

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

NOTICE OF DECISION

Application for

Property Line Adjustment between 2N 2W 03
TL 00700 with 2N 2W 03 TL 00800

Case File: T2-2016-6466

Location: Tax Lots 00700 and 00800 of 2N2W03
Alt. Acct # R972030110, R972030120

Applicant: Skyline View LLC

Base Zone: CFU 1

Overlays: SEC-S, SEC-H, SEC-V, and Hillside Development

Proposal: Property Line Adjustment to move the line between TL 700 and TL 800 to the south to correct an illegal land division. The proposal would result in TL 800 being combined into TL 700. The result of this adjustment will correct the unlawful land division and provide road access to a land locked parcel.

Decision: Approved with Conditions.

Unless appealed, this decision is effective Thursday, October 10, 2017, at 4:00 PM.

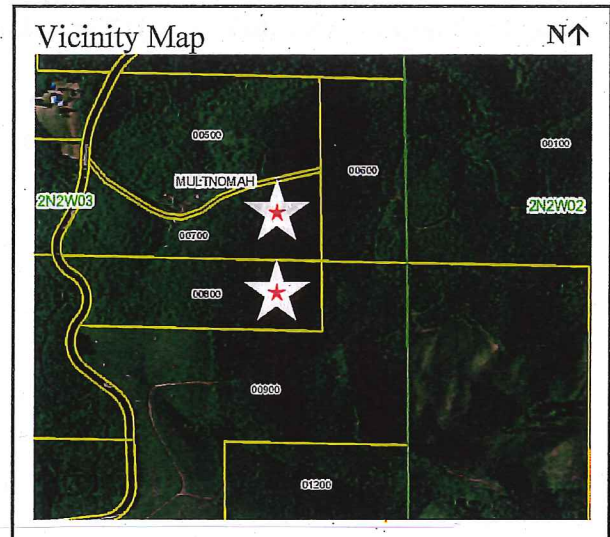
Issued by:

By:

Michael Cerbone, AICP
Planning Director

Date: Tuesday, September 26, 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 Tuesday, October 10, 2017 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2070, MCC 33.7790, MCC 33.2056, MCC 33.2073 and Multnomah County Code Compliance MCC 37.0560

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.multco.us/landuse>

Scope of Approval

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.

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. 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.
2. This approval is based on submitted materials. The proposed property line adjustment shall be completed as shown and described in the application materials submitted by the applicant and as shown on Exhibit A.5 [MCC 37.0580].
3. No additional lot or parcel shall be created through this process [MCC 33.7790(A)].
4. The applicant shall complete the procedures provided by the Planning Director, included as Exhibit B.7 and in the attached "Surveyor's Instructions for Finishing a Property Line Adjustment" included as Exhibit B.8 [MCC 33.7790(D)].

5. **Prior to recording the deeds, the property owner, or representative thereof, 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.5) 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 33.2270 and 33.7790].**
6. **For each of the two properties, a new deed shall be filed with County Records describing the property boundaries with a metes-and-bounds description. The transferred property shall not exist as a separate property with its own deed or deed description [MCC 33.7790(A)]**

<p>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.</p>
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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*.

1.00 Project Description:

Staff: The applicant is requesting approval of a property line adjustment that would correct a previous property line adjustment and land division that was not properly executed.

2.00 Property Description & History:

Staff: The proposal includes a total of two properties (zoned Commercial Forest Use-1 (CFU-1) with an overlay for a Significant Environmental Concern for wildlife habitat (SEC-h). The involved properties include an overlay for a Significant Environmental Concern for streams (SEC-s) and have portions within the Slope Hazard overlay. The properties are accessed off of NW Skyline Boulevard. The properties are vacant. The immediate vicinity includes properties that are general heavily forested, but with dwellings commonly found on most parcels.

In 1981, the subject properties were originally part of a combined land use case consisting of a combined land division and property line adjustment. The land use case was approved but the final execution of recording the deeds to complete the parcel configuration changes was done incorrectly, resulting in more land divisions and the unlawful creation of three properties that did not meet the zoning requirements. Since the tentative approval was not properly completed, the underlying land use decision became void.

3.00 Code Compliance:

MCC 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**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

Staff: Full Compliance means any structures on site were properly reviewed or permitted, a property is a Lot of Record and any conditions from previous land use decisions have been satisfied. The only known land use application associated with the property was the 1981 land division/property line adjustment that was approved, but incorrectly completed. The incorrect completion resulted in the properties not being lots of record. However, approval of this land use application will correct the lot of record issues and bring the properties into full compliance once completed.

4.00 Dimensional Standards and Property Line Adjustment Approval Criteria:

4.01 MCC 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Property Line Adjustment; Lot of Exception; Land Divisions.	May maintain current nonconforming setback to existing structures	30	30	On tracts with required Primary & Secondary FSZ as part of a land use decision, both shall be maintained.

Staff: As seen in the above table, the Forest Practice setback requirements for the CFU-1 zone are 30-feet unless non-conforming setbacks have been lawfully established and the fire safety zones are those established in any previous land use decision. For the subject property, there are no previous land use decisions that established primary or secondary fire safety zones. The new property lines will not reduce the non-conforming setbacks to the structures any further.

Criteria met.

4.02 MCC 33.2263 LOT SIZE REQUIREMENTS

(C) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 33.7895(D).

Staff: The proposed property line adjustment will result in a parcel that is comprised of tax lot 700 and 800. The resulting configuration has a front lot line length that is longer than 50 feet consistent with this requirement.

Criterion met.

5.00 Property Line Adjustment Criteria:

5.01 MCC 33.2270 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT

(A) Pursuant to the applicable provisions in MCC 33.7790, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

(1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;

Staff: The proposed reconfiguration would combine tax lots 700 and 800 and therefore would not increase the density.

Criterion met.

5.02 (2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;

Staff: The property line adjustment will correct an unlawful land division that created two properties below the minimum lot size. The proposal will consolidate those properties into larger properties. The larger parcel that will result from the approved adjustment will continue to support commercial forest practices.

Criterion met.

5.03 (3) The new lot line is in compliance with the dimensional requirements of MCC 33.2256; and

Staff: As staff found in Finding #4.01, the new lot lines satisfy the dimensional standards of MCC 33.2256 for all structures.

Criterion met.

5.04 (4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use; and

Staff: The subject properties do not contain a health as described above. The proposal is consistent with this requirement.

Criterion met.

5.05 (5) If the properties abut a street, the required access requirements of MCC 33.2273 are met after the relocation of the common property line.

Staff: Lots 700 and 800 both front on NW Skyline Boulevard. The proposal if approved would consolidate lot 800 into 700 resulting in a parcel that fronts NW Skyline Boulevard consistent with this requirement.

Criterion met.

5.06 **MCC 33.7790 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 proposal reduces the amount of properties by correcting an unlawful land division through the combination of tax lot 800 into tax lot 700. Not additional lot or parcel is created.

Criterion met.

5.07 **(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: All owners of record have either signed the general application form or signed the letter of authorization (Exhibit A.2).

Criterion met.

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

Staff: The proposal satisfied the CFU-1 zoning district criteria as described above.

Criterion met.

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

Staff: All required forms have been submitted and the application has been deemed complete.

Criterion met.

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for an approval of a Property Line Adjustment in the Commercial Forest Use 1 zone. This approval is subject to the conditions of approval established in this report.

7.00 Exhibits

'A' Applicant's Exhibits

'B' Staff 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 T2-2016-6467 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant Exhibits
A.1	1	Property Line Adjustment Application Form
A.2	2	Owners' Letter of Authorization – Submitted by Peggy Hennessy
A.3	3	Attachment to Property Line Adjustment - Owners' Signature
A.4	3	Warranty Deed 2006 – 132761 Recorded 17 th day of July, 2006
A.5	1-23	Statutory Bargain and Sale Deed with Legal Description recorded 2007-098727