

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

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

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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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.

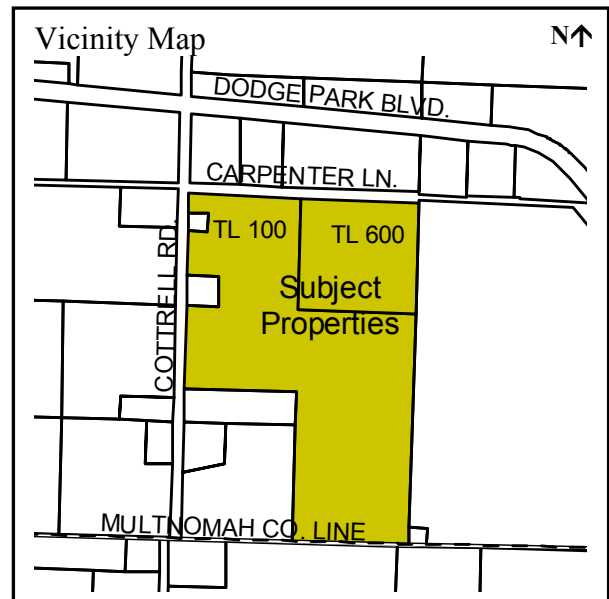
**Case File:** T2-05-020

**Permit:** Property Line Adjustment

**Location:** 34828 & 35050 SE Carpenter Lane  
Tax Lot 100 Section 22C, Township 1  
South, Range 4 East, W.M  
& Tax Lot 600 Section 22CA,  
Township 1 South, Range 4 East, W.M

**Applicant:** Ronald Roberts  
35050 SE Carpenter Lane  
Gresham, OR 97080

**Owner:** Ronald A. & Mary A. Roberts  
35050 SE Carpenter Lane  
Gresham, OR 97080



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**Summary:** A property line adjustment between Tax Lots 100 and 600 with TL 600 decreasing in size from the existing 9.58 acres to five acres and TL 100 increasing in size from the existing 34.91 acres to 39.49 acres.

**Decision:** Approved with Conditions.

Unless appealed, this decision is effective, June 28, 2005, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Tuesday June 14, 2005

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**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 George A. Plummer, 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 June 28, 2005 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Multnomah County Code (MCC): Chapter 37: Administration and Procedures; MCC 36.2800 et. al: Multiple Use Agriculture – 20; MCC 36.0005: Definitions and 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](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **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 submitted materials included as part of this document as Exhibits 1. The proposed property line adjustment shall be completed as shown and described in the application materials submitted by the applicant and as shown on Exhibit 1.2 [MCC 37.0580]. The property line adjustment is between Tax Lots 100 and 600 with TL 600 decreasing in size from the existing 9.58 to about five acres and TL 100 increasing in size from the existing 34.91 acres to about 39.49 acres (acreage includes total area including any area within right of way included on the deeds). No property shall exceed 40 acres as a result of this property line adjustment [MCC 36. 28.60(B)(2)(b)]. No additional lot or parcel shall be created through this process [MCC 36.2860(B) and 36.7970(C)(1)].
2. The property owner, or representatives there of, shall submit copies of the final survey, and legal descriptions to Multnomah County Planning for verification that the adjusted properties conform to the approved Tentative Plan Map and meet applicable zoning requirements. If the submitted documents conform with the approved Tentative Plan Map (Exhibit 1.2) and zoning requirements staff will sign the survey. Multnomah County Planning must review and sign the survey before you submit your deed(s), surveys, and legal descriptions to County Records Management office at Assessment and Taxation and County Surveying for recording [MCC 36.7970].
3. The applicant shall complete the procedures provided in the attached “Applicant’s Instructions for Finishing a Property Line Adjustment,” included as Exhibit 2.6 and in the attached “Surveyor’s Instructions for Finishing a Property Line Adjustment” included as Exhibit 2.7. This will entail

survey and monumentation of the new lot line by a registered surveyor and verification by survey of the location of the existing structure from the lot lines as required by MCC 36.7970(C). The survey and each of the new deed descriptions shall be presented to County Land Use Planning for review prior to recording the deeds. For each of the two properties, a new deed shall be filed with County Records describing the property boundaries with a metes-and-bounds description. When the process is complete the portion of property that is transferred shall be merged into Tax Lot 100 through a deed description (metes and bounds) describing the entire property. The transferred property shall not exist as a separate property with its own deed or deed description. No additional lot or parcel shall be created. [MCC 36.3160(E) and MCC 36.7970].

4. This approval will automatically become void if, within two years of the date of the final decision, if the final survey or plat has not been approved by the Planning Director and recorded with County Records [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 George Plummer 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.

**Note:** To address 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 follow the **Staff** label. At the end of the report, Exhibits are described. The applicant's submittal is included and made part of this decision as Exhibit I.

1. **REQUEST FOR A PROPERTY LINE AJUSTMENT**

**Staff:** The applicant is requesting a property line adjustment between Tax Lots 100 and 600 with TL 600 decreasing in size from the existing 9.58 acres to five acres and TL 100 increasing in size from the existing 34.91 acres to 39.49 acres (Exhibit 1.2). The eastern half of southern line of TL 600 will be adjusted at about a 90 degree angle to its current location to run north-south, including about the eastern half of TL 600 into TL 100.

2. **SITE AND VICINITY CHARACTERISTICS**

**Staff:** The site is in a rural area which is predominate farmland with residences located on most of the parcels in the area. Both of the subject properties have dwellings and are farmed with landscaping stock (Exhibit 2.6). The properties are in the West of the Sandy River Plan Area and are with in the Multiple Use Agriculture – 20 (MUA-20) Zone District.

3. **TYPE II CASE PROCEDURES**

**MCC 37.0530 (B):** Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Land Use Board of Appeals (LUBA) within 21 days of when the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

**Staff:** Procedures outlined in MCC 37.0530 were followed in processing this case. An opportunity to appeal this case will be provided, if not appeal is failed the decision will become final after 14 days after the date on the decision. The application was submitted March 2, 2005 and was deemed complete on April 19, 2005.

An “Opportunity to Comment” notice was mailed on May 10, 2005 to all owners of property within 750 feet of the subject site. They were given a 14-day period to provide comments on the application (MCC Chapter 37). No comments were submitted.

#### **4. MULTIPLE USE AGRICULTURE – 20 ZONE DISTRICT**

##### **4.1 Property Line Adjustment**

**MCC 36.2860(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.

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

(2) One of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 20 acres prior to the adjustment and remains 20 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 40 acres in area prior to the adjustment and remains less than 40 acres in area after the adjustment.

**Staff:** The proposal is to adjust the property line between the two properties not creating an additional lot or parcel. Tax Lot 100 is less than 40 acres at 34.91 acres prior to the adjustment. The proposed property line adjustment will increase Tax Lot 100 to 39.49 acres (total including all area, including any within right of way) meeting the requirement to remain less than 40 acres (Exhibit 1.2). These criteria can be met through conditions of approval.

##### **4.2. Dimensional Standards and Development Requirements**

**MCC 36.2855:** All development proposed in this district shall comply with the applicable provisions of this section.

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

\* \* \*

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

**Minimum Front Lot Line Length - 50 feet.**

**Staff:** The adjusted line is proposed to be located greater than 100 feet from any structures as shown on Exhibit 1.2. The property will substantially exceed the minimum front lot line length. The standards have been met by the proposal (Exhibit 1.2).

**4. MULTIPLE USE AGRICULTURE ZONE DISTRICT LOT OF RECORD REQUIREMENTS**

**MCC 36.2870 (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, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982.**

**MCC 36.0005(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:**

**\* \* \***

**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;**

**Staff:** Tax Lot 600 appears on the assessment map used for the 1962 County Zoning Map for the area (Exhibit 2.4). While acreage is stated as larger than what is indicated on the current assessment records, the property is in the same configuration with the same dimension as it is currently. This indicates that this parcel existed prior to the 1962 Zoning Maps. County Assessment parcel card records show that a deed was filed on July 7, 1972 in Book 868, on page 74 describing this property (Exhibit 2.3). The deed demonstrates the property existed in 1972, if the property were created between 1958 and 1972 it met the minimum zoning requirements of the F-2 Zoning District, if it was created prior to 1958 there were no minimum zoning requirements. There were no land division review requirements to create one parcel prior to 1978, thus it met land division requirements. Tax Lot 600 meets the criteria for a Lot of Record.

Tax Lot 100 was created in its present configuration following an approval of a property line adjustment, Case T2-04-001. The property's current configuration matches what was approved in this decision. Lot of Record findings were made in that case indicating that Tax lot 100 is a Lot of Record. The previous case's findings are accepted for this case. Tax Lot 100 meets the criteria for a Lot of Record.

**5. PROPERTY LINE ADJUSTMENT**

**MCC 36.7970:** 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.

**(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.**

**(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**
- (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**
- (3) The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.**
- (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:** The proposed Property Line Adjustment is between two adjacent properties with no additional property created by the proposal. The parcel reduced in size is an existing Lot of Record below the minimum meet MCC 36.7970(B). A consent form was signed by owners of both properties (Exhibit 1.5), Ronald and Mary Roberts for Tax Lot 600 and Ronald Roberts PR for the Estate of Eva Roberts for Tax Lot 100 (Exhibit 1.5 and 1.6). The dimensional standards findings were addressed under Section 4.2 of this decision. No changes in road access to the properties result from the proposed Property Line Adjustment. Given that there will be no increased impact to County roads, thus no nexus for any improvements as a result of the property line adjustment, there are no applicable provisions of the Street Standards Code and Rules that can be required for this proposal under MCC 36.7970(C)(4). The proposal was reviewed by Alison Winter, County Transportation Specialist. Ms. Winter states in an email that there are no transportation issues (Exhibit 2.5). These criteria have been met by the proposal.

## **5. CONCLUSION**

Considering the findings and other information contained herein, all the Multnomah County Code requirements are met or can be met through Conditions of Approval --for the requested Property Line Adjustment.

## **6. EXHIBITS**

### **Exhibits 1: Submitted by the Applicant**

- Exhibit 1.1: Application form submitted March 2, 2005 (1 page);
- Exhibit 1.2: Proposed property line plan map submitted March 14, 2005 (1 page);
- Exhibit 1.3: Narrative with map submitted April 7, 2005 (3 pages);
- Exhibit 1.4: Certification of On-Site Sewage Disposal submitted April 7, 2005 (1 page);
- Exhibit 1.5: Property Owner consent Form submitted March 2, 2005 (1 page);
- Exhibit 1.6: Letters of Testamentary submitted March 2, 2005 (1 page).



**Exhibits 2: Supplied by County**

- Exhibit 2.1: County Assessment Records (2 pages);
- Exhibit 2.2: Current County Assessment Maps (2 page);
- Exhibit 2.3: County Assessment Parcel Card with Book and Page of a deed that described TL 600 in 1972 (1 page);
- Exhibit 2.4: 1962 Multnomah County Zoning Map showing SR Zone District (1 page);
- Exhibit 2.5: Email from Alison Winter, County Transportation Planning Specialist (1 page);
- Exhibit 2.6: Applicant's Instructions for Finishing a Property Line Adjustment (1 page);
- Exhibit 2.7: Surveyor's Instructions for Finishing a property line Adjustment (1 page).

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