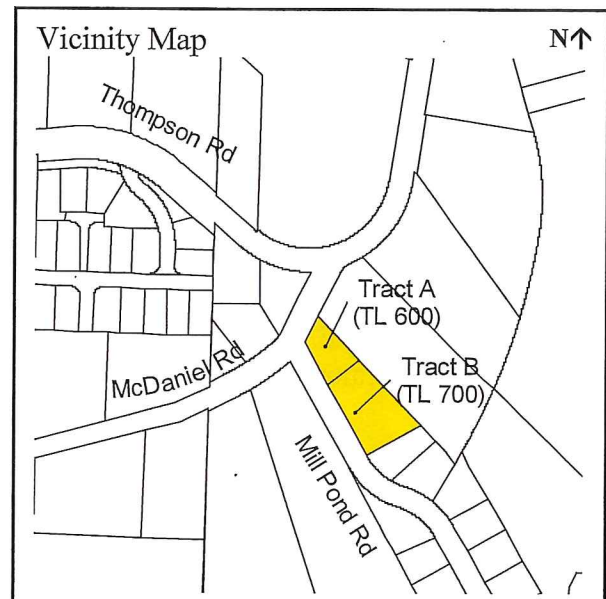


1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2013-3242
Permit: Property Line Adjustment
Location: 2960 NW McDaniel Road
Tax Lots 600 & 700, Section 26 BC,
Township 1N, Range 1W, W.M.
R961260690 &
R961260660
Applicant/ Omid Mirarabshani
Owner: Hooshang Talebi & Tahareh Rohani
Base Zone: Rural Residential
Overlays: None



Summary: Adjust the common property line between properties known as Tax Lots 600 and 700 30-feet to the southeast to enlarge the area of Tract A (Tax Lot 600).

Decision: Approved With Conditions

Unless appealed, this decision is effective Friday, June 20, 2014, at 4:30 PM.

Issued by:

By: 
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Friday, June 6, 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 Don Kienholz, Staff Planner at 503-988-3043, ext. 29270.

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, June 20, 2014 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): 33.0005 Lot of Record; 33.3155 Dimensional Requirements; 33.3160 Property Line Adjustments; 33.3170 Lot of Record; 33.3185 Access; 33.7790 Property Line Adjustments.

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. The proposed property line adjustment shall be completed as shown and described in the application materials submitted by the applicant and as shown on the Tentative Plan (Exhibit A.4) [MCC 37.0580].
2. No additional lot or parcel shall be created through this process. [MCC 33.7790(A)].

3. The applicant shall complete the Property Line Adjustment according to the procedures on forms provided by the Planning Director to finish the Property Line Adjustment [Exhibit B.5]. [MCC 33.7790(D)].
4. Prior to recording deeds reflecting the approved property line adjustment, 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. If the submitted documents conform with the approved Tentative Plan Map (Exhibit A.4) and zoning requirements, staff will sign the survey and deeds. Multnomah County Planning must review and sign the survey before you submit your deed(s), surveys, and legal descriptions to County Records Management office at Assessment and Taxation and County Surveying for recording. [MCC 33.7790(D)].
5. For each of the two properties that are the subject of this decision, a new deed shall be filed with County Records describing the new property boundaries with a metes-and-bounds description. When the recording is complete, the exchange piece of property between Tract 1 and Tract 2 shall be transferred through the deed descriptions (metes and bounds). The exchange property shall not exist as a separate piece of property with its own deed or deed description. [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.

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 Description:

Staff: The applicant is seeking to adjust the common property line between property known as Tax Lots 600 and 700 30-feet to the east to enlarge the area of Tract A (Tax Lot 600). The Rural Residential zone allows property line adjustments as a review use under MCC 33.3120(F). Tract A is vacant while Tract B (Tax Lot 700) has an existing home located on it. No changes are proposed to the existing dwelling at this time.

2.00 Base Zone Criteria:

MCC 33.3155 Dimensional Requirements

- A. **(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).**

Staff: No new parcels or lots are being created as part of this proposal, therefore this criterion does not impact the proposal.

Criterion not applicable.

- B. **(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

Staff: No new parcels or lots are being created therefore lot area is not a consideration of the application.

Criterion not applicable.

- C. **(C) 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 A is vacant and there is an existing dwelling on Tract B (Tax Lot 700). The new property line is a side property line to both parcels as defined in MCC 33.0005 and is proposed to be located 10-feet from the existing dwelling. As proposed on the site plan (Exhibit A.4), the side yard setback is satisfied. The front lot line length will remain unchanged.

Criterion met.

- D. **(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: NW McDaniel, the County Road adjacent to Tract A (Tax Lot 600), has sufficient Right of Way. NW Mill Pond Road, which is adjacent to both Tract A and Tract B (Tax Lot 700), is a City of Portland road. The front yard setback from Mill Pond Road to the existing dwelling is 36-feet, meeting the County’s requirement.

Criterion met.

3.00 Rural Residential Property Line Adjustment Approval Criteria

MCC 33.3160 Lots of Exception and Property Line Adjustments

(B) Property Line Adjustment

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 di-vision proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

Staff: Lot of Record findings are in Section 5.00.

A. (1) The following dimensional and access requirements are met:

1. **(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;**

Staff: The common property line will move closer to the existing home on Tract B (Exhibit A.3 and A.4) but will meet the 10-foot minimum side yard requirement. The front property line of Tract B is not being relocated and remains the same distance from the existing dwelling.

Criterion met.

2. **(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: MCC 33.3185 refers to having adequate access to the subject properties. Both properties abut NW Mill Pond Road in the City of Portland. Tract A does not have any structures and no official access currently. Tract B has access from NW Mill Pond Road. No new access or change in the existing access is proposed. After the relocation of the

common property line, both properties will still abut NW Mill Pond Road and have adequate access.

Criterion met.

B. (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: Neither parcel is larger than 5-acres in size. Tract A, which is being enlarged, will remain below 10-acres in size after completion of the adjustment, thus meeting option 'b' above.

Criteria met.

4.00 Access

MCC 33.3185 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 passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.3170(B).

Staff: After the adjustment, both properties will abut a public street that is owned by the City of Portland.

Criterion met.

5.00 Lot of Record

MCC 33.3170 LOT OF RECORD

(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 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, RR zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;

(6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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 33.3185, 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 33.3160, 33.3175, and 33.4300 through 33.4360, 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.**

MCC 33.0005 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 in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

Staff: Both subject properties were found to be Lots of Record in case T2-2010-681.

Criteria met.

6.00 Comprehensive Plan Policy 37

Multnomah County Comprehensive Plan Policy 37

Water and Disposal Systems:

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or
- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. Shall have an adequate private water system, and a public sewer with adequate capacity.

Staff: The existing home on Tract B is connected to an existing septic system. The applicant has submitted a completed On-Site Sewage Disposal Certification Form (Exhibit A.8) indicating that the new parcels can each handle an on-site sewage disposal system. However, conversations with the City of Portland Sanitarian, who performs DEQ reviews for Multnomah County, revealed that while the two parcels meet the minimum requirements for approval, there is a substantial risk that the system may fail if not properly installed and maintained. We understand the Sanitarian to say that proper installation is critical to facilitate future development of the properties. The depth and length of the system, together with proximity to the installed stormwater systems have no room for error. Additionally, due to the small size of the resulting parcels, overuse of the septic systems could cause premature failure according to the sanitarian.

Criteria met.

7.00 Transportation Standards

MCRR 4.000 Access to County Roads

MCRR 4.100 *Required Information:* Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

Staff: At this time, the applicant is not proposing to construct a new access onto a road under County Jurisdiction. Tract A is the only parcel that abuts a county owned public road and no development is proposed at this time. When the owner/future owners come in for the development of a new single-family dwelling, they will be required to meet the County Road Rules Standards at that time.

Not applicable at this time.

8.00 Conclusion

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

9.00 Exhibits

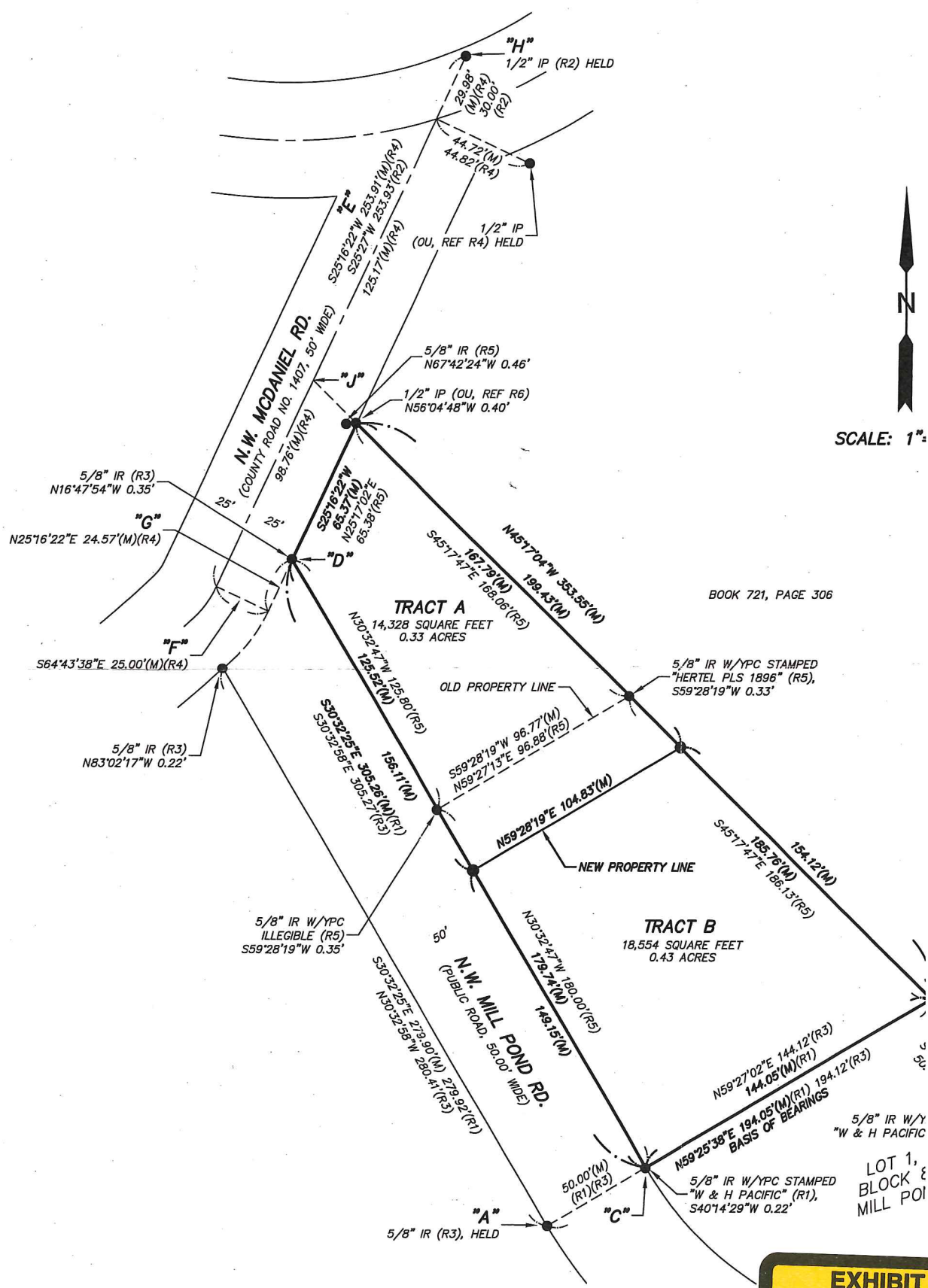
Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2013-3242 at the Land Use Planning office.

Exhibit #	Applicant Exhibits:
A.1	General Application Form
A.2	Applicant's Copy of Pre-Filing 2013-2676 Notes
A.3	Existing Conditions Site Plan
A.4*	Proposed Property Line Adjustment Site Plan
A.5	School District Review
A.6	Police Service Review
A.7	Certification of Water Service
A.8	On-Site Sewage Disposal Certification Form and Signed Site Plan
A.9	Historic Deeds For Parcels
A.10	Land Feasibility Study Report for Subject Parcels
A.11	Storm Water Certification For Tax Lot 600
A.12	Storm Water Certification For Tax Lot 700
A.13	Soils Survey and Storm Water System Design by Rapid Soil Solutions
A.14	Fire District Access Review Submitted December 27, 2013
A.15	Fire Service Agency Review Form Submitted February 12, 2014
	Staff Exhibits
B.1	Assessment and Taxation Information for Tax Lot 600
B.2	Assessment and Taxation Information for Tax Lot 700
B.3	January 17, 2014 Incomplete Letter
B.4	February 19, 2014 Opportunity to Comment and Mailing List
B.5	Instructions on Finishing a Property Line Adjustment

RECEIVED

13 DEC 27 PM 4:04

PLANNING



SCALE: 1" = 100'

BOOK 721, PAGE 306

EXHIBIT
A.4



a. Neither property is a lot or parcel in a recorded plat or subdivision:

- (1) Hire a licensed surveyor to survey the two properties, monument the new property lines, draft new legal descriptions for the area to be transferred and for both modified parcels.
- (2) Drop off the survey and new legal descriptions to your case planner for initial consistency check. This can take 1 to 2 weeks. We will contact you if revisions are needed.
- (3) Submit a copy of the survey to the County Surveyor's Office for concurrent review. The County Survey Office will review the survey for technical accuracy. This can take 1 to 2 weeks. They will contact you if revisions are needed.
- (4) Complete any corrections to survey and legal descriptions as required by the County Surveyor or Land Use Planning.
- (5) Pay all outstanding property taxes due to the County on either property.
- (6) File final mylar with the County Surveyor's Office.
- (7) Drop off your corrected legal descriptions and surveys for your case planner to review and stamp. This can take up to 1 week.
- (8) Once you have the stamped legal descriptions and surveys back, have deeds drawn up with the approved legal descriptions and have them signed by all applicable parties. Three deeds will be needed:
 - a. Deed transferring the exchange area from one property owner to the other
 - b. Deed describing the new Tract 1
 - c. Deed describing the new Tract 2
- (9) Take the approved deeds to the County's Assessment & Taxation Records Management Office for their review and approval. They are located at 501 SE Hawthorne Blvd, Ste 175, Portland. Phone # 503.988.3326. File All Three (3) Deeds with the County Recorder.

b. One or More of the properties is a Lot or Parcel in a recorded plat or subdivision:

- (1) Hire a licensed surveyor to survey and monument the two properties, property lines, and draft a new partition plat including both properties.
- (2) Drop off the partition plat including both properties to your case planner for initial consistency check. This can take 1 to 2 weeks.
- (3) Submit the partition plat with the County Surveyor's Office for concurrent review (this can take 1 to 3 weeks).
- (4) Make any required changes from Land Use Planning or the County Surveyor.
- (5) After County Surveyor and land use Approval, pick up the plat and take to the County Assessor to pay uncollected taxes, then to the County Recorder to record the final plat.

