

1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2013-3060

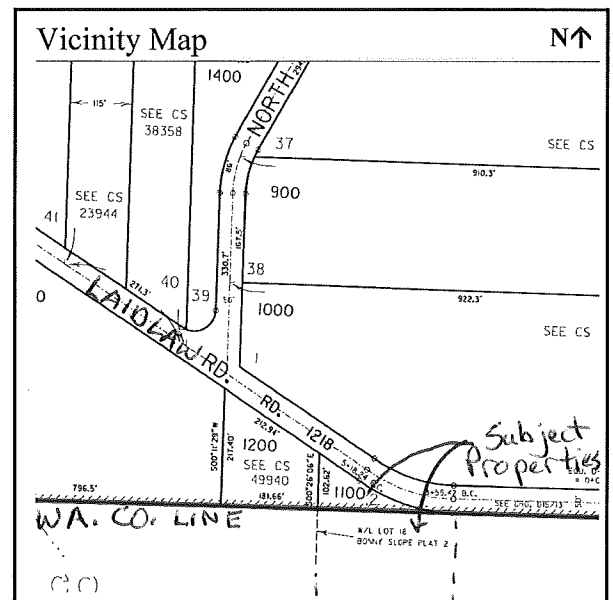
Permit: Lot of Record Determination and
Property Line Adjustment

Location: 10730 NW Laidlaw
Tax Lot 1100, Section 22D
Township 1 North, Range 1 West,
Property Assessment ID: 118457
and
Tax Lot 300, Section 27AA
Township 1 North, Range 1 West
Property Assessment ID: 594663

Applicants: Brian Nelson

Owners: Lois Stevens Estate - Thomas Moore

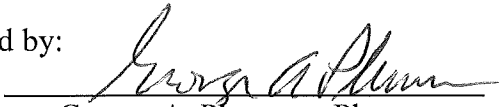
Base Zone: Rural Residential



Summary: Request for a Property Line Adjustment and Lot of Record Determination for a property line adjustment across county line to be finished as a partition plat.

Decision: Approved with Conditions

Unless appealed, this decision is effective January 17, 2014 at 4:00 PM.

Issued by: 
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, January 3, 2014

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 George Plummer, Staff Planner at 503-988-3043, ext. 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 January 17, 2014 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.3100 et. al: Rural Residential (RR) District, MCC 33.3160: RR Property Line Adjustment, MCC 33.7790 Property Line Adjustment, and MCC 33.0005 Definitions.

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://www.co.multnomah.or.us/landuse> or <http://web.multco.us/transportation-planning>.

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 parenthesis.

1. Prior to Multnomah County Land Use Planning signing the partition plat final, the applicant shall submit an official document with a finding by Washington County that the subject property in Washington County is a Lot of Record. [MCC 33.3160(B)]
2. Prior to County Land Use Planning signing the partition plat final, the applicant shall submit documentation that Washington County has approved the Property Line Adjustment as shown in Exhibit A.3 that will be completed as a partition plat. [MCC 33.3160(B) and MCC 33.7790(A)]
3. This property line adjustment shall be completed as a partition plat filed in both Multnomah County and Washington County to remove the subdivision lines as described in Exhibit B.4. [MCC 33.7790(A)]

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.
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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: An applicant request for a Property Line Adjustment and Lot of Record Determination a for a property line adjustment across county line.

2. Property Description

Staff: The applicant request is for a Property Line Adjustment and Lot of Record Determination a for a property line adjustment across county boundary line for a line that is also the southern boundary of the Bonny Slope Subdivision in Multnomah County (Exhibit B.3) and the northern boundary of Plat 2 Bonny Slope Subdivision in Washington County. This line goes through an existing dwelling that was established in 1920 (Exhibit A.4) predominately located within Washington with a small portion of the corner in Multnomah County (Exhibit A.3).

3. Rural Residential Zone

3.1. Review Uses

MCC 33.3160 (E) Property Line Adjustment pursuant to the provisions of MCC 33.3160.

Staff: Findings in Section 3.2 (below) demonstrate compliance with the provisions of MCC 33.2860. *This criterion is met.*

3.2. Property Line Adjustment

MCC 33.3160(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.

(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 33.3185 are met after the relocation of the common property line; 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.

MCC 33.3155 (C) Minimum Yard Dimensions

Front and Rear: 30 feet

Side: 10 feet

Minimum Front Lot Line Length – 50 feet.

Staff: Findings for MCC 33.7790 are provided in Section 4 of this decision. Lot of Record findings are below in Section 3.3. The proposed relocated common property line complies with all minimum yard and minimum front lot line length requirements, with the side yard exceeding 10 feet and the rear yard exceeding 30 feet (Exhibit A.3). The front yard exceeds 50 feet.

The lot to be enlarged is currently 0.19 acres in area, less than 10 acres in area prior the adjustment and will be 0.81 acres after the adjustment, remaining less than 10 acres in area. The other property is in entirely within Washington County and will have to meet Washington County regulations. *These standards are met.*

3.3. Lot of Record

3.3.1. MCC 33.3170(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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 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) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside “acknowledged unincorporated communities” except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

3.3.2. MCC 33.0005: Definition - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. 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.

Staff: A copy of a deed filed on May 6, 1952 in Book 1557 on Page 457 (Exhibit A.4) describes that the property in Multnomah County known as Tax Lot 1100 (Section 22D, Township 1 North, Range 1 West, WM) as part of an ownership in 1952 that included property in Washington County. The deed shows intent to include this portion of Tract 2, Bonny Slope in Multnomah County (Exhibit B.4) together with the portion of the ownership in Washington County, in Bonny Slope Plat 2 (Exhibit A.3). However, given the southern line of Tract 2 which is also the southern subdivision line of Bonny Slope (the county line) runs through the parcel when the deed was filed it created a parcel that is now Tax Lot 1100.

This deed was filed prior to zoning regulations and prior to partition regulations. The property meets the standards under MCC 33.0005(a) as created prior to zoning laws [MCC 33.3170(1)] and under MCC 33.0005(b)(1) as deed filed prior to October 19, 1978. The property known as Tax Lot 1100 (Section 22D, Township 1 North, Range 1 West, WM) is a Lot of Record. The applicant has not submitted information about Lot of Record standing for the parcel in Washington County. A condition will be required that prior to County Land Use Planning signing the final partition plat, the applicant shall provide an official finding by Washington County that the subject property in Washington County is a Lot of Record and that Washington County has approved a Property Line Adjustment that will be completed as a partition plat.

4. PROPERTY LINE ADJUSTMENT LAND DIVISION CODE

MCC 33.7790: 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. (A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: The proposed property line adjustment is the relocation of a common property line between two abutting properties and a new lot (parcel) is not created. However the line to be adjusted is a subdivision line of Bonny Slope Multnomah County (Exhibit B.3) and Plat 2 Bonny Slope - Washington County (Exhibit A.4). To accomplish the relocation of the subject line a replat (partition plat) of the two subject properties is required. A partition plat that will move the line must be filed with the County Surveyor's office in

both counties. This will be required as a condition. *This criterion is met through a condition.*

4.2 (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: The Personal Representative for the Lois Mae Stevens Estate, Thomas Moore signed the application for both properties. County Assessment record indicates owners as James Moore and Lois M. Moore. The applicant submitted documents demonstrating that Lois Mae Stevens is the same person as Lois M. Moore. James Moore passed away in 2003 and Thomas Moore has the right to sign for this application. *This criterion is met.*

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

Staff: Findings demonstrating the approval criteria for a property line adjustment as given in the underlying zoning district are met can be found under Section 3.2 of this decision. *This criterion is met.*

4.4. (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 applicant shall ensure the procedures outlined on the handout labeled Exhibit B.4 and that partition plats are filed in both counties that result in the subdivision line being removed and the property line be adjusted to the location shown on Exhibit A.3.

5. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Property Line Adjustment to be finished as a partition plat to adjust a property line RR zone. This approval is subject to the conditions of approval established in this report.

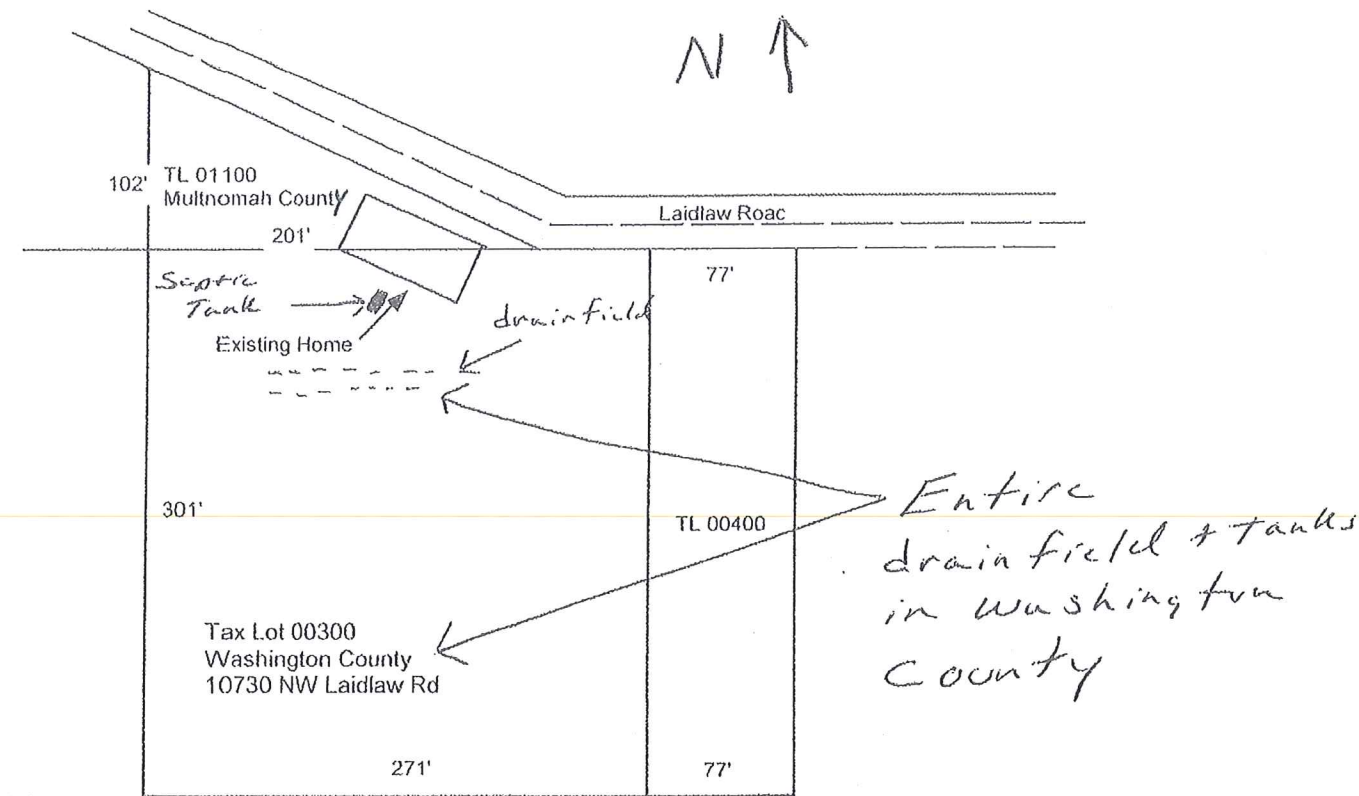
6.00 Exhibits

‘A’ Applicant’s Exhibits

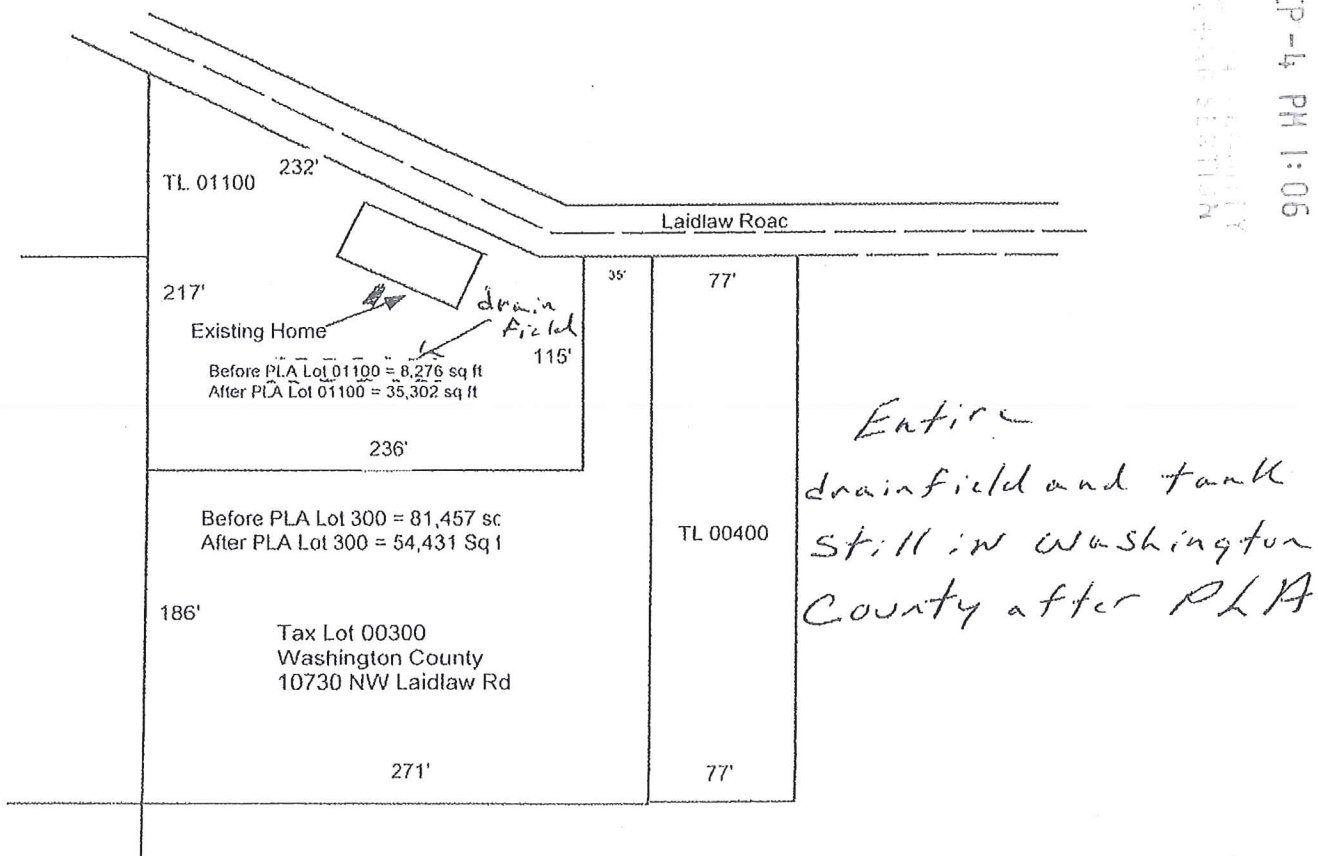
‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	9/4/13
A.2	2	Estate of Lois Mae Stevens Probate Personal Representative Appointment document	9/4/13
A.3	3	Property Line Adjustment narrative and plan	9/4/13
A.4	10	Title Company historic deed research including copy of deed filed in Book 1557 on Page 457and Plat 2 Bonny Slope Subdivision (Washington County)	9/4/13

A.5	7	Certification of On-Site Sewage Disposal	9/4/13
A.6	2	Fire Service Agency Review	9/4/13
A.7	1	Certification of Water Service	9/4/13
A.8	4	Letter dated October 28, 2013 from Douglas F. Angell clarifying Thomas Moore's right to sign application	10/30/13
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	1	Bonny Slope Subdivision plat (Multnomah County)	NA



BEFORE PROPERTY LINE ADJUSTMENT



AFTER PROPERTY LINE ADJUSTMENT

RECEIVED
13 SEP-4 PM 1:06
PLANNING SECTION

