

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: T2-2014-3291

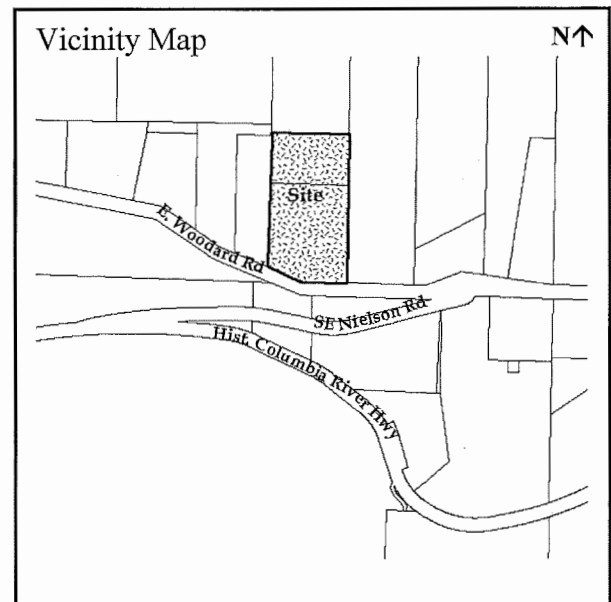
Permit: Property Line Adjustment

Location: **Tract 1:** 30815 E. Woodard Rd
Tax Lot 2400, Section 32C
Township 1 North, Range 4 East, W.M.
Tax Account #R053506860

Tract 2: 30810 E. Woodard Rd
Tax Lot 2300, Section 32C
Township 1 North, Range 4 East, W.M.
Tax Account #R053506560

Applicant: Jim Mozena

Owners: **Tract 1:** Jim Mozena
Tract 2: Sara Green



Base Zone: **Tract 1 and 2:** Multiple Use Agriculture – 20 (MUA-20)


Overlay: **Tract 1:** Hillside Development

Summary: The applicant is proposing an equal area exchange of property between the two tracts to correct a rear setback encroachment for two existing buildings on Tract 1.

Decision: Approved with Conditions

Unless appealed, this decision is effective Friday, May 30, 2014, at 4:00 PM.

Issued by:

By: 
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Friday, May 16, 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 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, May 30, 2014 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 35.2855 Dimensional Requirements, MCC 35.2860 ... Property Line Adjustments, MCC 35.2870 Lot of Record, and MCC 35.7790 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://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 land use sign-off of the new legal descriptions, the property owner for Tract 1 (Jim Mozena) shall contact the Code Compliance office at 503.988.5508 and set-up an appointment

for a site inspection of the existing two-story accessory building (Dutch barn) to document its floor plan and to measure the square footage of the second accessory building and document its use. After the site inspection, the property owner shall demonstrate that the existing improvements within the building were authorized by Land Use Planning, and obtained the necessary building permits if necessary. If one or both buildings require building permits, the property owner shall obtain those to legalize the improvements, if permissible, or convert the improvements to a permissible use in the zone. [MCC 37.0560]

2. Prior to land use sign off of the new legal descriptions, the property owner for Tract 2 (Sara Green) shall demonstrate that the 20 x 30 ft garage was lawfully established, obtain the necessary permit to authorize its expansion or enter into a Voluntary Compliance Agreement to resolve the issue. [MCC 37.0560]

3. After receiving approval from Land Use Planning staff of the new legal descriptions and County Surveyor's approval of the new survey, new deeds shall be filed with County Records describing the new property boundaries of each new parcel with a metes-and-bounds description. The transferred property areas shall not exist as separate properties with their own deed or deed descriptions. [MCC 35.7790(A)]

4. The applicant and their surveyor shall complete the procedures as described in Section (a) of the instructions on Processing and Finishing Property Line Adjustments. [MCC 35.7790]

Note: When ready to have the new legal descriptions and survey reviewed by Land Use Planning, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-3043 ext. 22597, for an appointment for review of the materials. Please note, Multnomah County must review and approve the new legal descriptions before they are presented to the County Recorder for recordation. For review of these materials, Land Use Planning will collect a fee of \$78 (current fee). On July 1, 2014 this fee will increase to \$90. In addition, County Survey and the Recorder's office will collect separate fees for their services.

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 proposing an equal area adjustment between Tract 1 and 2 to correct an existing rear yard encroachment for two existing buildings which are accessory to the dwelling on Tract 1.

2.00 Property Description & History:

Staff: Tract 1 is currently 3.31 acres and contains an existing single family dwelling, an existing 2,404 sq. ft. accessory building and a 144 sq. ft. shed. The two accessory buildings are not presently in compliance with the 30-foot rear yard requirement of MCC 35.2855(C). The small shed is located over the property line. The larger accessory building is approximately 15 feet from property line. Tax records indicate that the larger accessory building is an accessory dwelling unit. The building permit application from 1996 states that the building will be a Dutch barn to replace an existing barn (Exhibit B.7). Gresham Building records (Exhibit B.6) indicates the barn was unfinished. Planning staff did not find any additional land use approvals for the creation of a home office or second dwelling unit on the property (Exhibit A. 11 & B.3). Pursuant to MCC 37.0560, a condition of approval has been included with this decision requiring that the property owner document the lawful establishment of the home office/2nd dwelling unit on the property or convert the structure to a permissible use in the MUA-20 zone.

Tract 2 is currently 1.73 acres and contains a single family dwelling and a 20-ft by 30-ft detached garage (Exhibit Exhibit A.2). Assessment and Taxation records indicate that the detached garage is only 440 square feet (Exhibit B.4). Land Use approval for the dwelling and the detached garage from 1996 show the garage will be 22-ft by 20-ft (440 square feet) (Exhibit B.5). The property does not currently have road frontage on a public right-of-way and is accessed via easement. As the property has no road frontage, it does not have a front or rear property line and as such only has side property lines pursuant to MCC 35.0005 Definitions – Lot Line (Side). Pursuant to MCC 37.0560, a condition of approval has been included with this decision requiring the property to document the lawful establishment of the larger garage structure, obtain building permits for its expansion or enter into a Voluntary Compliance Agreement before the property line adjustment can be completed.

3.00 Multiple Use Agriculture -20 Criteria:

3.01 § 35.0005 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

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 35.7785. 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.)

* * *

Staff: Tract 1 was created on March 20, 1956 with the recordation of a deed in Book 1774, Page 460 and is 3.31 acres. In 1956, the County had not instituted zoning within this area. The creation of Tract 1 in 1956 satisfied all applicable land division laws and zoning laws at that time.

Tract 2 was created on March 20, 1956 with the creation of Tract 1 in Book 1774, Page 460. Tract 2 is 1.73 acres. In 1956, the County had not instituted zoning within this area. The creation of Tract 2 in 1956 satisfied all applicable land division laws and zoning laws at that time.

3.02 MCC 35.2870 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 35.0005, 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, 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 35.2885, 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 35.2860, 35.2875, and 35.4300 through 35.4360, 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: As discussed above in Section 3.02, **Tract 1** was created on March 20, 1956 via a deed and is 3.31 acre. Tract 1 has a 158.47-foot long front lot line adjacent to Woodard Road. Tract 1 is nonconforming to the present minimum lot size of 20 acres for the MUA-20 zone. *Tract 1 is a Lot of Record.*

As discussed above in Section 3.02, **Tract 2** was created on March 20, 1956 and is 75,245.67 square feet (1.73 acres). Tract 2 does not have a front lot line nor road frontage on a public right of way. Tract 2 is nonconforming to the present minimum lot size of 20 acres, minimum front lot line length and is not accessed via a public street as required by the MUA-20 zone. *Tract 2 is a Lot of Record.*

4.00 Property Line Adjustment Criteria

4.01 § 35.2860 ... PROPERTY LINE ADJUSTMENTS

(B) Property Line Adjustment

Pursuant to the applicable provisions in MCC 35.7790, 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: Both Tract 1 and 2 were found to be *Lots of Record* in Section 3.02 above. The proposed property line adjustment will not increase the potential number of lots or parcels as it is an equal area exchange. See additional findings below. *Criterion met.*

4.02 (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;

§ 35.2855 Dimensional Requirements

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length – 50 feet.

Staff: Tract 1 currently has two buildings that do not meet the 30-foot rear yard requirement of MCC 35.2855. After the completion of the property line adjustment, all buildings on Tract 1 will meet the above yard requirements (Exhibit A.2). Tract 1 will continue to have a front lot line length of 158.47 feet.

Tract 2 currently has a single family dwelling and a detached garage. As Tract 2 does not have a front lot line, it is the Planning Director's interpretation that it also does not have a rear lot line. All four lot lines are considered side lot lines pursuant to MCC 35.0005 Definitions – Lot Line (Front), Lot Line (Rear) and Lot Line (Side). Tract 2 does not front onto a public or private street so the yard requirement for all four lot lines is 10 feet. The existing single family dwelling is shown on the Proposed Lot Line Adjustment plan (Exhibit A.2) at 25 feet from the north lot line, 50 feet from the west lot line, and over 120 feet or more to all other existing and proposed lot lines. Tract 2 is nonconforming to the 50-foot minimum front lot line length listed under MCC 35.2855(C). *Criterion met.*

- 4.03 (b) If the properties abut a street, the required access requirements of MCC 35.2885 are met after the relocation of the common property line; and**

Staff: Tract 1 currently fronts onto the Woodard Road right-of-way. Tract 2 does not. Access to both properties is via an easement road. After the property line adjustment is complete, Tract 1 will continue to have road frontage on Woodard Road. Tract 2 will continue to be landlocked and accessed via easement. *Criterion met.*

- 4.04 (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 3.31 acres and will remain so after the lot line adjustment. Tract 2 is currently 1.73 acres and will be 1.73 acres after the adjustment. The proposal is an equal area exchange (Exhibit A.2). *Criterion met.*

4.05 MCC 35.7790 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: The proposed adjustment will exchange equal areas between Tract 1 and 2

(Exhibit A.2). No additional parcels will be created by the adjustment. A condition of approval has also been included requiring that no additional parcels be created. *As conditioned, criterion met.*

4.06 (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

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

Staff: Jim Mozena, property owner of Tract 1 has signed the application (Exhibit A.1). Sara Green, property owner of Tract 2, has signed the application (Exhibit A.1). The property line adjustment criteria listed in the MUA-20 zone have been met or can be met by conditions (see Sections 4.01 and 4.04 above). *Criteria met.*

4.07 (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 followed the procedure and used the forms for the property line adjustment as required by the Planning Director (Exhibit A.1 through A10). *Criterion met.*

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Property Line Adjustment to correct a rear yard setback encroachment on Tract 1 in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

6.00 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 T2-2014-3291 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Property Line Adjustment	1.30.2014
A.2	1	Proposed Property Line Adjustment plan	1.30.2014
A.3	1	Stormwater Certificate	1.30.2014
A.4	1	Title Company Cover Sheet for 30815 E. Woodard Rd (Mozena property)	1.30.2014
A.5	3	Bargain and Sale Deed recorded on 5.22.2013 in Book 2013-069563	1.30.2014
A.6	1	Title Company Cover Sheet for 30810 E. Woodard Rd (Green property)	1.30.2014
A.7	2	Warranty Deed recorded on 4.22.2005 in Book 2005-	1.30.2014

		071160 (missing Exhibit A)	
A.8	1	Contract recorded in Book 506, Page 627 recorded on 6.10.1960	1.30.2014
A.9	3	Administrator's Deed recorded on 9.24.1953 in Book 1623, Page 173-175	1.30.2014
A.10	6	On-Site Sewage Disposal Certificate	1.30.2014
A.11	4	Emails from Jim Mozena on Physical Improvements	5.12.2014
A.12	1	Email from Jim Mozena on Dutch Barn	5.15.2014
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N4E32C – 02400	1.30.2014
B.2	1	A&T Property Information for 1N4E32C – 02300	1.30.2014
B.3	1	A&T Physical Improvements for 1N4E32C - 02400	5.14.2014
B.4	1	A&T Physical Improvements for 1N4E32C - 02300	5.14.2014
B.5	9	Land Use Planning Record for the 1996 Building Permit for Single Family Dwelling and Detached Garage for the property 1N4E32C - 02300	5.15.2014
B.6	4	Building Permit Record for 1N4E32C – 02400	5.12.2014
B.7	3	Land Use Planning Record for the 1996 Building Permit for the Dutch Barn	5.15.2014
'C'	#	Administration & Procedures	Date
C.1	1	Incomplete Letter	2.21.2014
C.2	1	Complete Letter (Day 1 – 2.27.2014)	3.3.2014
C.3	3	Opportunity to Comment	3.05.2014
C.4	9	Administrative Decision	5.16.2014

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PLANNING DEPT

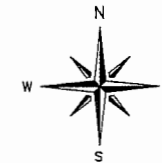
RECORD OF SURVEY PROPOSED LOT LINE ADJUSTMENT

LOCATED IN THE SOUTHWEST 1/4 OF SECTION 32
TOWNSHIP 1 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN,
COUNTY OF MULTNOMAH, STATE OF OREGON
SCALE: 1" = 60' DATE: JANUARY 10, 2014

MULTNOMAH COUNTY
SURVEY RECORDS

DATE FILED _____

REGISTER NUMBER _____



LEGEND

- INDICATES FOUND MONUMENT AS NOTED HEREON
- SET 5/8" BY 30" IRON ROD WITH YELLOW PLASTIC CAP
SCRIBED "FIRWOOD DESIGN", ON DATE _____
- FND INDICATES FOUND
- W/YPC INDICATES WITH YELLOW PLASTIC CAP
- IP INDICATES IRON PIPE
- IR INDICATES IRON ROD
- NO. INDICATES NUMBER
- (D) INDICATES RECORD VALUE PER DEED
- (S1) INDICATES RECORD VALUE PER SN 27711
- (S2) INDICATES RECORD VALUE PER SN 52532
- (S3) INDICATES RECORD VALUE PER SN 62457
- (S4) INDICATES RECORD VALUE PER SN 23549
- (M) INDICATES MEASURED DISTANCE

OWNER: JIM MOZENA
ADDRESS: 30815 E WOODARD ROAD
TROUTDALE, OR 97060
PHONE: 503-666-5404
EMAIL: JIMMOZENA@GMAIL.COM

ASSESSORS MAP NO: 1N 4E 32C, TAX LOTS 2300 & 2400
TAX LOT 2300, EXISTING AREA: 1.73 ACRES, PROPOSED: 1.73 ACRES
TAX LOT 2400, EXISTING AREA: 3.31 ACRES, PROPOSED: 3.31 ACRES
ZONE: MULTIPLE USE AGRICULTURE
SEWAGE DISPOSAL: PRIVATE SEPTIC

FDG

Firwood Design Group, LLC
SURVEYING + ENGINEERING + PLANNING

39065 PIONEER BLVD., SUITE 104
SANDY, OREGON 97055
BUS: (503) 666-3737 • FAX: (503) 666-3788

S13-031base.dwg

Exhibit
A.2

FND 5/8" IR W/YPC
SCRIBED: MARK ASSOC.
SN 37492

500'00"00"E
44.79'(S1) 44.85'(M)

FND 1/2" IP
UP 0.4"
POSSIBLE PLAT MON.

N90'00"00"E
152.22'(S1) 152.17'(M)

FND 5/8" IR
SN 23549

Tract #2
DOCUMENT NO. 2005-071160
TAX LOT 2300
AREA BEFORE ADJUSTMENT: 1.73 ACRES
AREA AFTER ADJUSTMENT: 1.73 ACRES

FND 5/8" IR
SN 27711

500'00"00"W
219.55'

N90'00"00"E

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