



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 Property Line Adjustment on the land use case(s) cited and described below.

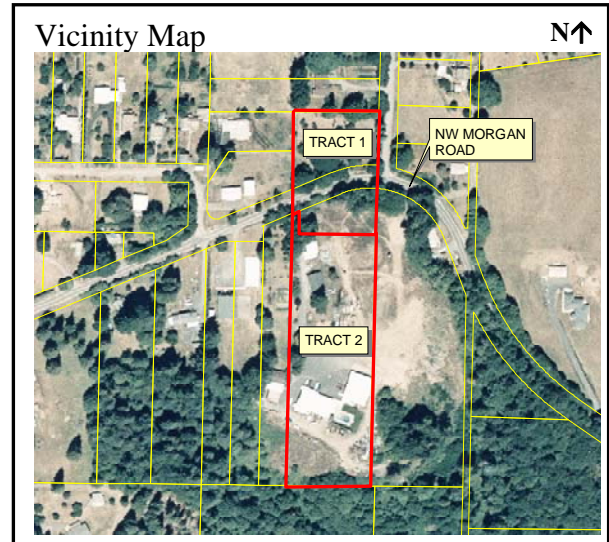
Case File: T2-07-034

Permit: Property Line Adjustment

Location: (Tract 1)
T2NR2W, Sec 12D – TL 1200 & 2300
R708302890 & R708302900
(Tract 2)
T2NR2W, Sec 12D – TL 200
R708303200

Applicants: Perry Cabot and Carole Hallett

Owners: **Tract 1:** Perry Cabot, Carole Hallett &
Albert Hoppert
Tract 2: Albert Hoppert



Summary: The applicant has requested a Property Line Adjustment approval to relocate the common boundary between Tract 1 and Tract 2 north to the southern extent of NW Morgan Road. The subject properties are zoned Rural Residential with zoning overlays for Significant Environmental Concern (wildlife habitat and scenic views) and Hillside Development.

Determination: **The request for the Property Line Adjustment permit is approved with conditions.**

Unless appealed, this decision is effective December 28th, 2007 at 4:30 PM.

Issued by:

By: _____
Adam Barber, Senior Planner

For: Karen Schilling - Planning Director

Date: December 14, 2007

Opportunity to Review the Record: A copy of the Planning Director's 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 Adam Barber, Staff Planner at 503-988-3043 x 22599.

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 **December 28th, 2007 at 4:30 pm**.

Applicable Approval Criteria: Multnomah County Code (MCC): **33.3100 – 33.3185 (Applicable Rural Residential Standards including Property Line Adjustments); 33.7700 – 33.8035 (Applicable Property Line Adjustment Standards); Chapter 37, Administration and Procedures.**

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. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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 owners, or representatives thereof, shall complete the property line adjustment instructions included as Exhibit 1 (MCC 33.7790(B)).**

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:**

1.0 PROJECT AND VICINITY DESCRIPTION

- 1.1 Staff:** The applicants have requested an approved Property Line Adjustment between Tract 1¹, located on both sides of NW Morgan Road, and Tract 2² to the south (Exhibit 2). This will reduce Tract 1 from 1.34 to 0.88-acres. Tract 2 will increase from 3.36 to 3.82-acres. This change will be accomplished by moving the common boundary between the two tracts north as illustrated in Exhibit 2.

The project is located along NW Morgan Road roughly ½ mile northwest of the NW Morgan Road/Highway 30 intersection. The neighborhood is defined by partially forested properties predominately developed with single family dwellings. The subject properties fall within the typical property size in the neighborhood. A landfill operation is located to the immediate east and a commercial auto repair business is established on Tract 2. Both tracts are mapped within the Significant Environmental Concern zoning overlay for wildlife habitat and scenic views. A portion of Tract 2 is mapped within the Hillside Development zoning district.

2.0 PUBLIC COMMENT (MCC 37.0530(B))

- 2.1 Type II decisions - 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: An opportunity to comment on the application was prepared in accordance with the provisions of Multnomah County Code (MCC) 37.0530(B) and mailed on April 24th, 2007. Comments were submitted by Alison Winter, Transportation Planning Specialist on April 26th (Exhibit 3). Ms. Winter indicates that County Transportation does not have any requirements for this proposal. No other comments were received. Substantive comments related to approval criteria were not submitted.

3.0 PROOF OF OWNERSHIP (MCC 37.0550)

- 3.1 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.**

Staff: Multnomah County Assessment and Taxation records indicate Perry G. Cabot and Carole E. Hallett are the owners of Tax Lot 1200 and Albert J. Hoppert is the owner of Tax Lot 2300 (Exhibit 2). Together these two tax lots form Tract 1. Mr. Hoppert is also listed as the owner of Tract 2. All three owners have signed the Property Line Adjustment Application form providing the necessary authorization to process this request (Exhibit 7).

¹ Tract 1 is composed of two tax lots: 2N2W12D, TL1200 & 2300.

² Tract 2 is referenced as 2N2W12D, TL 200.

4.0 CODE COMPLIANCE (MCC 37.0560)

- 4.1 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 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.**

Staff: The County is prohibited from issuing permits, including a property line adjustment, for non-compliant property. An exception exists when the permit brings the property into full compliance. On June 22nd of 2000, Tract 1 was improperly divided without land use review or approval³ (Exhibit 4). Neither of the resulting two properties met the 5-acre minimum lot size required at that time in the RR zone (MCC 11.154.2218(A)). Issuance of this permit will bring Tract 1 back into full compliance.

Staff understands from the landowners that the intent of the 2000 division was to convey the portion of Tract 1 south of Morgan Road to the owner of Tract 2 so that Tract 2 would be enlarged. The end result of this PLA request will be lawful enlargement of Tract 2 effectively accomplishing the original goal. The County has confirmed unpermitted alterations to the auto repair business on Tract 2 which is being addressed through code compliance case ZV-07-003. Creating an enlarged Lot of Record for Tract 2 will be the first step in a series of permits designed to bring Tract 2 back into full compliance as allowed by MCC 37.0560(A)(1).

This standard is met.

5.0 LOT OF RECORD (MCC 33.0005(L)(13))

- 5.1 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**

³ Compliance case file UR-04-067

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.)

Staff: Tract 2 is identified on the first zoning map of the area as Lot 31 of the River Road Tract Subdivision which was created prior to zoning regulations in 1871 (Exhibit 5). Staff finds Tract 2 is a Lot of Record. The 2000 division of Tract 1 described in finding 4.0 invalidated the Lot of Record status because this action was not approved by Multnomah County. As a result, Staff can only consider the pre-division (i.e. last legal Lot of Record) configuration of Tract 1 as the existing configuration for the proposed adjustment. Prior to the division in 2000, Tract 1 was a Lot of Record, also known as Lot 23 of the River Road Tract Subdivision. Approval of this property line adjustment will result in two Lots of Record, satisfying this requirement.

6.0 RURAL RESIDENTIAL DIMENSIONAL REQUIREMENTS (MCC 33.3055)

6.1 (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be in-creased where the yard abuts a street having in-sufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

Staff: The adjusted property line will not be located within the minimum required yard of any existing building. Staff finds the minimum yard dimensions are met. The adjusted line will become the front lot line of Tract 2 and will exceed 50-feet in length. Staff finds the minimum front lot line length will be met. Alison Winter (Multnomah County Transportation Planner) has not requested additional right-of-way, or any other transportation related improvements along NW Morgan Road (Exhibit 3). Staff finds an increase in the minimum required yard dimensions is not required. The applicable dimensional requirements of the Rural Residential zoning district have been met.

7.0 ACCESS (MCC 33.3185)

- 7.1 All lots and parcels 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, except as provided for Lots of Record at MCC 33.3170(B).**

Staff: This proposal does not modify the vehicular access point to either tract. The Scappoose Fire Department has confirmed the proposal is in compliance with the adopted fire district standards for access (Exhibit 6). Both tracts currently have frontage along NW Morgan Road which will not change as a result of the proposal (Exhibit 2). The County's Transportation Planning Specialist has confirmed no transportation improvements will be required (Exhibit 3). Staff finds the proposed property line adjustment meets the access standards of the base zone.

8.0 RURAL RESIDENTIAL REVIEW USE ALLOWANCE and PROPERTY LINE ADJUSTMENT STANDARDS (MCC 33.3125(D))

- 8.1 A Property Line Adjustment is allowed the RR zoning district pursuant to the provisions of MCC 33.3160.**

Staff: The applicable provisions of MCC 33.3160 are evaluated below.

- 8.2 Property Line Adjustment (MCC 26.3160(B))**

Pursuant to the applicable provisions in MCC 33.7790, 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.

Staff: The proposed "existing" configuration of both tracts reflects the configuration when both were considered Lots of Record prior to June of 2000. The proposal will not result in the ability to divide Tracts 1 or 2 under the current regulations and therefore the proposal will not increase the number of properties.

- 8.3 (1) The following dimensional and access requirements are met:
(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;**

Staff: The adjusted boundary will not be located within any required minimum yard setback of an existing building. The required yard setbacks are 30-feet from all property lines except side lot lines (10-feet), MCC 33.3155(C). The adjusted line will become the front lot line for Tract 2, which will exceed the 50-foot minimum lot line length requirement of MCC 33.3155(C). This standard is met.

- 8.4 (b) If the properties abut a street, the required access requirements of MCC 33.3185 are met after the relocation of the common property line; and**

Staff: No changes to the existing vehicular access points to either lot from NW Morgan Road are proposed or required as a result of this property line adjustment. Alison Winter, Multnomah

County Transportation Planning Specialist, has confirmed that the County does not have issue with the proposal (Exhibit 3). This standard is met.

8.5 (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: Subsection 2b is satisfied. Tract 2 will be enlarged from 3.36-acres to 3.82-acres as illustrated in Exhibit 2.

9.0 GENERAL PROPERTY LINE ADJUSTMENT STANDARDS (MCC 33.7790)

9.1 A property line adjustment is the relocation of a common property line between two abutting properties. The Planning Director may approve a property line adjustment based upon findings that the following standards are met:

(A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: The proposed adjustment between the two abutting tracts will not result in the creation of an additional property. The resulting configuration will enlarge Tract 2 and reduce the size of Tract 1.

9.2 (B) 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: All owners of record have provided the necessary written authorization to process this request. The property owners are responsible for recording the necessary documentation to effectuate this conditional approval (see condition of approval #1). As conditioned, this standard is met.

9.3 (C) The adjusted properties shall meet the approval criteria for a property line adjustment as given in the underlying zoning district; and

Staff: It was determined in section 6.0 of this decision that the property line adjustment meets the approval criteria for the Rural Residential zoning district.

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

Staff: The necessary forms have been submitted and the necessary procedures followed. This standard is met.

Conclusion

Considering all evidence, Staff finds that the proposed property line adjustment is approved with conditions.

Exhibits

All materials submitted by the applicant, prepared by County staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record of this application. Exhibits referenced herein are enclosed, and a brief description of each is listed below:

Exhibit Label	Pages	Description
1	2	Property Line Adjustment Instructions for the Applicant and Surveyor (submitted to the record by Staff 12/6/07).
2	10	Tentative PLA Plan illustrated on aerial photos (submitted to the record by Staff April 24 th , 2007) Tentative PLA Plan illustrated on tax assessment maps (submitted by the applicants 4/3/07) Assessment and Taxation printouts for all three tax lots (submitted to the record by Staff 4/9/07).
3	1	Email memo from Alison Winter, Multnomah County Transportation Planning Specialist (sent 4/26/07).
4		June 22, 2000 deed with associated tax assessment map creating Tax Lot 2300 (south 1/3 of Tract 1, submitted by the applicant 4/13/07). February 15, 2000 deed with associated tax assessment map creating Tax Lot 1200 (north 2/3 of Tract 1, submitted by the applicant 4/13/07).
5	1	1962 zoning map of area identifying Tracts 1 and 2 (submitted to the record by Staff 12)
6	1	Fire District Access Review approval (submitted 4/13/07).
7	1	Property Line Adjustment Application Form (submitted 4/3/07)