

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1097

Amending MCC Chapters 11.15, 11.45, 33, 34, 35, 36, 37 and 38 to Add Criteria for Replatting and Consolidating Lots and Parcels

(Language ~~stricken is deleted~~; double-underlined is new.)

The Multnomah County Board of Commissioners Finds:

- a. The Planning Commission is authorized by Multnomah County Code Chapter (MCC) § 33.0140 and by ORS 215.110 to recommend to the Board the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission exercised this authority in recommending the proposed ordinance with Resolution PC-04-007 (Part 2).
- b. It is in the public interest that the County has a clear process and approval criteria for persons interested in “replatting” or “consolidating” properties they own. The County code does not currently provide such a process or criteria.
- c. The proposed code amendments are the remaining part of a larger project that had the objective of adding code sections that would solve land division related problems experienced by property owners and staff.
- d. Adding provisions to the code allowing properties to be reconfigured or consolidated, as provided for by ORS Chapter 92, gives land owners additional tools to correct land division problems, or to simply meet their needs for how they intend to use the property.
- e. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required (“Ballot Measure 56” notice).
- f. The provisions of this ordinance were submitted to the Gorge Commission, State of Oregon Department of Land Conservation and Development and other interested parties, and there has been consultation with the staff of these agencies on the code provisions.
- g. Noticed public hearings were held before the Planning Commission on April 2, 2007 and Board of County Commission on July 12, 2007, where all interested persons were given an opportunity to appear and be heard.

Multnomah County Ordains as follows:

Section 1. **§§33.2025, 33.2225, 33.2425, 33.2625, 33.2825, 33.3125 and 33.3325 are amended as follows:**

[CFU-1]

33.2025 Review Uses

* * *

(L) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

[CFU-2]

33.2225 Review Uses

* * *

(L) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

[CFU-5]

33.2425 Review Uses

* * *

(L) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

[EFU]

33.2625 Review Uses

* * *

(P) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

[MUA-20]

33.2825 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

[RR]

33.3125 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

[RC]

33.3325 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

Section 2. §§34.2625, 34.2825, 34.3125 and 34.3325 are amended as follows:

[EFU]

34.2625 Review Uses

* * *

(P) Consolidation of Parcels and Lots pursuant to MCC 34.7794.

[MUA-20]

34.2825 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

[RR]

34.3125 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

[RC]

34.3325 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

Section 3. §§35.2025, 35.2225, 35.2625, 35.2825, 35.3125 and 35.3325 are amended as follows:

[CFU-3]

35.2025 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

[CFU-4]

35.2225 Review Uses

* * *

(L) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

[EFU]

35.2625 Review Uses

* * *

(P) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

[MUA-20]

35.2825 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

[RR]

35.3125 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

[RC]

35.3325 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

Section 4. §§36.2025, 36.2625, 36.2825, 36.3125, 36.3325, 36.3425 and 36.3525 are amended as follows:

[CFU]

36.2025 Review Uses

* * *

(L) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

[EFU]

36.2625 Review Uses

* * *

(R) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

[MUA-20]

36.2825 Review Uses

* * *

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

[RR]

36.3125 Review Uses

* * *

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

[PH-RC]

36.3325 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

[OR]

36.3425 Review Uses

* * *

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

[OCI]

36.3525 Review Uses

* * *

(I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

Section 5. §§38.2025, 38.2225, 38.2425, 38.2625, 38.2825, 36.3025 and 36.3225 are amended as follows:

[GGF & GSF]

38.2025 Review Uses

(A) The following uses may be allowed on lands designated GGF, . . .

* * *

(25) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(B) The following uses may be allowed on lands designated GSF, . . .

* * *

(17) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

[GGA & GSA]

38.2225 Review Uses

(A) The following uses may be allowed on lands designated GGA, . . .

* * *

(21) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(B) The following uses may be allowed on lands designated GSA-40, . . .

* * *

(20) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

[GGRC]

38.2425 Review Uses

* * *

(P) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

[GGO; GGO-GW; GGO-SP; & GSO]

38.2625 Review Uses

* * *

(A) The following uses may be allowed on lands designated GGO, . . .

* * *

(9) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(B) The following uses are allowed on land designated GGO-GW, . . .

* * *

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(C) The following uses are allowed on land designated GGO-SP, . . .

* * *

(11) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(D) The following uses may be allowed on lands designated GSO, . . .

* * *

(8) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

[GG-PR; GG-CR, & GS-PR]

38.2825 Review Uses

* * *

(A) The following uses are allowed on all lands designated GG-PR, . . .

* * *

(5) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(B) The following uses are allowed on all lands designated GG-CR, . . .

* * *

(5) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(C) The following uses are allowed on all lands designated GS-PR . . .

* * *

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

[GGR & GSR]

38.3025 Review Uses

* * *

(A) The following uses may be allowed on lands designated GGR, . . .

* * *

(16) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

(B) The following uses may be allowed on lands designated GSR, . . .

* * *

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

[GGC]

38.3225 Review Uses

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

* * *

Section 6. §§11.15.2568, 11.15.2608 and 11.15.2628 are amended as follows:

[LR-10]

11.15.2568 Uses Permitted Under Prescribed Conditions

* * *

(I) Consolidation of Parcels and Lots pursuant to MCC 11.45.113.

(J) Replatting of Partition and Subdivision Plats pursuant to MCC 11.45.114.

* * *

[LR-7]

11.15.2608 Uses Permitted Under Prescribed Conditions

* * *

(K) Consolidation of Parcels and Lots pursuant to MCC 11.45.113.

(L) Replatting of Partition and Subdivision Plats pursuant to MCC 11.45.114.

* * *

[LR-5]

11.15.2628 Uses Permitted Under Prescribed Conditions

* * *

(J) Consolidation of Parcels and Lots pursuant to MCC 11.45.113.

(K) Replatting of Partition and Subdivision Plats pursuant to MCC 11.45.114.

* * *

Section 7. §§33.7794, 34.7794, 35.7794, 36.7794, 38.7794 and 11.45.113 are added as follows:

33.7794 Consolidation of Parcels and Lots

34.7794 Consolidation of Parcels and Lots

35.7794 Consolidation of Parcels and Lots

36.7794 Consolidation of Parcels and Lots

38.7794 Consolidation of Parcels and Lots

11.45.113 Consolidation of Parcels and Lots

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account.

Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by “metes and bounds” deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

(A) Consolidation of parcels created by “metes and bounds” deed descriptions may be approved under the standards of either subsections (1) or (2) as follows:

(1) If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effective date of Ord. 174), or are Lots of Record created by deed instrument under the “minor partitions exempted” section 1.224 of Ord. 174 and MCC section 11.45.110, then the following shall apply:

(a) Under a Type I Permit Review and in accordance with MCC 37.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the application shall include maps, copies of all current deeds, a title report, an affidavit signed by the owner that verifies that the owner has the authority to consolidate the parcels, and any supplementary material that are determined by the Planning Director to be necessary and relevant to demonstrate compliance with the standards in (b);

(b) The Planning Director shall verify the following in a written report:

1. The subject parcels are in the same ownership and there are no ownership or financing obstacles to completing the consolidation;

2. The parcels to be consolidated are either existing Lots of Record or the act of consolidation will correct a past unlawful land division;

(c) The applicant shall submit to the Planning Director a copy of an unrecorded deed that conforms to the requirements of the Director’s report; and

(d) The applicant shall record the approved deed that accurately reflects the approved parcel consolidation.

(2) If the subject parcels proposed for consolidation includes a parcel created by deed instrument as described in (A)(1) above and includes a parcel created by Partition Plat or lot within a Subdivision Plat, then the following shall apply:

(a) The application and Planning Director verification requirements are those given in (A)(1)(a)&(b);

(b) Before submittal to the County Surveyor, the applicant shall submit to the Planning Director a copy of a “one parcel” Partition Plat that accurately reflects the requirements of the Director’s report; and

(c) The “one parcel” Partition Plat shall meet the technical requirements of ORS Chapter 92 before it is recorded with the County Recorder.

(B) Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

Section 8. **§§33.7797, 34.7797, 35.7797, 36.7797, 38.7797 and 11.45.114 are added as follows:**

33.7797 Replatting of Partition and Subdivision Plats

34.7797 Replatting of Partition and Subdivision Plats

35.7797 Replatting of Partition and Subdivision Plats

36.7797 Replatting of Partition and Subdivision Plats

38.7797 Replatting of Partition and Subdivision Plats

11.45.114 Replatting of Partition and Subdivision Plats

(A) This section states the procedures and requirements for reconfiguring parcels, lots, and public easements within a recorded plat as described in ORS 92.180 through 92.190 (2006). This provision shall be utilized only in those zoning districts in which replatting is a Review Use. Nothing in this section is intended to prevent the utilization of other vacation actions in ORS chapters 271 or 368.

(B) As used in this subsection, “replat” and “replatting” shall mean the act of platting the parcels, lots and easements in a recorded Partition Plat or Subdivision Plat to achieve a reconfiguration of the existing Partition Plat or Subdivision Plat or to increase or decrease the number of parcels or lots in the Plat.

(C) Limitations on replatting include, but are not limited to, the following: A replat shall only apply to a recorded plat; a replat shall not vacate any public street or road; and a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

(D) The Planning Director may approve a replatting application under a Type II Permit Review upon finding that the following are met:

(1) In accordance with MCC 37.0550 or 38.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the tentative plan shall include those maps, written information and supplementary material listed for contents of a Category 3 tentative plan that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria;

(2) Reconfiguration of the parcels or lots shall not result in an increase in the number of “buildable parcels or lots” over that which exist prior to reconfiguration. “Buildable parcels or lots,” as used in this approval criteria, shall mean that there is confidence that a building and sanitation permit could be approved on the parcel or lot. A replat resulting in an increase in the number of “buildable parcels or lots” shall be reviewed as a land division as defined in this Chapter;

(3) Parcels or lots that do not meet the minimum lot size of the zoning district shall not be further reduced in lot area in the proposed replat;

(4) The proposed reconfiguration shall meet the approval criteria given in the land division code sections on easements, water systems, sewage disposal, and surface drainage;

(5) All reconfigured parcels and lots shall have frontage on a public street except as provided for alternative access in the access requirement sections of each zoning district; and

(6) The applicant shall submit a Partition Plat or Subdivision Plat to the Planning Director and County Surveyor in accordance with the requirements of ORS 92 and which accurately reflects the approved tentative plan map and other materials.

Section 9. § 37.0530 is amended as follows:

37.0530 Summary Of Decision Making Processes.

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	III	IV	PC
	(Not a "land use decision")	(Planning Director)	(Hearings Officer)	(Planning Commission)	(Legislative)
Allowed Uses	X				
Review Uses		X			
Conditional Uses			X		
Community Service			X		
Design Review		X			
Plan/Zone Change (single tract) quasi-judicial				X	
Demolition of historic building or structure before 120 day permit delay				X	
Plan/Zone Changes-legislative					X
Zone Code Text Changes (Initiated by county only)					X
Creation of a parcel/lot not abutting a street			X		
Adjustment		X			
Variance			X		
Non-conforming Uses/Determination of Non-conforming Use		X			
Extensions of Decisions in EFU & CFU Zones (MCC 37.0690)	X				
All other Extensions of Decisions		X			
Revocation of Decision		X			
Property Line Adjustments		X			
Planned Developments			X		
Land Divisions:					
Category 1 & 2			X		
Category 3 & 4		X			
Significant Environmental Concern		X			
Hillside Development Permit		X			

APPROVAL PROCESS					
Permit Type	I	II	III	IV	PC
	(Not a "land use decision")	(Planning Director)	(Hearings Officer)	(Planning Commission)	(Legislative)
Willamette River Greenway		X			
Zoning Code Interpretations		X			
Temporary Permits		X			
Temporary Health Hardship		X	X If CU		
Bus Shelter		X			
Lot of Record Verification		X			
Lot of Exception		X			
Exceptions		X			
Post Emergency response to emergency/disaster event		X			
Lot Consolidation	X				
Replat		X			
All other discretionary decisions		X			
First response to emergency/disaster event	X				
Grading and Erosion Control	X				
Floodplain Development	X				
Street & Property Addressing	X				
Type A Home Occupation	X				

Section 10. § 38.0530 is amended as follows:

38.0530 Summary of decision making processes.

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	II Expedited	III	PC
	(Not a "land use decision")	(Planning Director)	(Planning Director)	(Hearings Officer)	(Legislative)
Allowed Uses ¹	X				
Expedited Uses			X		
Review Uses		X			
Conditional Uses				X	
Zone Code Text Changes (Initiated by County only)					X
Variance		X		X	

APPROVAL PROCESS					
Permit Type	I	II	II Expedited	III	PC
Initial Approval Body:	(Not a "land use decision")	(Planning Director)	(Planning Director)	(Hearings Officer)	(Legislative)
Extension of Decision		X			
Property Line Adjustments		X			
Planned Unit Developments				X	
Land Divisions					
Subdivision				X	
Major Partition		X			
Minor Partition		X			
Lot Consolidation (same ownership; undeveloped)	X				
Replat		X			
Revocation of Decisions				X	
Zoning Code Interpretations		X			
Hillside Development Permit		X			
Floodplain Development	X				
Grading and Erosion Control	X				
Street and Property Addressing	X				
Final Plat Approval	X				
1 Although an Allowed Use by itself does not require a Type I permit, zoning approval of a building permit application for such a use is a Type 1 review.					

Section 11. § 38.7730 is repealed in its entirety as follows:

38.7730 Consolidation of Unplatted Properties

~~Lots or parcels created by deed for which a corresponding plat is not recorded may be consolidated by subsequently recording a deed. A subsequently recorded deed that describes two or more unplatted lots or parcels as a single unit of land shall have the effect of vacating the lines separating the properties and consolidating the described real properties into a single parcel, as provided in ORS 92.017.~~

Section 12. The effective date of the amendments to Chapters 11.15, 11.45, 33, 34, 35, 36 and 37 is August 25, 2007.

Section 13. The effective date of the amendments to Chapter 38 Columbia River Gorge National Scenic Area, General Management Areas shall be the date they are approved by the Bi-State Gorge Commission. Amendments to Special Management Areas shall be effective upon acknowledgement by the United States Secretary of Agriculture.

FIRST READING:

July 12, 2007

SECOND READING AND ADOPTION:

July 26, 2007

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Sandra Duffy*

Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services