

**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/landuse>

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## NOTICE OF DECISION

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

**Case File:** T2-2010-710

**Permit:** Property Line Adjustment-

**Location:** 7158 SE 252<sup>nd</sup> Avenue

**Tract 1:** Tax Lot 2000, Section 23A,  
Township 1 South, Range 3 East, W.M.  
Tax Account #R99323-0180

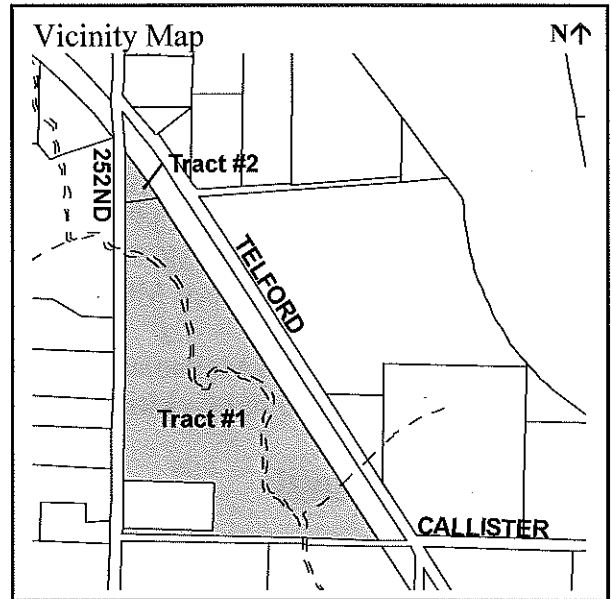
**Tract 2:** Tax Lot 1900, Section 23A,  
Township 1 South, Range 3 East, W.M.  
Tax Account #R99323-0120

**Applicant:** Metro  
Attn: Kaylene Kirchem

**Owner:** Metro  
Attn: Parks Dept

**Base Zone:** Multiple Use Agriculture – 20 (MUA-20)

**Overlays:** Significant Environmental Concern for wildlife habitat (SEC-h) & water resources (SEC-wr)



**Summary:** Applicant is requesting a property line adjustment to transfer 19.29 acres of land from Tract 1 to Tract 2. After the property line adjustment Tract 1 will be 0.5 of an acre and Tract 2 will be 19.68 acres.

**Decision:** Approved with Conditions.

Unless appealed, this decision is effective Thursday, October 14, 2010, at 4:30 PM.

Issued by:

By: *Lisa Estrin*  
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Thursday, September 30, 2010

**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 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, ext. 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 Friday, October 8, 2010 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Multnomah County Code (MCC): MCC 36.2825 Review Uses. (C) Property Line Adjustment..., MCC 36.2855 Dimensional Standards and Development Requirements, MCC 36.2860... and Property Line Adjustments, MCC 36.2870 Lot of Record, MCC 36.2885 Access, MCC 36.7790 Property Line Adjustment.

Copies of the referenced Multnomah County Code (MCC) 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 shed shown near the northeast corner of the proposed Tract 1 (Exhibit A.6) shall be reduced to less than 30 inches in height, removed from the property or moved to meet the yard requirements of MCC 36.2855(C).

2. 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 A.5. [MCC 37.0580]
3. No additional lot or parcel shall be created through this process. [MCC 36.7790(A)]
4. The property owner or its representative shall complete the procedures provided in the attached “Applicant’s Instructions for Finishing a Property Line Adjustment,” and in the attached “Surveyor’s Instructions for Finishing a Property Line Adjustment”. [MCC 36.7790(D)]
  - a. Prior to recording the deeds, three (3) sets of the final survey and legal descriptions shall be submitted to Multnomah County Planning for verification that the adjusted properties conform to the approved Tentative Plan Map (Exhibit A.5).
    - i. If the submitted documents conform to the approved Tentative Plan Map and zoning requirements, staff will sign the survey and deeds.
    - ii. Two sets of the signed legal descriptions and survey will be returned.
  - b. 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 from Tax Lot 2000, 1S3E23A shall be merged into Tax Lot 1900, 1S3E23A through the deed description (metes and bounds) describing the entire property. The transferred property shall not exist as a separate property or tax lot.
5. Prior to land use sign-off of the legal descriptions for the property line adjustment, the property owner or its representative shall provide documentation of a stormwater easement for Tract 1 onto Tract 2 to accept the stormwater generated from the existing and future impervious surfaces. [MCC 36.2855(F)]
  - a. The stormwater easement language shall be recorded with the legal description for Tract 2.

**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 (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1.00 Project & Property Description:**

**Staff:** Metro is proposing a property line adjustment to transfer 19.29 acres from Tract 1 to Tract 2. Tract 1 is currently 19.79 acres and contains a single family dwelling. Tract 2 is 0.39 (16,988.4 sq. ft.) of an acre and is currently vacant. After completion of the property line adjustment, Tract 1 will be 0.5 of an acre (21,780 sq. ft.) and the single family dwelling will remain. Tract 2 will increase in size to 19.68 acres and remain vacant.

### **2.00 Multiple Use Agriculture -20 Criteria:**

#### **2.01 MCC 36.2825 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.**

##### **(C) Property Line Adjustment pursuant to the provisions of MCC 36.2860.**

**Staff:** Metro has requested a property line adjustment in the MUA-20 zone. The application has been processed via the Type II application process. Based on the findings below, the application has met the criteria listed in MCC 36.2860. *This criterion is satisfied.*

#### **2.02 MCC 36.2855 Dimensional Standards and Development Requirements.**

##### **(C) Minimum Yard Dimensions - Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Maximum Structure Height - 35 feet**

**Minimum Front Lot Line Length - 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient 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:** SE 252<sup>nd</sup> is designated as a Local Road on the County’s Functional Trafficway Map. The County’s standard width requirement for a Local Road is 50 ft. The right-of-way width in front of the dwelling is 50 ft, so no additional right-of-way is necessary. The minimum yard requirement does not need to be increased to allow for right-of-way expansion in the future.

For Tract 1, the proposed front property line length is 204 ft. The front property line on Tract 2 will be over 1000 ft. The minimum front lot line requirement of 50 ft has been met for both proposed parcels. Tract 2 will remain vacant. Applicant’s Map #4 (Exhibit A.7) shows the dwelling with attached carport on Tract 1 to be 40 ft from the north (side yard) property line, 18 ft from the west (front yard) property line, 40 ft from the east (rear yard) property line and over 90 ft to the south (side yard) property line.

The existing dwelling was constructed in 1956 and is nonconforming to the front yard requirement listed above. The attached carport meets the front yard requirement.

There is a small shed on Map #3 that is not shown on Map #4. The small shed does not meet the rear yard setback as it appears to be immediately adjacent to the proposed rear property line. A condition of approval has been included requiring that the shed be removed or meet the rear yard setbacks. *As conditioned, these criteria are satisfied.*

**2.03 (F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** Tract 1 will have a new on-site sewage disposal system installed on the southern portion of the proposed tract. While no new impervious surfaces will be created, Tract 1 is being reduced from 19.79 acres to approximately half acre. The applicant has proposed an easement onto Tract 2 for stormwater generated from the existing impervious surfaces on Tract 1. Since Tract 2 is 19.79 acres, vacant and will likely remain so, stormwater generated from Tract 1 can be handled within this easement. A condition of approval has been included requiring that stormwater easement language be recorded as part of the property line adjustment process. *As conditioned, these criteria are satisfied.*

**2.04 § 36.2860 ... AND PROPERTY LINE ADJUSTMENTS.**

**(B) Property Line Adjustment**

**Pursuant to the applicable provisions in MCC 36.7790, 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:** In Section 2.07, Land Use Planning finds that the two tracts are separate Lots of Record. These two Lots of Record are contiguous (Exhibit A.4). The approval criteria in (1) and (2) below have been met. Please see Sections 2.05 & 2.06 for additional findings. *This criterion is satisfied.*

**2.05 (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;**

**(b) If the properties abut a street, the required access requirements of MCC 36.2885 are met after the relocation of the common property line; and**

**Staff:** Tract 2 will contain no development. Tract 1 will contain the single family dwelling with attached carport. Under Section 2.02 above, staff found that the dwelling with an attached

carport on Tract 1 will meet the minimum yard requirements of MCC 36.2855(C). A small shed is shown on Map #3 (Exhibit A.6) and can be made to meet the minimum yard requirements via a condition of approval. Both properties front the public right-of-way known as SE 252<sup>nd</sup> Avenue. *As conditioned, these criteria are satisfied.*

2.06

**(2) One of the following situations occurs:**

- (a) The lot or parcel proposed to be reduced in area is larger than 20 acres prior to the adjustment and remains 20 acres or larger in area after the adjustment, or**
- (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 19.79 acres (Exhibit A.4). Tract #2 is currently 0.39 of an acre (Exhibit A.4). After the property line adjustment, Tract #1 will be reduced to 0.5 of an acre (Exhibit A.5). Tract #2 will be increased to 19.68 acres (Exhibit A.5). *This criterion is satisfied under (b) above.*

2.07

**§ 36.2870 LOT OF RECORD.**

**(A) In addition to the Lot of Record definition standards in MCC 36.0005, 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.**

**Staff:** The applicant has submitted evidence that Tract #1 was created in August 1972 when Tax Lot 2100, 1S3E23A was divided out from Tract #1 (Exhibit A.13). Tax Lot 2100, 1S3E23A is 2.00 acres (Exhibit A.4). Tract #1 is 19.79 acres. The zoning at the time was

Suburban Residential (SR). The SR zone had various lot sizes depending on services (water, sewer) available for development. Without sewer service, the minimum lot size would be 40,000 sq. ft. Tract #1 and Tax Lot 2100 1S3E23A are both over 40,000 sq. ft in size and met the minimum lot size at the time. Tract #2 was created on October 31, 1924 (Exhibit A.14). Zoning regulations with minimum lot size requirements came into effect in 1958. Both tracts were lawfully established in accordance with the laws at the time. *Tract #1 and Tract #2 are Lots of Record.*

**2.08 § 36.2885 ACCESS.**

**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 for passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.2870(B).**

**Staff:** Both tracts currently front onto SE 252<sup>nd</sup> Avenue, a public right-of-way (Exhibit A.4). After the property line adjustment, both tracts will continue to have road frontage onto SE 252<sup>nd</sup> Avenue (Exhibit A.5). *This criterion is satisfied.*

**3.00 Land Division Ordinance - Property Line Adjustment Criteria:**

**3.01 § 36.7790 PROPERTY LINE ADJUSTMENT**

**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:** Tract 1 and Tract 2 are both separate legal parcels. After the property line adjustment, they will remain two discrete parcels. No new parcels will be created. *This criterion is satisfied.*

**3.02 (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:** Both tracts are owned by Metro (Exhibit A17 & A.18). This application was authorized by Metro's Accounting Compliance Officer, Donald R Cox, Jr. (Exhibit A.1). *This criterion is satisfied.*

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

**Staff:** The proposed application has met the approval criteria for the MUA – 20 district. See Sections 2.01 through 2.08 for additional evidence of compliance. *This criterion is satisfied.*

**3.04 (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 applicant has utilized the current property line adjustment application form (Exhibit A.1) and all required information (Exhibit A.2 through A.18) as specified on that form. *This criterion is satisfied.*

#### 4.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Property Line Adjustment in the Multiple Use Agriculture – 20 (MUA-20) zone. This approval is subject to the conditions of approval established in this report.

#### 5.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with a “\*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2010-710 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6/2/2010
A.2	2	Cover Letter	6/2/2010
A.3	2	Copy of Pre-Filing Notes	6/2/2010
A.4	1	Map #1 Current configuration of Tract 1 & 2	6/2/2010
A.5*	1	Map #2 Aerial Map showing Tract 1 and Tract 2 in their current configurations and their proposed new configurations	6/2/2010
A.6	1	Map #3 Close Up Aerial of Tract 1 after configuration	6/2/2010
A.7	1	Map #4 A depiction of the location of the new septic system to be installed this summer	6/2/2010
A.8	6	Narrative	6/2/2010
A.9	5	Tract 1 Current Deed	6/2/2010
A.10	4	Tract 2 Current Deed	6/2/2010
A.11	1	Email Dated May 11, 2010	6/2/2010
A.12	1	Original Deed Description Dated May 15, 1945 for Tract 1	6/2/2010
A.13	1	Deed Carving Tax Lot 2100 out of Tract 1	6/2/2010
A.14	2	Original Deed Creating Tract 2	6/2/2010
A.15	1	1962 Zoning Map	6/2/2010
A.16	5	Certification of On-Site Sewage Disposal	6/2/2010
A.17	4	Title Report for Tract 1	6/2/2010
A.18	4	Title Report for Tract 2	6/2/2010

‘B’	#	Staff Exhibits	Date
B.1	1	A&T Property Information for 1S3E23A - 01900	6/2/2010
B.2	1	A&T Property Information for 1S3E23A – 02000	6/2/2010



'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1 – July 2, 2010)	7/8/2010
C.2	8	Opportunity to Comment	7/9/2010
C.3	9	Administrative Decision	9/24/2010

MAP #2  
5/27/10

CURRENT TRACT 2  
Tax Lot 1900 - 0.39 acres

Current Property Line

CURRENT TRACT 1  
Tax Lot 2000 - 19.79 acres

Buildings were  
removed in 2009

PROPOSED  
New Property Line

PROPOSED NEW TRACT 1  
Tax Lot 2000 - 0.5 acres

1S3E23A

PROPOSED NEW TRACT 2  
Tax Lot 1900 - 19.68 acres

Buildings were  
removed in 2009

North

7158 SE 252<sup>nd</sup> Avenue, Gresham

5/27/10