

**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

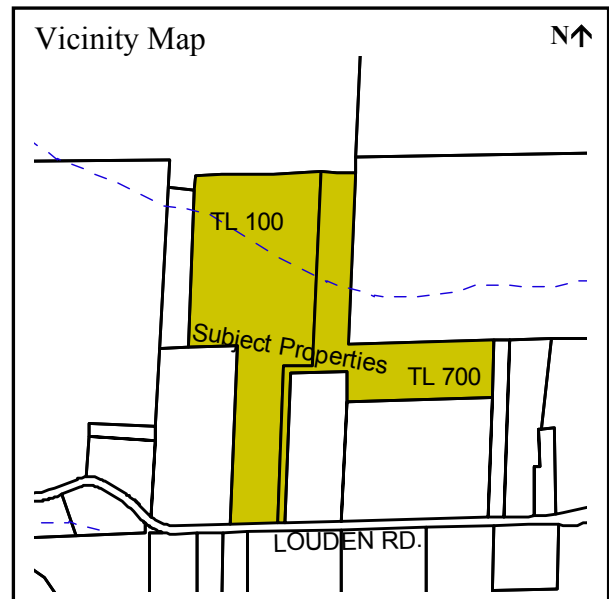
[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

---

## NOTICE OF DECISION

---

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

**Case File:** T2-05-079**Permit:** Property Line Adjustment**Location:** 41025 SE Louden Road  
Tax Lot 100, Section 6C, &  
Tax Lot 700, Section 6  
Township 1 South, Range 4 East, W.M.**Applicant:** Tom Steenson  
815 SW 2<sup>nd</sup> Ave., Ste 500  
Portland, OR 97204**Owners:** Tom Steenson  
815 SW 2<sup>nd</sup> Ave., Ste 500  
Portland, OR 97204  
and  
John G. Chamberlin & Ellen G. Madnick  
41024 SE Louden Rd.  
Corbett, OR 97019

---

**Summary:** Property line adjustment between Tax Lots 100 and 700. Tax 100 currently 34.80 acres in size will be increased to about 43.8 acres and Tax Lot 700 currently 19 acres will be reduced in size to about 10 acres. Both properties are within the Commercial Forest Use 4 (CFU4) Zone District in the East of the Sandy River Rural Plan Area.**Decision:** Approved with Conditions.Unless appealed, this decision is effective **November 23, 2005 at 4:30 pm.**

---

Issued by:

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

For: Karen Schilling- Planning Director

Date: November 09, 2005 at 4:30 pm.

map

**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 Wednesday, November 23, 2005 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Multnomah County Code (MCC): Chapter 37: Administration and Procedures; MCC 35.2200 et. al: Commercial Forest Use - 4; MCC 35.0005: Definitions and MCC 35.7970: 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. 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]. No additional lot or parcel shall be created through this process [MCC 36.2860(B) and 36.7970(C)(1)].
2. The applicant shall complete the procedures provided in the attached "Applicant's Instructions for Finishing a Property Line Adjustment," included as Exhibit 2.5 and in the attached "Surveyor's Instructions for Finishing a Property Line Adjustment" included as Exhibit 2.6.
3. Prior to recording the deeds, the property owner, or representative thereof, 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. If the submitted documents conform with the approved Tentative Plan Map (Exhibit 1.2) and zoning requirements staff will sign the survey and deeds. 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].
4. 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 the deed description describing the entire property. No additional lot or parcel shall be created. [MCC 36.3160(E) and MCC 36.7970].

5. 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]. The Planning Director may grant one extension period of up to 12 months if the request meets the requirements listed under MCC 37.0690(A).

**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 1...

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

**Staff:** A Property line adjustment between Tax Lots (TL) 100 and 700 with TL 100 currently 34.80 acres in size increased to about 43.8 acres and Tax Lot 700 currently 19 acres reduced in size to about 10 acres (Exhibit 1.1 and 1.2). The properties are within the Commercial Forest Use 4 (CFU4) Zone District in the East of the Sandy River Rural Plan Area (Exhibit 2.3).

**2. SITE AND VICINITY CHARACTERISTICS**

**Staff:** The subject properties are accessed from Loudon Road. The properties are located north of the road in a rural area which is predominately forest lands (Exhibit 2.8). In the vicinity, there are several properties adjacent to road that are small farms and/or woodlots with residential developments located within a few hundred feet from the road. The subject properties while abutting the road are the exception with the residential development located about a quarter mile from the road.

Tax Lot 100 is relatively flat for about 900 feet north of the road. This area is farmed with nursery stock crops (Exhibit 2.9). The property then drops sharply about 170 feet to an area of shallower slope where the property is developed with a dwelling and agricultural buildings. The area around the development is also farmed with landscape nursery crops. The property then drops off steeply about 150 feet into a ravine and raises on the northern end of the property. The steep areas of the property are forested.

Tax Lot 700 is an oddly shaped flag lot with a 50 foot wide flag pole section that is relatively flat for the first 900 feet (Exhibit 2.9). Then the property drops similar to the other property with the flag bending 90 degrees to the east. There are two distinct sections making up the rest of the property, a narrow 1195 foot long leg to the north that is about 245 feet wide and an area to the east that is about 398 feet wide by about 1030 foot deep with the dwelling. The property is forested with a dwelling located in a relatively flat area.

**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 no appeal is filed, the decision will become final 14 days after the date on the decision. The application was submitted July 28, 2005 and was deemed complete on September 12, 2005 when the revised plan was submitted.

An "Opportunity to Comment" notice was mailed on September 29, 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. COMMERCIAL FOREST USE – 4 ZONE DISTRICT**

##### **4.1 Lot Line Adjustment**

**MCC 35.2270(A) An adjustment of the common lot line between contiguous Lots of Record based on a finding that:**

- (1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;**
- (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;**
- (3) The new lot line is in compliance with the dimensional requirements of MCC 35.2260 (C) through (D); and**
- (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:** Each of the properties have an existing dwelling (Exhibit 2.1), no additional dwelling would be allowed other than what is allowed in the district. The property line adjustment would reduce Tax Lot 700 by about 9 acres. However the nine acre area to be adjusted is a narrow 1195 foot long leg that is about 245 feet wide. The topography for this leg drops rapidly, about 150 feet, into a ravine and then rises to the north (Exhibit 2.9). The configuration of the property makes this area difficult to manage for forestry purposes. Joining this section of the property to Tax Lot 100 would make it easier to manage for forest practices with a larger block. The ability to develop access would be more feasible. Dimensional requirements of MCC 35.2260 (C) through (D) are addressed in findings in the following section of this decision. Neither of the properties are 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. The proposed property line adjustment meets these standards.

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

**MCC 35.2260(C) Minimum Forest Practices Setback Dimensions From Tract Boundary– Feet:**

<b>Road Frontage</b>	<b>Other Front</b>	<b>Side</b>	<b>Rear</b>
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 35.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 35.2305 (A) (5) (c) 2.**

**MCC 35.2260 (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.**

**Staff:** The structures on both properties meet the 130 foot side yard forest setback in relation to the adjusted line. The dwelling on Tax Lot 100 meets all the forest practices setbacks (Exhibit 2.4 and 2.7). The dwelling on Tax Lot 700 does not meet the 130 foot rear yard setback, however it met the 30 foot rear yard setback (Exhibit 2.4) that was required when it was established in 1984 (Exhibit 2.1, 2.10 and 2.11). The property line adjustment will not affect the property lines adjacent to the road, and all structures are about a quarter mile from the road, thus MCC 35.2260(D) is not applicable.

#### **5. COMMERCIAL FOREST USE – 4 ZONE DISTRICT LOT OF RECORD REQUIREMENTS**

##### **5.1. Definition of Lot of Record**

**MCC 35.0005(L)(13) Definition: 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.)

## 5.2. CFU-4 Lot of Record

**MCC 35.2275 (A)** In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

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

(2) A group of contiguous parcels or lots:

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

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

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

2. 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.

**Staff:** County Assessment records show both properties were in the same ownership in 1990. However, both properties met the 19 acre minimum in 1990 and currently meet it (Exhibit 2.2 and 2.4).

**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:

\* \* \*

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

**Staff:** The Land Division which created both parcels was approved in 1988 under Land Use Planning Case LD 3-88 (Exhibit 2.4). Both properties met applicable zoning and land division laws when they were created. Both properties are Lots of Record.

## **6. 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. Both properties are currently below the minimum parcel size for the CFU-4 District. The proposed Property Line Adjustment complies with the CFU-4 Zoning District standards for a Lot Line Adjustment (see Section 4 of this decision). A consent form was signed by owners of both properties, Tome Steenson for Tax Lot 700 and John Chamberlin and Ellen Madnick for Tax Lot 100 (Exhibit 1.3). The findings of compliance with dimensional standards are addressed under Section 4.2 of this decision.

In an email sent October 6, 2005 Alison Winter, County Transportation Planning Specialist stated, "Transportation does not have any issues with the proposal to adjust the lot lines between Tax

Lots 100 and 700 located along Louden Road (Exhibit 12.12)” Louden Road is a rural local with a 50 foot minimum requirement. The right-of-way width is 60 feet, exceeding the minimum. No changes in road access to the properties result from the proposed Property Line Adjustment. These criteria have been met by the proposal.

## **7. 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.

## **8. EXHIBITS**

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

- Exhibit 1.1: Application form submitted 7/28/05 (1 page);
- Exhibit 1.2: Proposed property line adjustment plan map submitted 9/12/05 (1 page);
- Exhibit 1.3: Property Owner consent form submitted August 8, 2005 (1 page);
- Exhibit 1.4: Fire District Access Review form dated 7-19-05 completed and signed by Tom Layton, Fire Chief, Multnomah County RFPD #14 (3 pages);
- Exhibit 1.5: Certification of On-Site Sewage Disposal form dated 7-15-05 completed and signed by Philip Crawford, Sanitarian, City of Portland with maps attached (4 pages);

### **Exhibits 2: Supplied by County**

- Exhibit 2.1: County Assessment Records for both properties (4 pages);
- Exhibit 2.2: Current County Assessment Maps (2 page);
- Exhibit 2.3: County Zoning Map (1 page);
- Exhibit 2.4: Approved Land Division Case LD 3-88 signed by David Prescott, County Planning Director
- Exhibit 2.5: Applicant’s Instructions for Finishing a Property Line Adjustment (1 page);
- Exhibit 2.6: Surveyor’s Instructions for Finishing a property line Adjustment (1 page)
- Exhibit 2.7: 2002 Aerial Photo of the Subject Property (1 page);
- Exhibit 2.8: 2002 Aerial Photo of Vicinity (1 page);
- Exhibit 2.9: 2002 Aerial Photo with 10 Foot Contours (1 page);
- Exhibit 2.10: 1980 Zoning Map for the subject properties (1 page);
- Exhibit 2.11: 1982 Multnomah County Zoning Code 11.15.2178: Multiple Use Forest District Dimensional Requirements (1 page);
- Exhibit 2.12: Email from Alison Winter, County Transportation Planning Specialist (1 page).