

1600 SE 190th Ave, Portland OR 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: T2-2017-6600

Permit: Property Line Adjustment and
Adjustment to Minimum Front Lot Line
Length

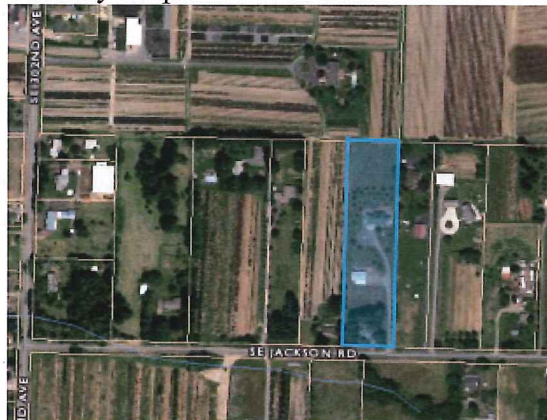
Location:

Tract 1: 30631 SE Jackson Rd.
Tax Lot 100, Section 20BB
Township 1 South, Range 4 East, W.M.
Tax Account #R994201420

Owners: Steve & Paula Jackson

Vicinity Map

N↑



Applicant: Gregory Spurlock

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

Summary: The applicant is proposing a property line adjustment and an adjustment to the minimum front lot line requirements between two Lots of Record located within tax lot 100.

Decision: Approved with Conditions

Unless appealed, this decision is effective **Wednesday, July 26, 2017, at 4:00 PM.**

Issued by:



Katie Skakel, Senior Planner

For: Michael Cerbone, AICP
Planning Director

Date: Wednesday, July 12, 2017

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 Katie Skakel, Senior Planner at 503-988-0213 or katie.skakel@multco.us.

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 Wednesday, July 26, 2017 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560, MCC 36.2825 Review Uses, MCC 36.2855 Dimensional Requirements, MCC 36.2860(B) Lots of Exception and Property Line Adjustments, MCC 36.2870 Lot of Record, MCC 36.7790 Property Line Adjustment, MCC 36.7606 Adjustment Scope and MCC 36.7611 Adjustment Approval Criteria.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the link *Chapter 36: West of the Sandy River Rural Plan Area*.

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. 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). The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695. The request for a permit extension must be submitted prior to the expiration of the approval period.
3. No additional lot or parcel shall be created through this process. [MCC 36.7790(A)]
4. The approved property line adjustment shall be finished by recording a new plat to reconfigure Lot 1 and Lot 2 of tax lot 100.
5. Prior to recording the plat to complete the property line adjustment, the property owner or representative thereof, shall submit copies of the draft plat to Multnomah County Planning for verification that the adjusted properties conform to the approved Tentative Plan Map. If the submitted documents conform to the approved Tentative Plan Map (Exhibit A.2) and zoning

requirements, planning staff will sign the plat when it is ready to be recorded. Land Use Planning must sign the plat before it can be recorded.

6. After the Planning Director and County Surveyor have signed off on the Plat, the property owners shall record the plat with the County Recorder's office. Please note that state law requires that property taxes be paid before a plat can be recorded.
7. The remaining requirements of the Voluntary Compliance Agreement (VCA) associated with case no. UR-2016-4779 must be completed. Any modification requests to the VCA must be directed to and approved by the Code Compliance office.

Note: When ready to have the plat reviewed, the applicant shall call the Staff Planner, Katie Skakel at (503) 988-0213 or katie.skakel@multco.us, for an appointment for review of the plat. Please note, Land Use Planning must review and sign the plat before it is recorded.

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 a property line adjustment and an adjustment to the minimum front lot line requirements between two Lots of Record located within tax lot 100.

2.00 Property Description & History (if needed):

Staff: The County found in case T1-2015-4629 that the subject tax lot (Tax lot 1S 4E 20BB-00100) consists of two separate Lots of Record (a 2.00 acre parcel and a 1.00 acre parcel). Assessment and Taxation records indicate there are four structures on the property: a 1956 dwelling, a 1996 dwelling a 195 square foot shed and a 1,440 square foot accessory building. Zoning and building requirements for the area began in August 1955; any building less than 200 square feet does not need a building permit but must meet minimum yard requirements. The County has building permits on record for the 1,440 sq ft. accessory building and the 1996 dwelling. The 1996 dwelling was a replacement dwelling for the 1956 dwelling and as a condition of approval the 1956 dwelling was required to be decommissioned. While there is no building permit on record for the 1956 dwelling, it is likely construction started prior to August 1955 and was put on the tax rolls in 1956.

While the 1996 dwelling was built with a valid building permit, it is bisected by the property line that separates the two legal lots identified in T1-2015-4629. The proposed Property Line Adjustment would resolve the setback encroachment if approved and completed.

3.00 Administrative Procedures Criteria:

§ 37.0560 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

Staff: The property owners have entered into a voluntary compliance agreement via case # UR-2016-4779. The agreement allows for the review of the Property Line Adjustment and Adjustment to Minimum Front Lot Line Length application at this time.

4.00 Multiple Use Agriculture - 20 Criteria:

4.01 § 36.2870 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 34.0005, 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 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.

§ 36.0005 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 36.7785. 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: As discussed in section 2.0 above, the property was found to consist of two Lots of Record in land use case no. T1-2015-4629. The lots are both zoned Multiple Use Agriculture – 20. *Lot 1S 4E 20BB-00100 consists of two Lots of Record.*

4.02 § 36.2825 Review Uses

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

Staff: The applicant is proposing a property line adjustment (Exhibit A.1).

4.03 § 36.2855 Dimensional Requirements

(C) Minimum Yard Dimensions – Feet

| Front | Side | Street Side | Rear |
|-------|------|-------------|------|
| 30 | 10 | 30 | 30 |

* * *

Minimum Front Lot Line Length – 50 feet.

Staff: After the property line adjustment, Lot 1 will be approximately 0.763 acres with frontage of 155 feet along SE Jackson Rd. Lot 1 will consist of a residence and detached garage.

Lot 2 will be 2.35 acres in size. Lot 2 will be located behind Lot 1 and contain a panhandle extending along the Easterly side of Lot 1. The applicant has requested an adjustment to the

minimum front lot line length to decrease the minimum front lot line length to 30 feet. The adjustment will eliminate any encroachment from an existing septic drainfield and garage onto the new proposed configuration of Lot 1.

Criteria can be met with an Adjustment.

4.04 § 36.2860 Lots of Exception 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: Tax lot 100 contains two Lots of Record as found in Section 4.01 above. The findings for (1) and (2) are in Sections 4.05 and 4.06. *Criterion met.*

4.05 (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: After the completion of the property line adjustment and an adjustment to the minimum front lot line length for Lot 1, the parcels will be in compliance with the minimum yard requirements and minimum front lot line length requirements as described in Section 4.02 above. Both Lot 1 and Lot 2 will continue to abut the public street known as NW Jackson Road as required by MCC 36.2885. *Criteria can be met with an adjustment.*

4.06 (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: Lot 1 is currently 1.00 acres (Exhibit A.11). Lot 2 is currently 2.00 acres (Exhibit A.11). Lot 2 is currently less than 40 acres and will remain less than 40 acres after the adjustment. *Criteria met.*

4.07 § 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: Currently Lot 1 and Lot 2 are both legal lots. After the property line adjustment, two

reconfigured, re-platted lots will exist. A condition of approval has been included to ensure compliance with this criterion. *As conditioned, criterion met.*

- 4.08 (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: Lot 1 and Lot 2 are both owned by Steve and Paula Johnson. The owners have signed the Property Line Adjustment Application form (Exhibit A.1). *Criterion met.*

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

Staff: As discussed in Sections 4.04, 4.05 and 4.06, the approval criteria for a property line adjustment in the Multiple Use Agriculture – 20 zone has been met. *Criterion met.*

- 4.10 (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 provided by the Planning Director for the property line adjustment. *Criterion Met.*

5.00 Adjustment Approval Criteria

5.01 § 36.7606 Scope

(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

- (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use zones are not allowed under the Adjustment process; and**
- (2) Reduction of yards and setback requirements within the Hillside Development overlay shall only be reviewed as a Variance; and**
- (3) Reduction of yards/setback/buffer/resource protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and**
- (4) Minor modification of yards and setbacks in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.**

Staff: The applicant has requested an adjustment to the minimum front lot line length requirement of 50 ft. The adjustment will reduce the front lot line length of Lot 2 by 40% to 30 ft. The purpose of the adjustment is to eliminate any encroachment from an existing septic drainfield and garage on Lot 1 into Lot 2. Criteria (1) through (4) are not applicable to the subject property and proposed project. *Criteria met.*

5.02 § 36.7611 Adjustment Approval Criteria

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 36.7606 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Staff: The applicant has requested an adjustment to the minimum front lot line length requirement of 50 ft. The adjustment will reduce the front lot line length of Lot 2 by 40% to 30 ft. The purpose of the adjustment is to eliminate any encroachment onto Lot 2 from an existing septic drainfield and garage located on Lot 1. *Criterion met.*

5.03 (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Staff: The Property Line Adjustment discussed in section 4.04 thru 4.11 reconfigures the common boundary between Lot 1 and Lot 2. The new configuration of the Lots creates a panhandle to access Lot 2. The panhandle will be 50 ft wide prior to the adjustment and contain a current access point from SE Jackson Rd. Following the adjustment, the access point will be maintained; thus adequate access is maintained. Granting the adjustment will not result in any adverse impacts. *Criterion met.*

5.04 (C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

(E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.

Staff: The above criteria (C) through (D) are not applicable.

6.00 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 zone. This approval is subject to the conditions of approval established in this report.

7.00 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 T2-2017-6600 at the Land Use Planning office.

| Exhibit # | # of Pages | Description of Exhibit | Date Received/ Submitted |
|-----------|------------|--|--------------------------|
| A.1 | 2 | Property Line Adjustment Application | 1/4/2017 |
| A.2* | 1 | Tentative Site Plan | 1/5/2017 |
| A.3 | 4 | Narrative and Site Plan Exhibits | 1/5/2017 |
| A.4 | 2 | Warranty Deed | 1/4/2017 |
| A.5 | 1 | Warranty Deed | 1/4/2017 |
| A.6 | 1 | Warranty Deed | 1/4/2017 |
| A.7 | 1 | T1-2015-4269 | 1/4/2017 |
| A.8 | 5 | Septic Review Certification | 1/4/2017 |
| A.9 | 4 | Stormwater Certificates | 1/4/2017 |
| A.10 | 5 | Fire Service Agency Review | 1/4/2017 |
| A.11 | 1 | Tax Lot Map | 1/4/2017 |
| | | | |
| 'B' | # | Staff Exhibits | Date |
| B.1 | 2 | A&T Property Information for 1S4E20BB -00100 | 1/4/2017 |
| 'C' | # | Administration & Procedures | Date |
| C.1 | 3 | Incomplete Letter | 2/3/2017 |
| C.2 | 1 | Complete Letter (Day 1) | 3/13/2017 |
| C.3 | 2 | Opportunity to Comment | 3/15/2017 |
| C.4 | 10 | Administrative Decision | 7/11/2017 |