

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: T2-2017-9843

Permit: Property Line Adjustment

Location:

Tract 1: 14575 NW Germantown Road, Portland
Tax Lot 100, Section 08A, Township 1 North, Range 1 West, W.M.
Alt. Acct # R961080010 Property ID#R323971

Tract 2: 14611 NW Germantown Road, Portland
Tax Lot 200, Section 08A, Township 1 North, Range 1 West, W.M.
Alt. Acct # R961080440 Property ID#324000

Applicant: Greg Spurlock, Statewide Surveying

Owners: Robert & Sandra Simmons

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlays: Significant Environmental Concern for wildlife habitat (SEC-h) & streams (SEC-s) /
Hillside Development (HD)

Summary: A request for a property line adjustment to transfer approximately 10 acres from Tract 1 to Tract 2 in the Commercial Forest Use – 2 zone. After the completion of the property line adjustment, Tract 1 will be 20 acres and Tract 2 will be 30 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, July 19, 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.

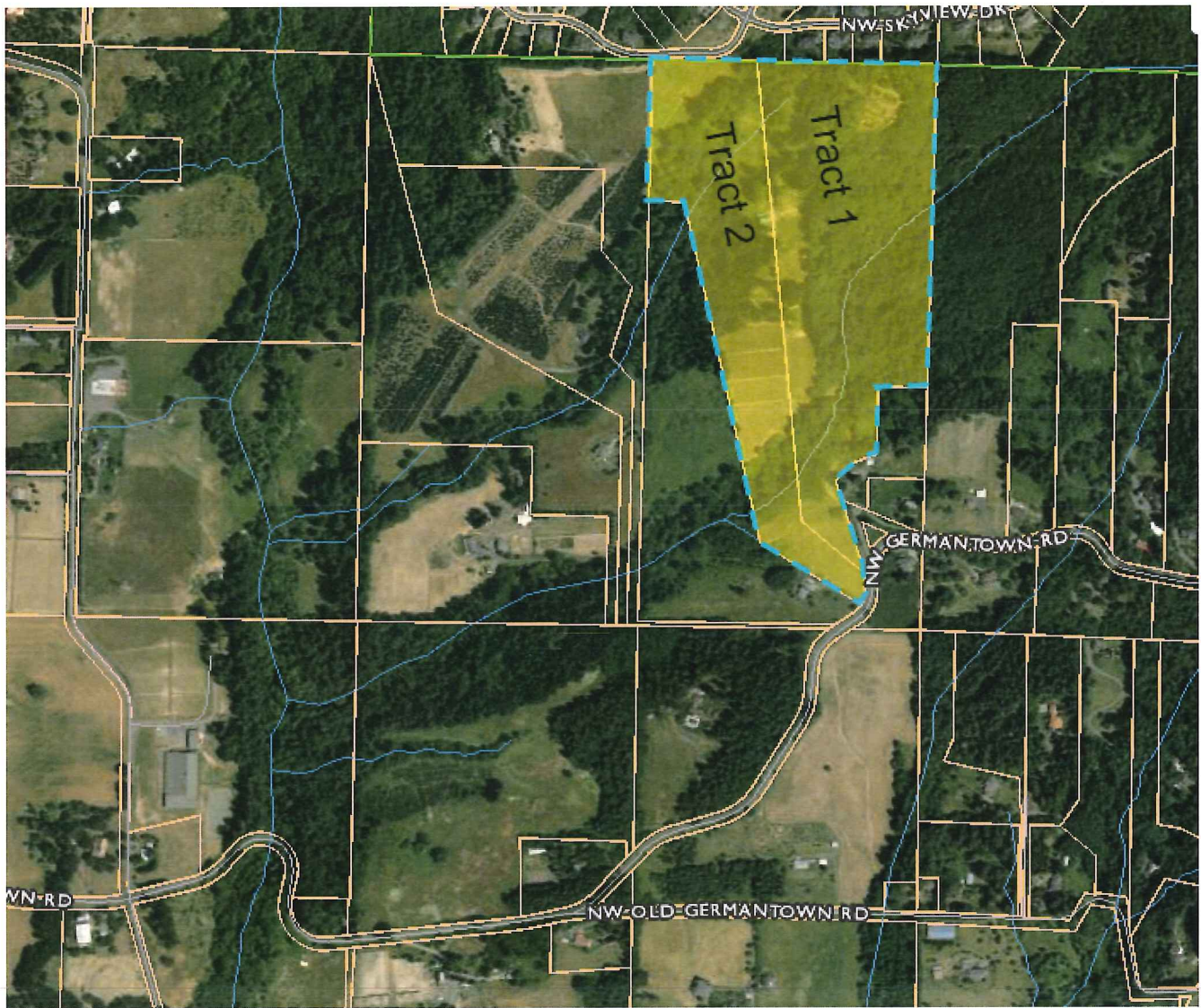
Issued by:



Lisa Estrin, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, July 5, 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 Lisa Estrin, Staff Planner at 503-988-0167 or email lisa.m.estrin@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2225 Review Uses, (G) Lot Line Adjustment..., MCC 33.2256 Forest Practices Setbacks and Fire Safety Zones, MCC 33.2270 Lot Line Adjustment, MCC 33.2275 Lot of Record, MCC 33.7790 Property Line Adjustment, and MCC 37.0560 Code Compliance and Applications.

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 links Chapter 33: West Hills Rural Plan Area and Chapter 37: Administration and Procedures.

TENTATIVE PLAN MAP

A PROPERTY LINE ADJUSTMENT FOR LANDS SITUATED IN THE NORTHEAST QUARTER OF SECTION 8,
TOWNSHIP 1 NORTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, STATE OF OREGON.
MULTNOMAH COUNTY MEETING NO. PF 2016-6184



RECEIVED
FEB 23 2013

SCALE: 1" = 200'



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gregory D. Spurlock
OREGON
JULY 29, 1988
GREGORY D. SPURLOCK
2370
EXPIRES: 06/30/18

LEGEND

- = EXISTING PROPERTY LINE
- - - = PROPOSED PROPERTY LINE
- - - = PROPOSED 20' RECIPROCAL ACCESS EASEMENT
- ▨ = GRAVEL ROAD

5 FOOT CONTOURS GENERATED FROM OREGON
DEPT. OF GEOLOGY AND MINERAL INDUSTRIES
OLC METRO 2014 LIDAR DATA
(ELEVATION IN FEET, VERTICAL DATUM NAVD88)

PROPERTY INFORMATION

TRACT 1

DEED DOCUMENT NO. 2005-220114,
MULTNOMAH COUNTY DEED RECORDS
ALT. ACCT#: R961080010
OWNER: ROBERT D. SIMMONS AND
SANDRA E. SIMMONS
ZONING: COMMERCIAL FOREST USE - 2

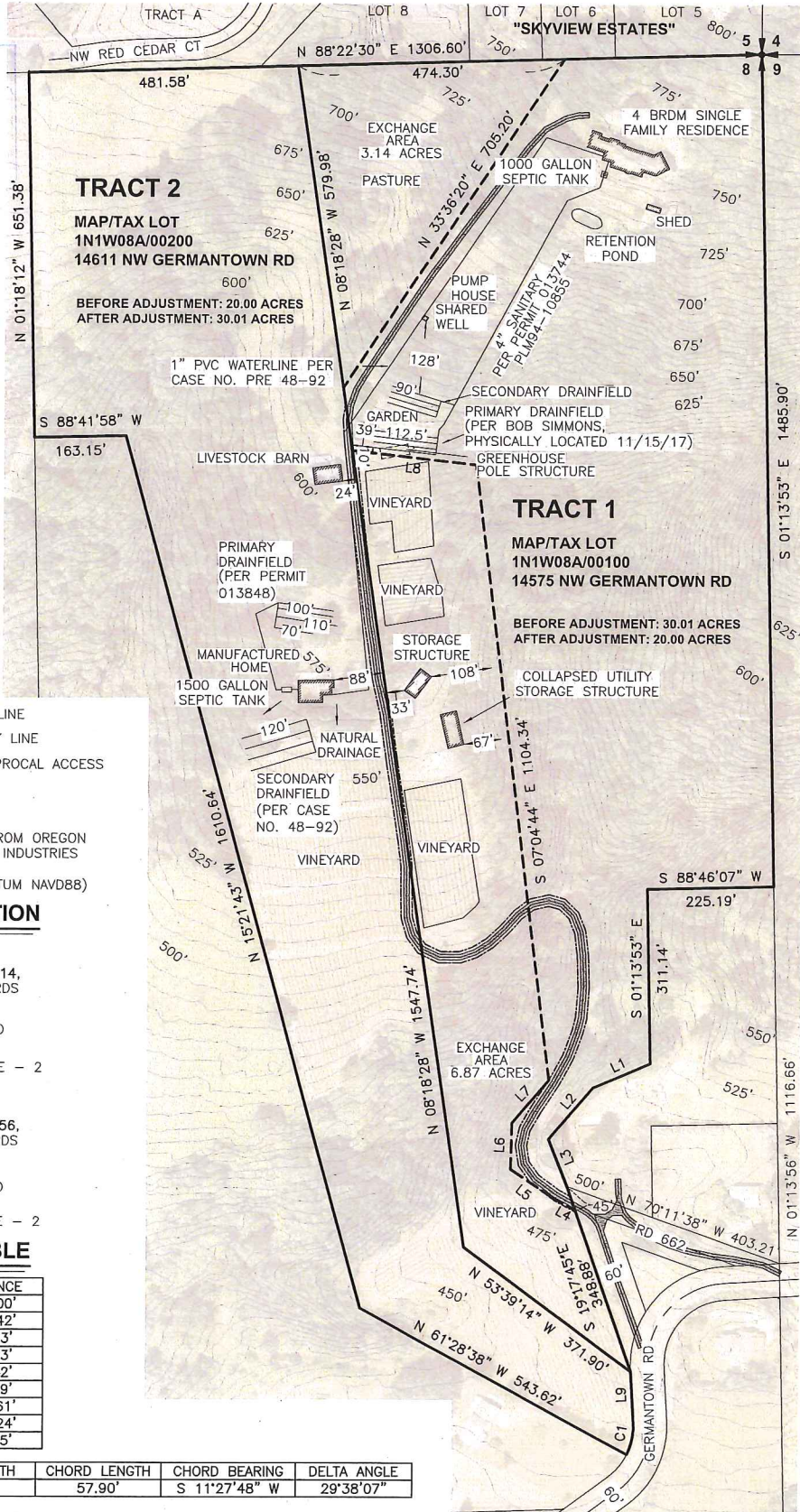
TRACT 2

DEED DOCUMENT NO. 2005-226956,
MULTNOMAH COUNTY DEED RECORDS
ALT. ACCT#: R961080010
OWNER: ROBERT D. SIMMONS AND
SANDRA E. SIMMONS
ZONING: COMMERCIAL FOREST USE - 2

LINE AND CURVE TABLE

LINE	BEARING	DISTANCE
L1	S 67°13'32" W	110.00'
L2	S 40°44'13" W	120.42'
L3	S 21°37'02" E	91.03'
L4	N 60°46'06" W	43.13'
L5	N 56°28'48" W	94.42'
L6	N 01°19'47" E	82.39'
L7	N 40°44'13" E	100.61'
L8	N 83°25'37" W	223.24'
L9	S 03°21'15" E	91.45'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	113.20'	58.55'	57.90'	S 11°27'48" W	29°38'07"



STATEWIDE LAND SURVEYING INC.

43 NW AVA AVE. GRESHAM, OR 97030
O: 503-665-7777 F: 503-665-7988
EMAIL: SURVEY@STATEWIDESURVEYING.COM
WEB: WWW.STATEWIDESURVEYING.COM

CLIENT: BOB SIMMONS
JOB NUMBER: 2016-219

DRAWN: T.M.S.
REVIEWED: G.D.S.
SHEET: 1 OF 1

DRAWN DATE: 12-20-17
REVIEW DATE: 02-23-18
SURVEY DATE: 10-17

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 property line adjustment expires two (2) years from the date the decision is final pursuant to MCC 37.0690(A), unless the required survey and new deeds are recorded with the County Recorder. 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.
3. Prior to land use sign off of the required survey and new deeds, the property owner shall contact Code Compliance at 503.988.5508 to schedule an appointment to verify that the remnant greenhouse (#3) and collapsed utility structure (#5) has been remove from Tract 1. The greenhouse may not be re-installed on either Tract 1 or Tract 2 without further land use approval. [MCC 33.2256, MCC 33.2270(A)(3) and MCC 37.0560]
4. No additional units of land shall be created from any parcel by the recordation of this property line adjustment. No future building permits may be issued to either Tract 1 or Tract 2 should a separate unit of land be created until such time as the property line adjustment is implemented correctly. [MCC 33.7790(A) and MCC 37.0560]

Note:

You will need to complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Prepare the draft survey and draft legal descriptions for the completion of the property line adjustment.
3. Provide a copy of the draft survey to the County Surveyor to review.
4. Provide staff planner, Lisa Estrin with copies of the draft survey and draft legal descriptions for Land Use Planning's review and pay the \$119 plan check fee to Land Use Planning.
5. Once Land Use Planning sign's off on the new legal descriptions and survey, prepare the deeds needed to transfer the property and to complete the property line adjustment.
6. Visit the County Recorder's office at 501 SE Hawthorne Blvd, Portland (Ph. 503.988.3034) to record the new deeds and a copy of the survey.
7. Submit documentation that the deeds and survey have been recorded to Land Use Planning.

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 to transfer 10.01 acres of land from Tract 1 to Tract 2. The lands being transferred are being used for pasture and vineyards.

2.00 Property Description & History:

Staff: Tract 1 currently exists as a 30.01 acre parcel created in August, 1978 (Exhibit B.3). It contains a 5,507 sq. ft. dwelling that was authorized by land use case PRE 48-92 and Hillside Development Permit 5-94. Building permits were issued in October 1993 for the construction of the dwelling. The dwelling is shown as being finished as of 1995. The applicant’s Outbuilding Report (Exhibit A.15.) shows the following structures on Tract 1: Greenhouse & Garden Shed (256 sq. ft), Remnant Greenhouse (demolished), Storage Building (1,196 sq. ft), Collapsed Utility Structure (demolished) and Pump House (80 sq. ft.).

Tract 2 currently exists as a 20 acre parcel created in August, 1978 (Exhibit B.4). Land use cases PRE 45-92 and HDP 6-94 approved the installation of the dwelling. Tax records show a 2,192 sq. ft. manufactured dwelling which was placed in 1993 with a 500 sq. ft. attached deck. The applicant’s Outbuilding Report (Exhibit A.15) shows a Livestock Barn (1,515 sq. ft) currently on Tract 2.

3.00 Commercial Forest Use – 2 Approval Criteria:

3.01 § 33.2225 REVIEW USES

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

(G) Lot line adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 33.2270.

Staff: The applicant has requested approval of a lot line adjustment (Exhibit A.1). The findings for MCC 33.2270 are in Sections 3.03 through 3.07 below.

3.02 § 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

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:

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;	May maintain current nonconforming setback to existing structures	30	30	On tracts with required Primary & Secondary FSZ as part of land use decision, both shall be maintained.

Staff: After the property line adjustment, Tract 1 will contain a four-bedroom single family dwelling and a small shed. Both of these structures will be at least 30-ft from all property lines (Exhibit A.16). PRE 48-92 did not require a primary or secondary fire safety zone be constructed around the dwelling, so none is required to be provided now.

Currently Tract 2 contains a 30-ft by 50-ft livestock barn and a manufactured dwelling. These buildings will be at least 30-ft from all property lines. Through the property line adjustment, Tract 2 will have two new structures on it – a 24-ft by 50-ft storage structure and a collapsed utility storage structure. Both of these buildings will meet the 30-ft forest practice setbacks. PRE 45-92 did not require the installation of a primary or secondary fire safety zone, so none is required as part of this application.

The tentative plan map shows an existing greenhouse that will straddle the property line between Tracts 1 and 2. The building's location will not meet the 30-ft forest practice setback for either tract. A condition of approval has been included that this greenhouse shall be removed from both properties prior to land use sign off of the new legal descriptions for the property line adjustment. *Through a condition, this criterion can be met.*

3.03 § 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: Tract 1 currently contains one single family dwelling and will only have one single family dwelling after the adjustment is complete. Tract 2 currently contains one single family dwelling and after the adjustment will continue to have only one. Neither tract of land may have additional dwelling on it nor can either of them be divided under current minimum lot size requirements. *Criterion met.*

3.04 (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: Tract 1 will be reduced in size from 30 acres to 20 acres. Those areas currently in farm practices will be transferred to Tract 2. The remaining areas of Tract 1 will remain in forest practices as they exist now.

Tract 2 is currently a mixture of farm and forest practices. After the property line adjustment Tract 2 will increase to 30 acres in size and will contain additional vineyard area. The remainder of the site will continue in forest practices. *Criterion met.*

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

Staff: All buildings, except an existing greenhouse on Tract 1 and Tract 2 will comply with the Forest Practice Setbacks requirements of MCC 33.2256 as found in Section 3.02 above. A condition of approval has been included requiring the greenhouse removal before the completion of the property line adjustment.

3.06 (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 existing dwelling on Tract 1 and on Tract 2 were permitted as permanent house pursuant to PRE 48-92 and PRE 45-92 respectfully. No health hardship or housing of help exists on either of these tracts. *Criterion met.*

3.07 (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: Tract 1 is currently adjacent to the public right-of-way known as Road 662 and Germantown Road. Tract 2 abuts the public right-of-way known as Germantown Road. After the adjustment, Tract 1 will only abut Roadway #662. Tract 2 will continue to abut Germantown Road. *Criterion met.*

3.08 § 33.2275 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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.**
 - 3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:**
 - 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or**
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.**
- (4) Exceptions to the standards of (A)(2) above:**
 - (a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.**

(B) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “lot size for conditional uses” provisions has been given by the hearings authority and the parcel was subsequently lawfully created, then the parcel shall be a lot of record that remains separately transferrable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: Tract 1 consists of a single 30.01 acre parcel created in August 1978 (Exhibit B.3). The zoning in 1978 was Multiple Use Agriculture – 20 (MUA-20) which had a 20 acre minimum lot size and a 50-ft minimum front lot line length. In August 1978, a contract was recorded transferring 20 acre (Tract 2) from the parent parcel (Tract 1) with a new legal description leaving the Tract 1 as a 30 acre parcel with 345.88 feet of front lot line. Tract 1 met the zoning requirements at the time of its creation.

Tract 2 consists of a single 20 acre parcel created in August 1978 (Exhibit B.4). The property was zoned MUA-20 at the time and the zoning had a minimum front lot line length of 50 feet. Tract 2 has a minimum front lot line length of 150 feet. Tract 2 met the zoning requirements at the time of its creation.

Tract 1 and Tract 2 are contiguous to each other and were owned on February 20, 1990 by Robert and Sandra Simmons. Pursuant to MCC 33.2275(A)(2)(b), Tract 1 and Tract 2 do not aggregate into a single Lot of Record and remain discrete due to both being at least 20 acres in size. In addition, they are both occupied by a legal dwelling and remain discrete due to MCC 33.2275(A)(4) of the Lot of Record provisions. Tract 1 and Tract 2 each qualify separately as a Lot of Record.

4.00 § 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: Tract 1 and Tract 2 are separate legal parcels created in 1978. After the property line adjustment, they will remain separate discrete parcels. A condition of approval has been included requiring that no new units of land be created by the property line adjustment. *Through a condition, criterion will be met.*

4.01 (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: Both Tract 1 and 2 are owned by Robert and Sandra Simmons. They have both signed the Property Line Adjustment application form (Exhibit A.1). *Criterion met.*

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

Staff: The proposed property line adjustment has met the approval criteria for the CFU-2 zone's property line adjustment. See Sections 3.03 through 3.07 for additional findings. *Criterion met.*

4.03 (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 submitted the required forms (Exhibit A.1 and A.13) and followed the Type II approval process. *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 transfer 10 acres from Tract 1 to Tract 2 in the CFU-2 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 T2-2017-9843 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Property Line Adjustment Application	12/28/2017
A.2	1	Statewide Land Surveying Inc. Cover Sheet	12/28/2017
A.3	2	Statutory Warranty Deed recorded on November 14, 2005 at Inst. #2005-220114	12/28/2017
A.4	3	Statutory Warranty Deed recorded on November 22, 2005 at Inst. #2005-226956	12/28/2017
A.5	1	Tentative Plan Map drawn date 12-20-17	12/28/2017
A.6	1	Tax Map 1N1W8A with Existing Parcel Line Highlighted	12/28/2017
A.7	49	PRE 45-92 for Mobile Home with Forest Management Plan approved on October 5, 1992	12/28/2017
A.8	66	PRE 48-92 for Forest Management Plan/NSFR approved on November 23, 1992	12/28/2017
A.9	1	Statewide Land Surveying Inc. Cover Sheet submitted January 16, 2018	1/16/2018
A.10	1	Authorizing Representative Sheet signed by Robert Simmons for 14611 NW Germantown Rd, Portland	1/16/2018
A.11	8	Firwood Design Group review of Simmons Site Plans for Stormwater dated January 4, 2018 Cover Sheet for 14611 NW Germantown Rd (1 page) a. Storm Water Certificate for Land Divisions & Property Line Adjustments (1 page) b. Dwelling Storm Drainage Calculations for 14611 NW Germantown dated January 4, 2018 (6 pages)	1/16/2018
A.12	6	Firwood Design Group review of Simmons Site Plans for Stormwater for 14575 NW Germantown Rd (1 page) a. Storm Water Certificate for Land Divisions & Property Line Adjustments (1 page) b. Dwelling Storm Drainage Calculations for 14575 NW Germantown Rd dated January 4, 2018 (4 pages)	1/16/2018
A.13	2	Septic Review Certification for 14611 & 14575 NW Germantown Rd, Portland	1/16/2018

A.14	1	Statewide Land Surveying Inc. Cover Sheet submitted February 23, 2018	2/23/2018
A.15	16	Outbuilding Report for PLA at 14575 / 14611 NW Germantown Road, Portland	2/23/2018
A.16	1	Tentative Plan Map – Revised	2/23/2018
A.17	1	Building Details for Outbuilding Report	6/28/2018
A.18	1	Email Regarding the Remnant Greenhouse and Collapsed Utility Shed being Demolished	6/28/2018
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N1W08A - 00100	1/2/2018
B.2	3	A&T Property Information for 1N1W08A - 00200	1/2/2018
B.3	1	Parcel Record Card for 1N1W08A - 00100	6/27/2018
B.4	1	Parcel Record Card for 1N1W08A - 00200	6/27/2018
‘C’	#	Administration & Procedures	Date
C.1	2	Incomplete Letter	1/26/2018
C.2	1	Applicant’s Acceptance of 180 Day Clock	2/23/2018
C.3	1	Complete Letter (Day 1)	3/13/2018
C.4	3	Opportunity to Comment	3/27/2018
C.5	9	Administrative Decision	7/5/2018