

**MULTNOMAH COUNTY****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/landuse>

NOTICE OF DECISION

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

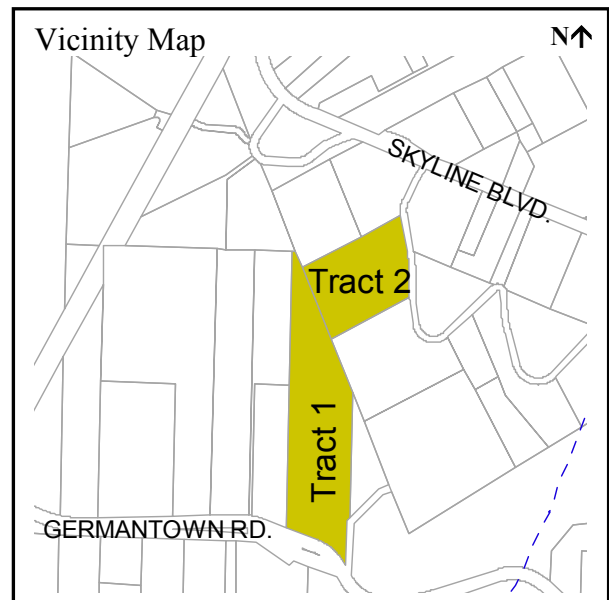
Case File: T2-06-013

Permit: Property Line Adjustment

Location: 13045 NW Germantown Road
Tax Lots 3500 & 5200, Section 9A,
Township 1 North, Range 1 West, W.M
Tax Account R773502900 &
R313900010

**Applicant/
Owner:** Scott Hamersly
JMS Properties
2695 Surrey Lane
West Linn, OR 97068

Owner: Dorothy J. Imes, TR
13045 NW Germantown Rd.
Portland, OR 97231



Summary: A proposed property line adjustment that will transfer 15,375 square feet from Tract 1 to Tract 2, decreasing the size of Tract 1 from 6.9 acres to 6.55 acres and increasing the size of Tract 2 from 3.65 acres to 4.0 acres. Both properties are in the Rural Residential Zone District.

Decision: Approved with Conditions

Unless appealed, this decision is effective July 12, 2006, at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, June 28, 2006

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 extension 29152.

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 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 July 12, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 37: Administration and Procedures, MCC 33.3100 et al: Rural Residential, MCC 33.7970: Property 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/landuse>.

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. **This land use permit expires two (2) 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 or 37.0700, as applicable. A request for permit extension may be required to be granted prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. This approval is based on 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 33.2860(B) and 33.7970(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 33.7970].
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 33.3160(B) and MCC 33.7970].
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 extension 29152 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.

1. REQUEST FOR A PROPERTY LINE AJUSTMENT

Staff: A proposed property line adjustment that will transfer 15,375 square feet from Tract 1 to Tract 2, decreasing the size of Tract 1 from 6.9 acres to 6.55 acres and increasing the size of Tract 2 from 3.65 acres to 4.0 acres. Both properties are in the Rural Residential Zone District. Tract 1 is accessed from Germantown Road. Tract 2 abuts an undeveloped Right-of-Way which is accessed off Skyline Blvd (Exhibit 2.2).

2. SITE DESCRIPTION

Staff: Tract 1 is developed with a single family residence which is located more than 300 feet from the line to be adjusted. Tract 2 is undeveloped.

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 February 1, 2006 and was deemed complete on April 26, 2006 when additional information was submitted.

An "Opportunity to Comment" notice was mailed on May 22, 2006 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. RURAL RESIDENTIAL ZONE DISTRICT

4.1 Lot Line Adjustment

MCC 33.3160(B) Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

(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 5 acres prior to the adjustment and remains 5 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 10 acres in area prior to the adjustment and remains less than 10 acres in area after the adjustment.

Staff: The proposal is to adjust the property line between Tract 1 and Tract 2. The proposal will reduce Tract 1 from 6.9 acres to 6.55 acres and increasing the size of Tract 2 from 3.65 acres to 4.0 acres, thus the parcel reduced in size is larger than 5 acres and remains larger than 5 acres (Exhibit 1.2). These criteria are met by the proposal.

4.2. Dimensional Standards and Development Requirements

MCC 33.3155 (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet.

Staff: The property line to be adjusted is hundreds of feet from any structure on the subject properties (Exhibit 1.2). Minimum yard dimensions are not affected by the proposed property line adjustment. The proposed property line adjustment does not affect the front line of either property. This standard is met.

4.3. Access

MCC 33.3185 Any lot in this district shall abut a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Staff: Both properties abut public rights-of-way (Exhibit 2.2). The proposed property line adjustment does not affect the property lines that abut the roads. The properties will continue to abut the rights-of-way after the property line adjustment.

5. Lot of Record

MCC 33.0005(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:
 - 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: For Tract 1 the applicant submitted a copy of a deed recorded with County Records on November 8, 1952 in Book 1810, on Page 510 (Exhibit 1.5) that demonstrates the property was in the current configuration prior to zoning and land division requirements for this property. Tract 2 is Lot 28 of Skyline Acres Subdivision platted in 1908 which satisfied land division requirements and predated zoning requirements. Both properties are Lots of Record.

6. PROPERTY LINE ADJUSTMENT

MCC33.7970: 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.**

(D) The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director

Staff: The proposed Property Line Adjustment is between two adjacent properties with no additional property created by the proposal (Exhibit 1.2) . Tract 1, the property reduced in size, is not reduced below the five acre RR District minimum. Tract 2 is currently below the minimum parcel size for the RR District and will remain below the minimum. The proposed Property Line Adjustment complies with the RR Zoning District standards for a Lot Line Adjustment (see Section 4.1 of this decision). A consent form was signed by owners of both property owners, Dorothy J. Imes for Tract 1 and Scott Hamersly, JMS Properties, for Tract 2 (Exhibit 1.3). The applicant has submitted a document which states that Mr. Hamersly has authority to sign for JMS Properties (Exhibit 1.4). The findings of compliance with dimensional standards are addressed under Section 4.2 of this decision.

In a memorandum dated May 15, 2006 (Exhibit 2.4) Alison Winter, County Transportation Planning Specialist, stated, "County Transportation does not object to this proposal and does not have any conditions of approval at this time." She continues, "However, County Transportation recommends to following."

"Dedicate the necessary slope/drainage easement centered on the existing outlet/inlet of the drainage culvert(s) located along the site's Germantown Road frontage to Multnomah County for road purposes."

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 2/1/06 (1 page);
- Exhibit 1.2: Proposed property line adjustment plan map submitted 4/26/06 (1 page);
- Exhibit 1.3: Property Owner consent form submitted 2/1/06 (1 page);
- Exhibit 1.4: Letter from John Smits, Managing Member, JMS Properties authorizing Scot Hamersly to represent JMS Properties submitted 4/3/06 (1 page)
- Exhibit 1.5: Copy of deed recorded in Book 1810, on Page 510 submitted 2/1/06 (1 page)
- Exhibit 1.6: Certification of On-Site Sewage Disposal forms completed and signed by Sanitarians, City of Portland submitted 4/4/06 (2 pages);

Exhibits 2: Supplied by County

- Exhibit 2.1: County Assessment Records for both properties (4 pages);
- Exhibit 2.2: Current County Assessment Map (1 page);
- Exhibit 2.3: County Zoning Map (1 page);
- Exhibit 2.4: Memo from Alison Winter, County Transportation Planning Specialist (1 page).
- 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)