



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: T2-06-074

Permit: Property Line Adjustment

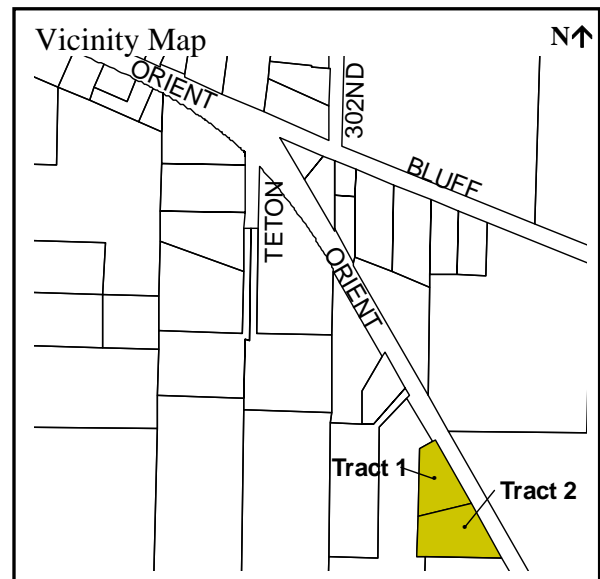
Location: *Tract 1:* 8141 SE Orient Drive
TL 1300, Sec 20CC, T 1S, R 4E, W.M.
Tax Account #R99420-1760

Tract 2: 8231 SE Orient Drive
TL 1200, Sec 20CC, T 1S, R 4E, W.M.
Tax Account #R99420-0950

Applicant: Joan Wood

Owner: Tract 1 & 2 : Larry & Joan Wood

Zoning: *Tract 1:* Orient Commercial Industrial
(OCI) [At time of Application]
Tract 2: Orient Rural Center Residential
(OR) [At time of Application]



Summary: Applicant is proposing to adjust the shared property line between these two parcels so that existing buildings meet the side yard setback requirement of ten feet.

Decision: Approved with conditions.

Unless appealed, this decision is effective Wednesday, October 25, 2006, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, October 11, 2006

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 extension 22597.

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 Wednesday, October 25, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

Orient Rural Center Residential: MCC 36.3425 Review Uses; (C) Property Line Adjustment pursuant to the provisions of MCC 36.3460, MCC 36.3455 Dimensional Standards and Development Requirements, MCC 36.3460 Property Line Adjustments, MCC 36.3470 Lot of Record, MCC 36.3485 Access; and

Orient Commercial Industrial: MCC 36.3550 Dimensional Standards and Development Requirements, 36.3560 Property Line Adjustment, MCC 36.3570 Lot of Record, MCC 36.3585 Access

Land Division: MCC 36.7970 Property Line Adjustment; and

General Provisions: Chapter 37, specifically MCC 37.0530(B) Type II Approval Process, MCC 37.0550 Initiation of Action, MCC 37.0560 Code Compliance and Applications.

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 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 and materials contained in the Exhibit List. The proposed property line adjustment shall be completed as shown in Exhibit A.3 [MCC 37.0580]. No additional lot or parcel shall be created through this process [MCC 33.7970(C)(1)].

2. The applicant shall complete the procedures provided in the “Applicant’s Instructions for Finishing a Property Line Adjustment,” and in the “Surveyor’s Instructions for Finishing a Property Line Adjustment”.
3. Prior to recording the deeds, the property owner, or representative 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 Revised Tentative Plan Map (Exhibit A.3). If the submitted documents conform to the approved Revised Tentative Plan Map (Exhibit A.3) and zoning requirements, staff will sign the survey and deeds. Multnomah County Planning must approve these documents prior to their recordation [MCC 33.7970].
4. This approval will automatically become void if, within two years of the effective date of the decision, if the final survey has not been approved by the Planning Director and the necessary deeds recorded with the County Recorder [MCC 37.0700].

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 Lisa Estrin at 503.988.3043 x22597 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.

Findings of Fact

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*.

Project Description:

Staff: The applicant proposes to adjust the common property line between Tax Lot 1300 (Tract 1) and Tax Lot 1200 (Tract 2), Section 20CC, T. 1S, R. 4E. Tract 1 is currently 37,461.6 sq ft and contains five single family dwellings and a detached garage. Tract 2 is currently 37,461.6 sq. ft and has a 4,256 sq. ft commercial building and a pole barn. The proposed property line adjustment will transfer 1,575 sq ft from Tract 1 to Tract 2 and also will transfer 1,100 sq ft from Tract 2 to Tract 1. The property line will be bent around the existing structures to ensure that all existing buildings will meet the 10 ft side yard setback requirement. After the adjustment Tract 1 will be reduced in size to 36,986.6 sq ft. Tract 2 will be enlarged to 37,936.6 sq. ft.

Note: In August 2006, the Land Use Planning section completed a zone change to correct a mapping error between the two properties. Tract 1 is now zoned Orient Rural Center Residential (OR) and Tract 2 is now Orient Commercial Industrial (OCI). The change in zone will not affect the outcome of this property line adjustment as the criteria for adjustment is basically the same in either district.

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 June 29, 2006 and an “Opportunity to Comment” notice was mailed on August 8, 2006 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 1200 and 1300, Section 20CC, Township: 1 South, Range: 4 East. Assessment & Taxation records show that both tax lots are owned by Lary & Joan Wood. Both Mr. & Mrs. Wood have signed the Property Owner’s Consent Form (Exhibit A.2). *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: Currently, the retail cabinet shop located in the existing buildings on Tract 2 was not lawfully established in the buildings. The pole building on Tract 2 was permitted for Tract 1 as a storage building. An existing dwelling on Tract 1 is located too close to the side property line. A Voluntary Compliance Agreement has been entered into by the Woods to correct the violations on these two tracts. This property line adjustment will fix the side setback violations for the two buildings.

2.00 General Provisions – OR & OCI

2.01 MCC 36.3425 Review Uses

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

Staff: The applicant has applied for and met the criteria for a property line adjustment on Tract 1 and Tract 2. *This criterion has been met.*

2.02 MCC 36.3455 / 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 36.3460 / 36.3560, 36.3470 / 36.3570, and 36.3475 / 36.3575, and 36.4300 through 4360, the minimum lot size shall be one acre.

(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: Tract 1 is currently 37,461.6 sq ft (0.86 acres). Tract 2 is currently 37,461.6 sq. ft (0.86 acres). Tract 1 and 2 are lots of record pursuant to MCC 36.3470 / 36.3570. With the completion of property line adjustment, the two buildings that encroach within the 10 ft side yard between the two properties will meet the required setback. The existing commercial building is nonconforming to the front yard setback on Tract 2. It is approximately 5 to 10 ft from the front property line. One of the existing, nonconforming dwellings on Tract 1 is

approximately 10 ft from the front property line. Tract 1 has and will maintain 264.70 ft of frontage. Tract 2 has and will maintain 226.13 ft of frontage. *These criteria have been met.*

- 2.03 **(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 1 and 2 front onto Orient Drive. Orient Drive is a Rural Arterial. The County's standard right-of-way width for a Rural Arterial is 60 ft. Orient Drive currently has a right-of-way width of 60 ft. No additional right of way or increase in the front yard setback is needed at this time. *This criterion is not applicable at this time.*

- 2.04 **MCC 36.3470 / 36.3570 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 / 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 36.3460 / 36.3560, 36.3475 / 36.3575, and 36.3400 / 36.4300 through 36.3460 / 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: Tract 1 and 2 were created in March 1971 when a gift deed was recorded giving half interest of Tract 1 to another party (Exhibit A.12). This left Tract 2 as a remainder parcel. The recordation of a deed that met the minimum lot size and lot coverage was the method of creation for parcels in Multnomah County until 1977. The zoning at the time was A-2 (Exhibit B.4). The A-2 zoning district had an adjustable minimum lot size depending on the number of dwelling units to be placed on the lot. Tract 1 had 5 dwelling units at the time of the parcels creation in 1971. The minimum lot size for a property with 5 units was 16,500 sq ft with maximum lot coverage of 45 percent for all structures. Tract 1 is currently 37,461.6 sq ft & at present the lot coverage is approximately 11 percent (Exhibit B.6). Tract 1 met the minimum lot size and coverage at the time of creation. Tract 2 at the time had a nonconforming commercial building. While the A-2 district allowed some commercial and/or industrial uses in

some instances, it did not specify minimum lot size or lot coverage for nonresidential uses. The lot coverage for the nonconforming building was 11 percent at the time.

2.05 **MCC 36.3485 / 36.3585 Access.**

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 tracts front onto the public right-of-way of Orient Drive. *This criterion has been met.*

3.00 ***Property Line Adjustment – OR & OCI***

3.01 **MCC 36.3460(B) / 36.3560(A) Property Line Adjustments**

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: Both Tract 1 and 2 are Lots of Record. See finding under Section 2.02 for more information. The Tentative Plan Map shows that two parcels exist now and that two will still exist after the adjustment (Exhibit A.3). No additional parcels will be created. *This criterion has been met.*

3.02 **(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: Both Tract 1 and 2 are currently 0.86 of an acre (37,461.6 sq ft). After the adjustment Tract 1 will be 36,986.6 sq ft and Tract 2 will be 37,936.6 sq ft. *This criterion has been met.*

4.00 ***Property Line Adjustment Criteria from Land Division Ordinance***

4.01 **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.

(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: The property line adjustment will move an interior lot line between two lots of record. No new parcel will be created (Exhibit A.3). The properties are zoned OR and OCI

respectfully. The OR and OCI district have a minimum lot size of 1 acre. Both Tract 1 and 2 are currently 0.86 of an acre (37,461.6 sq ft). After the adjustment Tract 1 will be 36,986.6 sq ft and Tract 2 will be 37,936.6 sq ft. *This criterion has been met.*

- 4.02 **(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 and Tract 2 are both legal parcels and will remain as two separate parcels. No additional parcels will be created (Exhibit A.3). *This criterion has been met.*

- 4.03 **(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: Larry & Joan Wood own both Tract 1 & Tract 2. The Woods have consented in writing to the application (Exhibit A.2). *This criterion has been met.*

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

Staff: See finding under Section 2.02. *This criterion has been met.*

- 4.05 **(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: See findings under Section 2.03. *This criterion has been met.*

- 4.06 **(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 submitted the required forms (Exhibit A.1 through A.15). A property line adjustment is a Type II application. Pursuant to the findings under MCC 37.0530(b) above, the procedures have been followed as required by the Planning Director.

5.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the property line adjustment to transfer a total of 475 sq ft of land from Tract 1 to Tract 2. This approval is subject to the conditions of approval established in this report.

6.00 **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	6/29/06
A.2	1	Statement of Property Owner Consent Form	6/29/06
A.3	1	Tentative Plan Map	6/29/06
A.4	1	First American Title Insurance Co. of Oregon Cover	6/29/06

		Page for Tax Lot 1200, 1S4E20CC	
A.5	1	First American Title Insurance Co. of Oregon Cover Page for Tax Lot 1300, 1S4E20CC	6/29/06
A.6	2	Statutory Special Warranty Deed Recorded 10/30/97 (Tract 1)	6/29/06
A.7	3	Statutory Special Warranty Deed Recorded 10/30/97 (Tract 2)	6/29/06
A.8	3	Memorandum of Property Sale Contract Signed 9/27/1989 [Book 2242, Pages 1944 – 1946] (Tract 2)	6/29/06
A.9	3	Memorandum of Property Sale Contract [Book 2242, Pages 1941 – 1943] (Tract 1)	6/29/06
A.10	1	Warranty Deed Recorded 11/1/1948 [Book 1301, Page 440] (Contains a Portion of Tract 1 & 2)	6/29/06
A.11	1	Warranty Deed Recorded 10/19/1948 [Book 1301, Page 441] (Deed References Vacated Subdivision)	6/29/06
A.12	1	Deed of Gift Recorded 3/1/1971 [Book 774, Page 1252] (Half Interest in Tract 1)	6/29/06
A.13	1	Deed of Gift Recorded 9/7/1971 [Book 811, Page 1353] (Tract 1)	6/29/06
A.14	1	Warranty Deed Recorded 8/30/1968 [Book 638, Page 325] (Removes triangular piece to north from property)	6/29/06
A.15	1	Two Warranty Deeds Recorded 11/15/1949 (Contains a Portion of Tract 1 & 2)	6/29/06
‘B’		Staff Exhibits	Date
B.1	1	A&T Property Information for Tax Lot 1200, 1S4E20CC	6/30/06
B.2	1	A&T Property Information for Tax Lot 1300, 1S4E20CC	6/29/06
B.3	1	Survey 33318 Dated 3/11/1971	9/1/06
B.4	2	Zoning Maps – 1962 & 10/5/77	9/5/06
B.5	7	1968 Version of A-2 Zoning Ordinance	9/5/06
B.6	1	A&T Improvement Record for 1S4E20CC - 01300 (Tract 1)	9/1/06
B.7	1	A&T Improvement Record for 1S4E20CC - 01200	9/1/06
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter	7/21/06
C.2	3	Opportunity to Comment	8/7/06
C.3	9	Administrative Decision	9/7/06