

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

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

<http://www.multco.us/landuse>

NOTICE OF DECISION

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

Case File: T2-2011-1959

Permit: Property Line Adjustment

Location: **Address:** 28600 SE Orient Drive

Tract 1: Tax Lots 700 & 900, Sec. 19,
Township 1 South, Range 4 East, W.M.
R994191890 & R994190250

Tract 2: Tax Lot 1100, Sec. 19BC,
Township 1 South, Range 4 East, W.M.
R994191770

Applicants: James Stanley & Scott Schaeffer

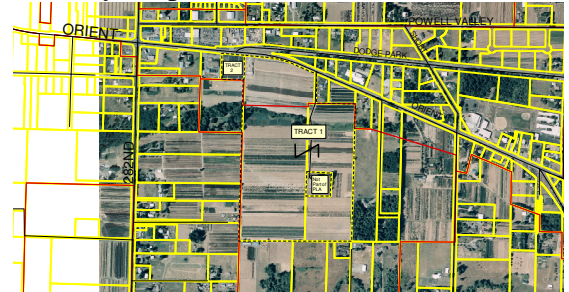
Owners: **Tract 1:** James Stanley & Scott
Schaeffer and Schaeffer's Nursery.

Tract 2: James Stanley & Scott
Schaeffer

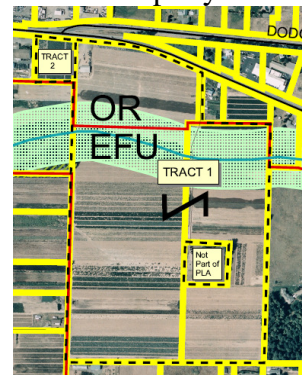
Base Zone: **Tract 1:** Exclusive Farm Use (EFU) &
Orient Rural Center Residential (OR).

Tract 2: OR

Vicinity Map



Property Line Adjustment



Summary: Application for a Property Line Adjustment

Decision: Approved with Conditions

Unless appealed, this decision is effective February 2, 2012, at 4:00 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling - Planning Director

Date: Thursday, January 19, 2012

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 Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

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 February 2, 2012, at 4:00 PM.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 36.2670 – EFU Zone, MCC 36.3460 – OR Zone, MCC 36.7790 – Property Line Adjustment.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://web.multco.us/land-use-planning/codes-and-plans>

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 pursuant to MCC 37.0690(A) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, 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 brackets.

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.2. No additional lot or parcel shall be created through this process. [MCC 36.7790(A)]
2. The applicant shall complete the procedures provided in the “Surveyor’s Instructions for Finishing a Property Line Adjustment” and the “Applicant’s Instructions for Finishing a Property Line Adjustment” as listed in Exhibits B.9 and B.10. [MCC 36.7790(D)]
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 Tentative Plan Map (Exhibit A.2). If the submitted documents conform to the approved Tentative Plan Map (Exhibit A.2) and zoning requirements, staff will sign the survey and deeds. Multnomah County Planning must approve these documents prior to their recordation [MCC 36.7790].

Note: Once this decision is final you will need to submit the property line adjustment survey and metes & bounds descriptions to Staff Planner, Kevin Cook [(503) 988-3043 ext. 29152]. The planner will review and stamp the survey and descriptions after reviewing for consistency with this approval and related conditions.

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. PROJECT DESCRIPTION

Staff: Application for a Property Line Adjustment to transfer 10.97 acres from Tract 1 to Tract 2. After the property line adjustment Tract 1 will be located entirely within the EFU zone except for the 32 foot wide, 358 foot long access portion of the proposed flag lot, which will remain within the OR zone. Tract 2 will remain entirely within the OR zone (Exhibit A.2 and B.5).

2. BASE ZONE STANDARDS OR ZONE

2.1. Dimensional Standards

2.1.1.

MCC 36.3455(B) Minimum Yard Dimensions - (Feet)

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet

Staff: Tract 2 is vacant land (Exhibit B.6) and will gain one agricultural structure after the property line adjustment. The agricultural will be more than 30 feet from all property lines after the adjustment. After the adjustment Tract 1 will continue to meet all setbacks. *These standards are met.*

2.2. MCC 36.3425(B) Property Line Adjustment pursuant to the provisions of MCC 36.3460. MCC 36.3460(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: The two properties are contiguous Lots of Record as found in sections 2.3 and 3.3 of this report. The criteria in 1 and 2 are met (see findings in sections 2.2.1. and 2.2.2 below).

2.2.1. (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 36.3485 are met after the relocation of the common property line; and

Staff: Tract 2 is vacant land (Exhibit B.6) and will gain one agricultural structure after the property line adjustment. The agricultural will be more than 30 feet from all property lines after the adjustment. After the adjustment Tract 2 will have a front lot line length of 1,161 feet adjacent

to the SE Orient Drive right of way and Tract 1 will be a Flag Lot with a 32 foot wide, 358 foot long access portion (Exhibit A.2). Both properties abut a street. The access requirements of MCC 36.3485 will be met after the property line adjustment (see findings in section 2.4). *These standards are met.*

2.2.2 (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: Tract 1 is larger than one acre is being reduced in size; it is currently 60.75 acres and will be 49.78 acres after the adjustment. *The criterion is met because the proposal meets (a) above.*

2.3. Lot of Record

MCC 36.3470 (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...

Staff: Tract 2 was created by deed (Exhibit A.5) in July 1975 in compliance with the C2 zone district in effect at the time (Exhibit B.11). Tract 1 was created in 1981 through County Partition LD 18-81 (Exhibit B.12). *Both properties are Lots of Record.*

2.4. MCC 36.3485 Access

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lot of Record described in MCC 36.3470(B).

Staff: The existing access for both properties has been reviewed and approved by Fire District 10 (Exhibit A.10).

3. BASE ZONE STANDARDS EFU ZONE

3.1. Dimensional Standards

3.1.1. MCC 36.2660 (C) Minimum Yard Dimensions - (Feet)

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet

Staff: The buildings on the property at 28600 SE Orient Drive (Tract 1) currently meet the setbacks and that will not change after the adjustment. Front property lines for both properties meet the minimum front lot line length standard of 50 feet (Exhibit B.2). *These standards are met.*

3.2.1. EFU Property Line Adjustments Criteria

MCC 36.2670(A) Pursuant to the applicable provisions in MCC 36.7790, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

(1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

Staff: The dwelling that is located on Tract 1 will remain on Tract 1 after the property line adjustment. Tract 2 does not currently contain a dwelling and will not gain any dwellings through the proposed property line adjustment. *The criterion is met.*

3.2.2. (2) 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; and

(b) If the properties abut a street, the required access requirements of MCC 36.2690 are met after the relocation of the common property line; and

Staff: Tract 2 is vacant land (Exhibit B.6) and will gain an agricultural building after the property line adjustment. After the adjustment Tract 2 will have a front lot line length of 1,161 feet adjacent to the SE Orient Drive right of way and Tract 1 will be a Flag Lot with a 32 foot wide, 358 foot long access portion (Exhibit A.2). Both properties abut a street. The access requirements of 36.2690 will be met after the property line adjustment (see findings in section 3.4). *These standards are met.*

3.2.3 (3) The reconfigured lot areas will each:

(a) Be a minimum of 80 acres, or

(b) Retain the same lot area that existed prior to the exchange.

Staff: The standard applies in the EFU zone but now in the OR zone. Only one of the properties contains EFU zoned land and will retain the same lot area within the EFU zone after the property line adjustment. Tract 1 currently contains 49.5 acres in EFU zoning. After the adjustment Tract 1 will continue to contain 49.5 acres in EFU Zoning. Tract 2 currently contains no EFU zoned property and will not gain any EFU zoned land after the adjustment. *Because Tract 1 will retain the same lot area in EFU zoning, the criterion is met.*

3.3. Lot of Record

MCC 36.2675(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...

Staff: Tract 2 was created by deed (Exhibit A.5) in July 1975 in compliance with the C2 zone district in effect at the time (Exhibit B.11). Tract 1 was created in 1981 through County Partition LD 18-81 (Exhibit B.12). *Both properties are Lots of Record.*

3.4. MCC 36.3485 Access

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lot of Record described in MCC 36.2675(C).

Staff: The existing access for both properties has been reviewed and approved by Fire District 10 (Exhibit A.10).

4. PROPERTY LINE ADJUSTMENT CRITERIA

MCC 36.7790: 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:

- 4.1. MCC 36.7790(A):** No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: No additional lots or parcels are proposed (Exhibit A.2). *The criterion is met.*

- 4.2. MCC 36.7790(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 property owners have signed the application form giving their consent (Exhibit A.1). *This criterion is met.*

- 4.3. MCC 36.7790(C):** The adjusted properties shall meet the approval criteria for a property line adjustment as given in the underlying zoning district; and

Staff: The adjusted properties meet the approval criteria for a property line adjustment as given in the OR and EFU zones. *This criterion is met.*

- 4.4. MCC 36.7790(D):** The procedure and forms shall be submitted for obtaining approval of a property line adjustment as provided for by the Planning Director.

Staff: Forms submitted for the applicant were provided by the Planning Director. The conditions will require the Planning Director's procedures for completing a property line adjustment. *Criteria met through a condition.*

5. Transportation Standards

MCRR 4.000 Access to County Roads

Staff: There are no proposed changes in use of these properties or in driveway configurations. Access permits will be required if there are any permits for alteration of uses in the future. *MCRR requirements are met.*

6. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Property Line Adjustment to approval in the OR and EFU zones. This approval is subject to the conditions of approval established in this report.

7. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	Application form	10/28/2011
A.2	1	Proposed property line adjustment plan 11 x 17 size	10/28/2011
A.3	1	Proposed property line adjustment plan 8.5 x 11 size	10/28/2011
A.4	3	Title Report	10/28/2011
A.5	4	Warranty Deed: 2011-115188	10/28/2011
A.6	1	Assessors Map	10/28/2011
A.7	1	Assessors Map	10/28/2011
A.8	4	Applicant’s Narrative	10/28/2011
A.9	1	Warranty Deed: Book 1057, Page 1710	10/28/2011
A.10	3	Fire District Access Review	10/28/2011
‘B’	#	Staff Exhibits	
B.1	3	Division of Assessment, Records and Taxation Property (DART) Information for Tax Lot 900	10/28/2011
B.2	2	Division of Assessment, Records and Taxation Property (DART) Information for Tax Lot 1100	10/28/2011
B.3	2	Division of Assessment, Records and Taxation Property (DART) Information for Tax Lot 700	10/28/2011
B.4	2	County Lot Consolidation Approval: Case File T1-2011-1866	01/05/2012
B.5	1	Zoning and Zoning Overlays	01/05/2012
B.6	1	Aerial Photo with County Zoning	01/05/2012
B.7	1	Zoning 1958 to 10/6/77	01/05/2012
B.8	1	Zoning adopted 10/6/77	01/05/2012
B.9	1	Surveyor’s Instructions for Finishing a Property Line Adjustment	01/11/2012
B.10	1	Applicant’s Instructions for Finishing a Property Line Adjustment	01/11/2012
B.11	3	C2 Zoning District Code applicable in 1975	01/11/2012
B.12	12	Multnomah County Case File LD 18-81	01/11/2012
‘C’	#	Procedural Exhibits	
C.1	2	Letter from staff indicating application incomplete	11/22/2011
C.2	1	Letter from staff indicating application complete (Application Complete on 11/28/2011)	12/09/2011
C.3	2	Opportunity to Comment Notice and Site Plan	12/15/2011
C.4	4	Mailing List for Notice	12/15/2011