



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

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

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.

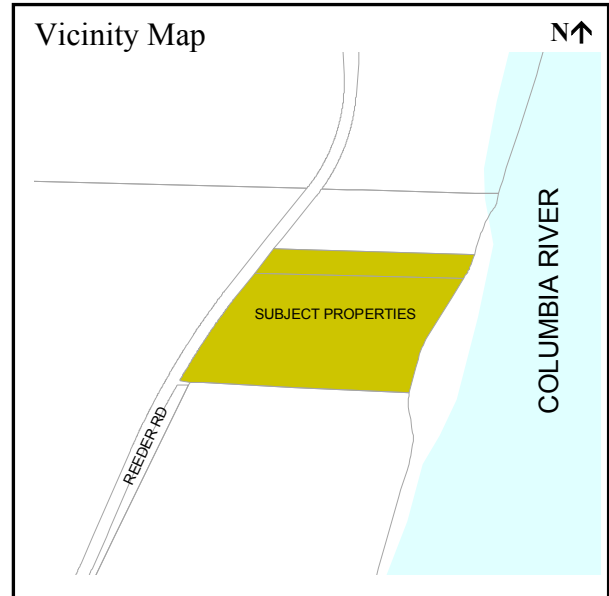
Case File: T2-05-116

Permit: Property Line Adjustment

Tract 1: 25602 NW Reeder Rd
Tax Lot 300, Section 26D,
Township 3N, Range 1W, W.M.
Tax Account #R981260220

Tract 2: No Site Address
Tax Lot 200, Section 26D,
Township 3N, Range 1W, W.M.
Tax Account #R981260260

Applicant: Thomas Hicks



Tract 1 Thomas Hicks
Owner: Artscape, Inc.
PO Box 10165
Portland, OR 97296

Tract 2 Thomas Hicks
Owner: Artscape, Inc.
PO Box 10165
Portland, OR 97296

Summary: Property Line Adjustment to relocate a common boundary line between 25602 NW Reeder Road (TL300) and Tax Lot 200 immediately to the north. TL300 would decrease in size from the existing 9.43 acres to 8.974 acres (a difference of 0.456 ac) and TL 200 would increase in size from 1.92 acres to 2.376 acres.

Decision:

Unless appealed, this decision is effective Wednesday August 24, 2005 , at 4:30 PM.

Issued by:

By: _____
Kenneth Born, Planner

For: Karen Schilling- Planning Director

Date:

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 Ken Born, 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 .

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0530(B) Type II Decisions, MCC 37.0550 Initiation of Action, MCC 37.0560 - Code Compliance And Applications; MCC 34.0005(L)(12) – Lot of Record, MCC 34.2855 – Dimensional Requirements, MCC 34.2860 – Lots of Exception and Property Line Adjustments; MCC 34.2870 – Lot of Record; MCC 34.7970 – Property Line Adjustment, , MCC 36.7210 Alteration, Expansion or Replacement of Nonconforming Uses & MCC 36.7215 Verification of Nonconforming Use Status.

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 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. **The property owner, or representatives thereof, shall complete the adjustment pursuant to the attached “Applicant’s Instructions for Finishing a Property Line Adjustment,” and “Surveyor’s Instructions for Finishing a Property Line Adjustment”. 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 dwellings and other structures in relation to lot lines as required by MCC 36.7970(C).**

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 are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

Project Description

Staff: The applicant is proposing to adjust a common property line between 25602 NW Reeder Road (hereafter Tract 1) and the parcel immediately to the north on NW Reeder Road (hereafter Tract 2) by moving the northerly property line of Tract 1 beginning at the meander line from the original legal descriptions, and then running approximately 401' west along the shared boundary; then directly south for 50', then directly eastward to the meander line, or the eastern boundary of Tract 1; then following the eastern boundary line of Tract 1, a distance some amount longer than 50' to the existing SE corner of Tract 2. Tract 1 will lose approximately 0.456 acres of land in the northeast portion of the property, while Tract 2 will gain 0.456 acres of land. After completion of the property line adjustment, Tract 1 will be approximately 8.974 acres in size. Tract 2 will be increased from approximately from 2.09 acres to 2.546 acres in size.

Site Characteristics

Staff: The local area along NW Reeder Rd. in Sauvie Island consist a significant number of parcels devoted to agricultural uses. This is an area of Multiple Use Agriculture – 20 zoning with overlays for Significant Environmental Concern (general and riparian), and for the 100-year floodplain. The subject parcels are both currently vacant.

The site is located to the west of the Columbia River in the Sauvie Island/Multnomah Channel Rural Plan Area. The properties are surrounded to the north, south and west by Multiple Use Agriculture land and lies just east of Sturgeon Lake. Dairy Creek bisects both parcels, and course through the western quarter of the site.

1.00 Administration and Procedures

1.01 Public Comment

MCC 37.0530(B) Type II Decisions

(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 LUBA within 21 days of when the decision is signed.

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on . 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: Multnomah County Assessment and Taxation records show Manning & Betty Blake own Tax Lots 700 & 901, 1S4E20DD (Tract 2) and Lillian Myers owns Tax Lot 900, 1S4E20DD (Tract 1) (Exhibit B.2, B.3 & B.4). All owners have signed the Statement of Property Owner Consent (Exhibit A.2). The property owners have authorized Jean Ice to be the applicant for the property line adjustment (Exhibit A.1). *This criterion has been met.*

2.00 *Multiple Use Agriculture – 20*

2.01 MCC 34.2825 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, or as specified for the use.

(F) Property Line Adjustment pursuant to the provisions of MCC 34.2860.

Staff: Property line adjustments are a listed Review Use allowed in the district.

2.02 MCC 34.2860 Lots of Exception and 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

Staff: The proposed Property Line Adjustment begins with two tracts and ends with two tracts as seen on the submitted site plan (Exhibit XX). No new parcel is created. *This criterion has been met.*

2.03 (2) One of the following situations occurs:

(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: Tract 1 is currently 9.43 acres in size and will be reduced to 8.974 acres. Tract 2 is currently 2.09 acres in size and will be enlarged to 2.376 acres. *This criterion has been met.*

2.04 MCC 34.2870 Lot of Record.

(A) In addition to the Lot of Record definition standards in MCC 34.0005, 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.

(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 36.2885, 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 36.2860, 36.2875, 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.

(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.

MCC 34.0005 Definitions

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

(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.

Staff:

Tract 1 – The applicant has provided deed records for the property at 25602 NW Reeder Road which shows the creation of the lot. This property was created by a deed on June 16, 1952 recorded in Book 1542, Page 578 (Exhibit x.x). The County did not adopt zoning regulations in this area until 1958. No partitioning regulations were in effect in 1952. Tract 1 is a *Lot of Record*.

Tract 2 – A Lot of Record Determination was issued for this parcel on December 17, 2002 (Case File T2-02-080), indicating the property is a lot of record eligible for development. Tract 2 is a *Lot of Record*.

2.05 MCC 34.7970 Property Line Adjustment (Lot Line Adjustment)

(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: Both properties are zoned Multiple Use Agriculture – 20 (MUA-20) which has a minimum lot size of 20 acres to create a new parcel or lot. Tract 1 is currently 9.43 acres in size and will be reduced to 8.974 acres. Tract 2 is currently 2.09 acres in size and will be increased to 2.546 acres. *This criterion has been met.*

2.07 (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 1 lawfully created parcel as discussed above under the Lot of Record finding of MCC 34.2870. Tract 2 is a parcel which also was lawfully created as found above. The property line adjustment will begin with 2 lawful parcels and end with 2 lawful parcels (Exhibit A.13). *This criterion has been met.*

2.08 (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: Thomas Hicks owns both Tract 1 and Tract 2. Mr. Hicks has consented in writing to the application (Exhibit xx). *This criterion has been met.*

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

MCC 34.2855 Dimensional Standards and Development Requirements.

(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: While both Tract 1 and 2 are currently unimproved, a Significant Environmental Concern Permit (Case File: T2-05-045) was issued on September 20, 2005 to allow for the construction of a two-story, single family dwelling approximately 4,200 square feet in size on Tract 1. The applicant's Property Line Adjustment Sketch illustrates the proposed footprint for the residence. The home will not be taller than 35-feet, and will be located more than 100-feet from the adjusted property line. *This criterion has been met.*

2.10 (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: NW Reeder Road consists of a 50 ft right-of-way. In the Sauvie Island/Multnomah Channel Rural Area Plan, NW Reeder Road is designated a *Rural Local* Road. Multnomah

County's Transportation Planner Alison Winters has indicated that no additional right of way is needed for Pleasant Home or Bluff Road at this time. *This criterion has been met.*

3.00 **Conclusion**

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the criteria for a Property Line Adjustment contained in the Zoning and Land Division codes have been met and an Alteration to the Nonconforming Rear Yard setback may be allowed.

4.00 **Exhibits**

'A' Applicant

'B' Staff

'C' Administration and Procedure

'A'	# of Pages	Description of Exhibit	Date Received
A.1	1	General Application Form	4/6/05
A.2	2	Statement of Property Owner's Consent	4/6/05 & 6/7/05
A.3	2	General Power of Attorney	6/7/05
A.4	1	Property Profile for 8046 SE Pleasant Home Road	6/7/05
A.5	1	Warranty Deed for 8046 SE Pleasant Home Road (Book 1253 Page 1334)	6/7/05
A.6	1	Warranty Deed for 10 ft by 216.74 Strip of Land (Book 857 Page 1186)	6/7/05
A.7	1	Re-Recorded Warranty Deed for 10 ft by 216.74 Strip of Land (Re-Recorded 6/18/2004)	6/7/05
A.8	1	Exhibit A Legal Description – Order No. 14y0007575m	6/7/05
A.9	2	Property Profiles for 31817 SE Bluff Road	6/7/05
A.10	2	Special Warranty Deed for 20 ft by 52 ft Piece of Land (Recorded 7/7/2004)	6/7/05
A.11	2	Re-Recorded Special Warranty Deed for 20 ft by 52 ft Strip of Land (Re-Recorded 7/7/2004)	6/7/05
A.12	1	Tentative Plan Map	4/6/05
A.13	1	Revised Tentative Plan Map	6/7/05
'B'	#	Staff Exhibits	Date
B.1	1	Survey 57631	4/26/2001
B.2	2	A&T Property Record for 1S4E20DD – 00900 (8046 SE Pleasant Home Road)	4/20/05
B.3	2	A&T Property Record for 1S4E20DD – 00901	4/20/05
B.4	2	A&T Property Record for 1S4E20DD – 00700	4/20/05

B.5	1	A&T Parcel Record for 1S4E20DD – 00900	7/28/05
B.6	1	A&T Parcel Record for 1S4E20DD – 00700	7/28/05
B.7	1	A&T Appraiser Card	8/8/05
‘C’	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	4/21/05
C.2	1	Complete Letter (Day 1 – 6/7/05)	6/9/05
C.3	3	14 Day Opportunity to Comment	6/10/05
C.4		Administrative Decision (Issued on Day 65)	8/10/05