

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: T2-2018-10123

Permit: Property Line Adjustment

Location:

Tract 1: No Address (Near Deverell Rd.), Corbett
Tax Lot 800, Section 09, Township 1 South, Range 5 East, W.M.
Alt. Acct # R995090150 Property ID#R342858

Tract 2: No Address (Near Deverell Rd.), Corbett
Tax Lot 900, Section 09, Township 1 South, Range 5 East, W.M.
Alt. Acct # R995090320 Property ID#342859

Applicant: Jeremy Keepers; Timber Valley Development Inc.

Owners: Weyerhaeuser Columbia Timber

Base Zone: Commercial Forest Use - 3 (CFU-3)

Overlays: SEC-s; HD

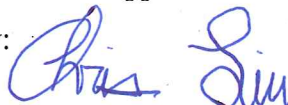
Summary: A request for a property line adjustment to transfer approximately 14.44 acres from Tract 1 to Tract 2 in the Commercial Forest Use – 3 (CFU-3) zone. After the completion of the property line adjustment, Tract 1 will be approximately 24.56 acres and Tract 2 will be approximately 55.44 acres.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, June 28, 2018 at 4:00 pm.

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.

Issued by:



Chris Liu, Asst. Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, June 14, 2018



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 Chris Liu, Staff Planner at 503-988-2964 or email chris.liu@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): 37.0560 *Code Compliance*, MCC 35.0005 & MCC 35.2075 *Lot of Record*, MCC 35.2070 *Lot Line Adjustment; Property Line Adjustment*, MCC 35.2056 *Forest Practices Setbacks And Fire Safety Zones*, MCC 35.7790 *Property Line Adjustments*

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 multco.us/landuse/zoning-codes at the link *Chapter 35: East 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. No additional lot or parcel shall be created through this process. [MCC 35.7790(A)]
3. The approved property line adjustment shall be finished by recording a new plat.
4. 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.5) 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.

5. 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.

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. Project Description:

Staff: The applicant requests a property line adjustment to transfer approximately 14.44 acres from Tract 1 to Tract 2 in the Commercial Forest Use – 3 (CFU-3) zone. After the completion of the property line adjustment, Tract 1 will be approximately 24.56 acres and Tract 2 will be approximately 55.44 acres.

2. Property Description:

Staff: The subject properties are located in the Commercial Forest Use - 3 zone in East Multnomah County. Gordon Creek runs through both tracts; hence, there is a Significant Environmental Concern – Streams overlay on the properties. The surrounding area consists of forest land zoned Commercial Forest Use and the National Scenic Area is approximately 2 miles north of the subject properties. Both tracts are vacant and currently used for forest practices.

3. Administration and Procedures:

3.1 CODE COMPLIANCE AND APPLICATIONS

MCC 37.0560: 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.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: The two subject properties are each a Lot of Record in their original configurations (40 acres each; pictured on page 2 of this decision) as discussed in section 4.1 below. At some point in time, an additional tax lot (R686413) was created that spans across both properties; however, it is not a legal parcel or Lot of Record and will cease to exist following this adjustment.

Criteria met

4. Commercial Forest Use - 3 Approval Criteria:

4.1 LOT OF RECORD

MCC 35.0005: 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 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.

MCC 35.2075(A): In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots: (a) Which were held under the same ownership on February 20, 1990; and (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

Staff: Tract 1 (Tax Lot 800) was created via warranty deed (Book 1858, Page 419) on August 20, 1957 (Exhibit A.2). Tract 1 met the zoning provisions in place via the interim zoning ordinance adopted by the County planning commission on August 4, 1955. Tract 1 is therefore a Lot of Record.

Tract 2 (Tax Lot 900) was transferred via bargain and sale deed # 36-98-D001 (instrument # 98017527; filed February 5, 1998) to the Longview Fibre Company by the United States Department of the Interior, Bureau of Land Management (Exhibit A.3). Tract 2 is therefore a Lot of Record.

Both properties are individual Lots of Record; hence, the County may review this request for a Property Line Adjustment.

Criteria met.

4.2 REVIEW USES

MCC 35.2025: The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(F) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 35.2070.

Staff: The applicable provisions of MCC 35.2070 for the proposed property line adjustment are addressed in section 4.5 below.

Criteria met.

4.3 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

MCC 35.2056: The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Staff: These standards are not applicable to this proposed property line adjustment application as no new development is proposed.

Criteria not applicable.

4.4 ACCESS

MCC 35.2073: All lots and parcels in this district shall abut a public street or shall have other access deemed by the approval authority to be safe and convenient for

pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 35.2075(C).

Staff: Both parcels involved in the proposed property line adjustment are Lots of Record (see section 4.1 above); hence, the access requirement does not apply.

Criteria met.

4.5 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT

MCC 35.2070: (A) Pursuant to the applicable provisions in MCC 35.7790, 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 subject properties are vacant and no development is proposed.

Criteria met.

- 4.5.1 (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 proposed lot configuration does not propose any changes that will affect the ability to continue the existing forest practices in the area. Access to both properties to continue any desired forest practices remains following the lot reconfiguration.

Criteria met.

- 4.5.2 (3) The new lot line is in compliance with the dimensional requirements of MCC 35.2056; and**

Staff: No development is proposed; as no structures exist on the property, the relocation of the lot line will not affect required forest practice setbacks and fire safety zones for structures.

Criteria met.

- 4.5.3 (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 are currently vacant and no development is proposed.

Criteria met.

- 4.5.4 (5) If the properties abut a street, the required access requirements of MCC 35.2073 are met after the relocation of the common property line.**

Staff: The subject properties do not abut a street.

Criteria met.

4.6 PROPERTY LINE ADJUSTMENT

MCC 35.7790: 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:

- (A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and**

Staff: No additional lots or parcels will be created as part of the proposed property line adjustment. The common property line between Tract 1 and Tract 2 is proposed to be relocated to reduce the size of Tract 1 and increase the size of Tract 2 (Exhibit A.5).

Criteria met.

- 4.6.1 (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: Weyerhaeuser Columbia Timber is the listed property owner on County tax records for the subject properties. The authorized representative (Craig Crawford) signed the property line adjustment application indicating Weyerhaeuser's consent to the adjustment (Exhibit A.1).

Criteria met.

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

Staff: The application successfully demonstrated compliance with the property line adjustment requirements outlined in MCC 35.2070. See section 4.5 of this decision.

Criteria met.

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

Staff: Applicant Jeremy Keepers provided the necessary forms and information for the property line adjustment application (Exhibits A.1 – A.5).

Criteria met.

5. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the property line adjustment to transfer approximately 14.44 acres from Tract 1 to Tract 2 in the Commercial Forest Use – 3 (CFU-3) zone. This approval is subject to the conditions of approval established in this report.

6. Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

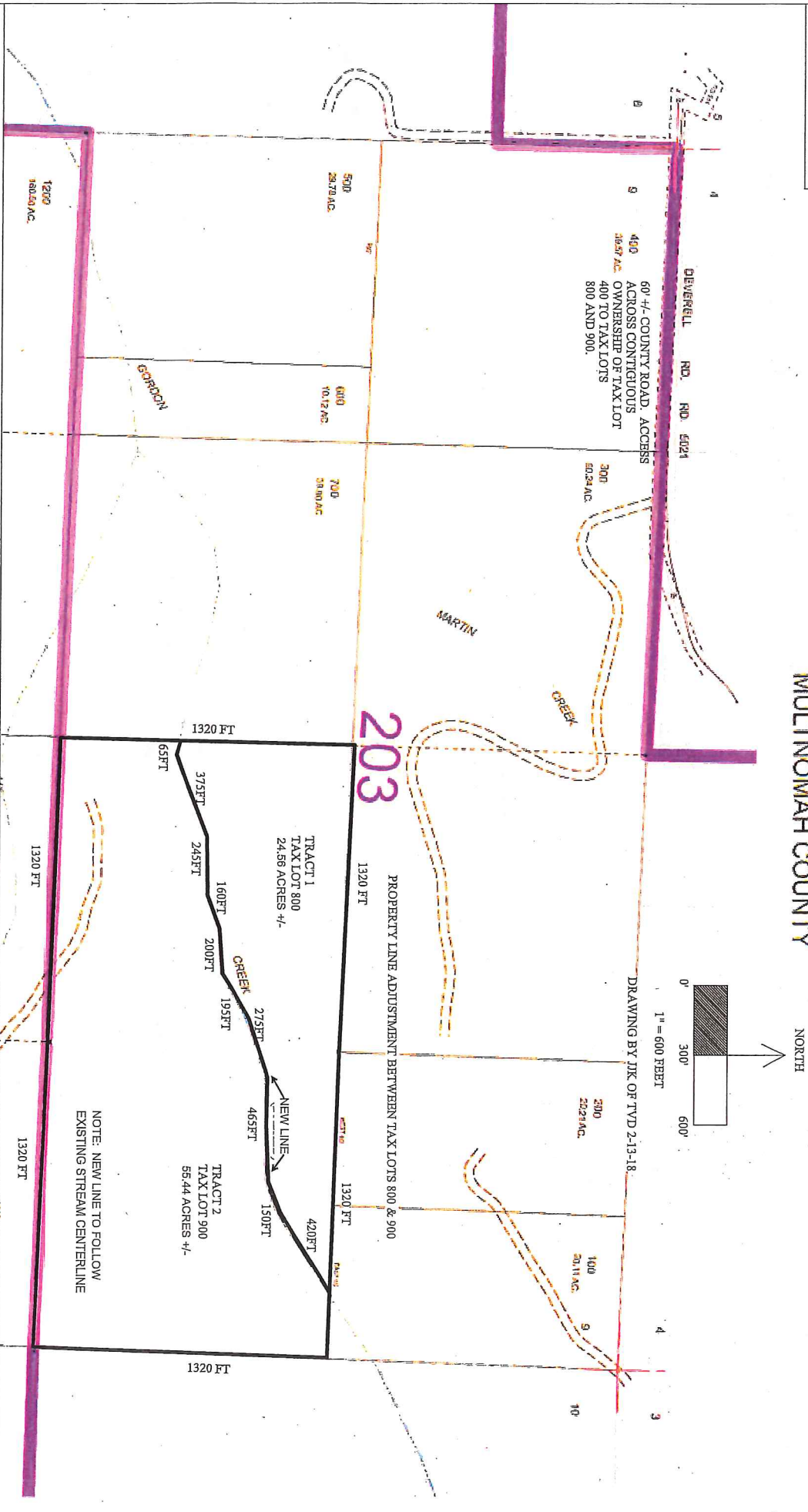
'C' Procedural Exhibits

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 T2-2018-10123 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	Property Line Adjustment Application	3.13.18
A.2	2	Statutory Warranty Deed Book 1858 Page 419, recorded August 20, 1957	3.13.18
A.3	8	Bargain and Sale Deed Inst. #98-01757, recorded February 5, 1998.	3.13.18

A.4	10	Title Report	3.13.18
A.5*	3	Revised Tentative Plan Maps	4.12.18
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S4E19CB - 00300	3.13.18
B.2	3	A&T Property Information for 1S4E19CB - 00400	3.13.18
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	4.5.18
C.2	1	Applicant's acceptance of 180 day clock	4.12.18
C.3	1	Complete Letter (Day 1)	5.2.18
C.4	3	Opportunity to Comment	5.16.18
C.5	9	Administrative Decision	6.14.18

SECTION 9 T.1S. R.5E. W.M.
MULTNOMAH COUNTY



APR 12 2018

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NOTE: NEW LINE TO FOLLOW
EXISTING STREAM CENTERLINE