.3460, 36.3470, and 36.3475, and 36.4300 through 4360, the minimum lot size shall be one acre.**

**Staff:** The area within Tax Lot 1400 of Tract 1 is zoned OR. Tract 1 consists of Tax Lots 1400 and 2000 and Tract 2 consists of Tax Lot 2100 only. Tract 1 is a 0.96 acre parcel and is exempted from the 1 acre minimum lot size due to MCC 36.3470 Lot of Record provisions. The area within Tax Lot 2000 and Tax Lot 2100 is zoned Orient Commercial Industrial which also has a minimum lot size of 1 acre unless the parcel is found to be a Lot of Record pursuant to MCC 36.3570. Tract 2 currently contains a 0.5 acre parcel. Through the property line adjustment criteria under MCC 36.3460 and MCC 36.3560, Tract 1 will be reduced to 25,538 sq. ft and Tract 2 will be increased to 39,976 sq. ft in size. *This criterion has been met.*

3.03 **(B) 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:** After the property line adjustment, the dwelling on Tract 1 will be 52 feet from the front property line, approximately 90 feet from the rear property line, 32 feet from the west side property line and approximately 50 feet from the east side property line. The front property line will have a minimum front lot line length of 143.72 ft. The height of the structure will not be modified from its existing condition through this permit.

*Based upon the above findings, these criteria have been met.*

3.04 **(C) 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 yard requirements not otherwise established by ordinance.**

**Staff:** Tract 1 fronts onto Dodge Park Blvd. Dodge Park is a designated a Rural Arterial under Multnomah County's West of Sandy Rural Area Plan. The standard width required by the County for a Rural Arterial is 60 feet. Dodge Park Blvd through this road segment is 100 ft wide. No additional right of way is needed. The above yard requirements do not need to be increased at this time. *This criterion has been met.*

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

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

- 3.06 **(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** Tract 1 will provide the required 2 parking spaces on the driveway for the single family dwelling, the septic system will remain on site, water is provided by the Pleasant Home Water District and the setbacks for the dwelling will be met as discussed above under MCC 36.3455(B) above. No new impervious surfaces will be created in association with this decision. No sewage or stormwater disposal system easements have been shown on the Tentative Plan Map (Exhibit A.3). *These criteria have been met.*

- 3.07 **(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.**

**Staff:** No ground disturbance is proposed as part of this land use decision. *This criterion is not applicable at this time.*

- 3.08 **(G) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal.**

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

- 3.09 **(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land by:**

**(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or**

**(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.**

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

- 3.10 **MCC 36.3460 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.**

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

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

**(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or**

**(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.**

**Staff:**

(1) As determined above under MCC 36.0005(L)(13), Tract 1 and Tract 2 are legally created parcels. After the property line adjustment, Tract 1 and Tract 2 will remain and no additional parcels will be created through this process (Exhibit A.3).

(2) Tract 1 is 42,142 sq. ft (0.96 acres) in size in its current configuration. Tract 2 is 23,373 sq. ft (0.53 acres) in size currently. After the adjustment, Tract 1 will be reduced to 25,538 sq. ft and Tract 2 will be increased to 39,976 sq. ft. Both parcels will remain under 2 acres in size.

**3.11 MCC 36.3470 Lot of Record.**

**(A) In addition to the definition standards for a Lot of Record, 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 and R zones 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, RC zone applied, Ord. 148 & 149;**

**(5) October 13, 1983, zone change to RC for some properties, Ord. 395;**

**(6) May 16, 2002, Lot of Record section amended, Ord. 982**

**(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 36.3485, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**(C) Except as otherwise provided by MCC 36.3460, 36.3475, and 36.3400 through 36.3460, 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 the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.**

**(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:** As discussed above under the findings MCC 36.0005(L)(13), the subject tracts are individual *Lots of Record*. *This criterion has been met.*

4.00 ***Orient Commercial – Industrial (OCI)***

4.01 **MCC 36.3550 Dimensional Standards and Development Requirements.**

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

**(A) Except as provided in MCC 36.3560, 36.3570, and 36.3575, the minimum lot size shall be one acre.**

**Staff:** The area within Tax Lot 2000 and Tax Lot 2100 is zoned Orient Commercial Industrial. The area within Tax Lot 1400 of Tract 1 is zoned OR which also has a minimum lot size of 1 acre unless the parcel is found to be a Lot of Record pursuant to MCC 36.3470. Tract 1 consists of Tax Lots 1400 and 2000 and is 1 acre in size. Tract 2 consists of Tax Lot 2100 only. Tract 2 is a 0.5 acre parcel and is exempted from the 1 acre minimum lot size due to MCC 36.3570 Lot of Record provisions. Through the property line adjustment criteria under MCC 36.3460 and MCC 36.3560, Tract 1 will be reduced to 25,538 sq. ft and Tract 2 will be increased to 39,976 sq. ft in size. *This criterion has been met.*

4.02 **(B) 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:** After the property line adjustment, the non-permitted structure on Tract 2 will be 182 feet from the front property line adjacent to Orient Drive, 30.3 feet from the rear property line, 90 feet from the west side property line and approximately 21 feet from the east side property line. The front property line will have a minimum front lot line length of 153.93 ft. The height of the structure will not be modified from its existing condition through this permit.

*Based upon the above findings, these criteria have been met.*

4.03 **(C) 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 yard requirements not otherwise established by ordinance.**

**Staff:** Tract 2 fronts onto Orient Drive. Orient Drive is a designated a Rural Arterial under Multnomah County's West of Sandy Rural Area Plan. The standard width required by the County for a Rural Arterial is 60 feet. Orient Drive through this road segment is 60 ft wide. No additional right of way is needed. The above yard requirements do not need to be increased at this time. *This criterion has been met.*

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

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

- 4.05      **(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** Tract 2 has a covered storage area which is utilized as part of a commercial lumber sales yard. No known septic system exists on the tract. Water is provided by the Pleasant Home Water District and the setbacks for the structure are discussed above under MCC 36.3550(B) above. No new impervious surfaces will be created in association with this decision. No sewage or stormwater disposal system easements have been shown on the Tentative Plan Map (Exhibit A.3). *These criteria have been met.*

- 4.06      **(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.**

**Staff:** No ground disturbance is proposed as part of this land use decision. *This criterion is not applicable at this time.*

- 4.07      **(G) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal.**

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

- 4.08      **(H) New, replacement, or expansion of existing uses shall minimize impacts to existing farm uses on adjacent land by:**

**(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or**

**(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.**

**Staff:** No new development is proposed as part of this property line adjustment application. *This criterion is not applicable at this time.*

**4.09 MCC 36.3560 Property Line Adjustments.**

**(A) 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.**

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

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

**(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or**

**(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.**

**Staff:**

(1) As determined above under MCC 36.0005(L)(13), Tract 1 and Tract 2 are legally created parcels. After the property line adjustment, Tract 1 and Tract 2 will remain and no additional parcels will be created through this process (Exhibit A.3).

(2) Tract 1 is 42,142 sq. ft (0.96 acres) in size in its current configuration. Tract 2 is 23,373 sq. ft (0.53 acres) in size currently. After the adjustment, Tract 1 will be reduced to 25,538 sq. ft and Tract 2 will be increased to 39,976 sq. ft. Both parcels will remain under 2 acres in size.

**4.10 MCC 36.3570 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 and R zones 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, RC zone applied, Ord. 148 & 149;**

**(5) October 13, 1983, zone change to RC for some properties, Ord. 395;**

**(6) May 16, 2002, Lot of Record section amended, Ord. 982**

**(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 36.3585, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

**(C) Except as otherwise provided by MCC 36.3560, 36.3575, 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 the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.**

**(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:** As discussed above under the findings MCC 36.0005(L)(13), the subject tracts are individual *Lots of Record*. *This criterion has been met.*

5.00 ***Land Division***

5.01 **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) 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:** Tract 1 and Tract 2 are legal parcels based upon the findings above under MCC 36.0005(L)(13). Tract 1 is 0.96 acres in size. Tract 2 is 0.5 acres in size. The minimum lot size in the OR and OCI zoning districts is 1 acre. Both parcels currently lawfully exist below the minimum lot size of the zones. The property line adjustment will not reduce an existing parcel below the 1 acre minimum lot size. *This criterion has been met.*

5.02 **(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:** Tract 1 and Tract 2 are legal parcels based upon the findings above under MCC 36.0005(L)(13). Tract 1 is 0.96 acres in size. Tract 2 is 0.5 acres in size. The minimum lot size in the OR and OCI zoning districts is 1 acre. Both parcels currently lawfully exist below the minimum lot size of the zones. After the property line adjustment, Tract 1 will be 25,538 square feet in size and Tract 2 will be 39,976 square feet. *This criterion has been met.*



5.03 **(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:** Tract 1 consists of one parcel and Tract 2 consists of 1 parcel as determined under MCC 36.0005(L)(13). The property line adjustment shows that after its completion only 2 parcels will exist (Exhibit A.3). *This criterion has been met.*

5.04 **(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:** Both Tract 1 and Tract 2 is owned by James Zeller. He has signed the Statement of Property Owner Consent (Exhibit A.2). *This criterion has been met.*

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

**Staff:** The proposed parcels meet the minimum front lot line length and minimum yard dimensions for all structures located on their respected areas. Please see findings under MCC 36.3455 and 36.3550 Dimensional Standards and Development Requirements listed above for additional findings on this criterion. *This criterion has been met.*

5.06 **(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:** Both Orient Drive and Dodge Park Boulevard have adequate right of way for their classifications. Please see finding above under MCC 34.3455(C) and MCC 36.3550 for additional findings of support. *This criterion has been met.*

5.07 **(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 and utilized the procedure and forms for a Type II Decision and Property Line Adjustment as provided for by the Planning Director. *This criterion has been met.*

## 6.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of a property line adjustment between 2 Lots of Record in the OR and OCI zoning districts of the Orient Rural Center.. This approval is subject to the conditions of approval established in this report.

7.00 ***Exhibits***

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	8/20/04
A.2	1	Statement of Property Owner Consent	8/20/04
A.3	1	Tentative Property Line Adjustment Map	8/20/04 & 9/8/04
A.4	2	Warranty Deed Filed 10/3/1948 (Book 973, Page 166 & 167)	8/20/04
A.5	1	Warranty Deed Filed 12/5/1955 (Book 1759, Page 28)	8/20/04
A.6	2	Land Contract for Tax Lot 2100 Filed 9/18/1969 (Book 698, Page 706 & 707)	8/20/04
A.7	1	Property Survey #30543 of a Portion of Tax Lot 73 Filed 10/24/1969	8/20/04
A.8	2	Warranty Deed Filed 6/10/1982 (Book 1600, Page 1069 & 1070)	8/20/04
A.9	2	Warranty Deed Filed 7/1989 (Book 1722, Page 859 & 860)	8/20/04
A.10	1	Photographs	8/20/04
A.11	1	Map to Accompany Legal Description of Ingress and Egress Easement	6/1/04
‘B’		Staff Exhibits	Date of Document
B.1	2	Multnomah County Assessor Property Information for Tax Lot 2100, 1S4E19AC	7/12/04
B.2	2	Multnomah County Assessor Property Information for Tax Lot 2000, 1S4E19AC	7/12/04
B.3	2	Multnomah County Assessor Property Information for Tax Lot 1400, 1S4E19AC	7/12/04
B.4	1	Air Photo of Tax Lot 1400, 2000 & 2100	9/8/04
B.5	1	1986 Land Use Maps	1986
B.6	1	1985 Aerial Photograph	1985
B.7	1	1977 Aerial Photograph	1977
B.8	5	Building Permit Records	various
B.9		Zoning Maps	various
		a. 1962 Map: SR	
		b. 10/5/1977 Map: M-3	
		c. 10/6/1977 Map: RC	
		d.	
‘C’		Administration & Procedures	Date
C.1	1	Incomplete Letter	9/2/04
C.2	5	Acceptance of 180 Day Period	9/7/04
C.3		Opportunity to Comment	

C.4	1	Complete Letter – Application Complete 9/8/04 – Day 1	9/13/04
C.5		Administrative Decision – Day 20	9/27/04