

## NOTICE OF DECISION

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**Case File:** T2-2020-14022  
**Permit:** Lot of Record Verification  
**Applicant:** Don Wallace                      **Owner:** Maria Victoria Martinez Trust  
**Location:** **Address:** 21530 NW Gilkison Road, Scappoose  
**Map, Tax lot:** 3N2W26A -02200  
**Tax Account #:** R982260230                      **Property ID #:** R326241  
**Base Zone:** Rural Residential (RR)  
**Overlays:** Significant Environmental Concern – wildlife habitat (SEC-h); Significant Environmental Concern – streams (SEC-s); Geologic Hazards (GH)  
**Proposal Summary:** Lot of Record Verification to determine if the property identified as 21530 NW Gilkison Road (3N2W26A -02200) is a Lot of Record. A Lot of Record is a unit of land that satisfied all applicable zoning and land division laws at the time of its creation / reconfiguration. SEC-h, SEC-s, and GH permits are not required, as this review does not consider any development request.

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**Determination:** The subject property identified as 21530 NW Gilkison Road (3N2W26A -02200) is a Lot of Record in its current configuration.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, August 16, 2021 at 4:00 pm.**

**Opportunity to Review the Record:** The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for digital review by contacting Chris Liu, Staff Planner via email at [chris.liu@multco.us](mailto:chris.liu@multco.us). Copies of all documents are available at the rate of \$0.40/per page.

**Opportunity to Appeal:** 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 office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

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**Issued by:** \_\_\_\_\_

**By:** Chris Liu, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Monday, August 2, 2021

## Vicinity Map

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### Applicable Approval Criteria

**Multnomah County Code (MCC):** MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – Rural Residential

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link: **Chapter 39 - Zoning Code**

#### **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*.

### **1.0 Project Description:**

**Staff:** The applicant has requested a Lot of Record Verification for 21530 NW Gilkison Road (3N2W26A-02200) (Subject Property). Through the Lot of Record Verification process, the County reviews the creation or reconfiguration of each parcel, lot or unit of land involved in the request. The County then verifies that the creation or reconfiguring of the parcel, lot or unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. If the parcel, lot or unit of land met all the applicable zoning and land division laws in effect at the time, it may be determined to be a Lot of Record.

This application does not propose any development. Therefore, SEC-h, SEC-s, and GH permits are not required at this time.

### **2.0 Property Description:**

**Staff:** The subject property is in unincorporated west Multnomah County and is zoned Rural Residential (RR). There are a number of overlays on the property including the Significant Environmental Concern – wildlife habitat (SEC-h), streams (SEC-s), and Geologic Hazards (GH). The subject property is outside of Metro’s urban growth boundary. County tax records list a single-family dwelling, attached garage, attached decks, and a covered patio as the improvements located on the subject property.

### **3.0 Public Comment:**

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 (Exhibit C.4). Staff did not receive any public comments during the 14-day comment period.

### **4.0 General Provisions:**

#### **4.1 § 39.1515 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 Zoning Code and/or any permit approvals previously issued by the County.**

\* \* \*

**Staff:** As noted in Section 1.0 above, this application is a request for a Lot of Record Verification, which does not require the County to approve development, a land division, a property line adjustment, or a building permit. Therefore, this standard is not applicable at this time.

## 5.0 Lot of Record Criteria:

### 5.1 MCC 39.3005 Lot of Record – Generally

**(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.**

**(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. 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**

\* \* \*

**Staff:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet (B) of this Section and meet the Lot of Record standards set forth in the RR zoning district. More specifically, Section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The Lot of Record standards set forth in the RR district establish additional requirements unique to the district, which are evaluated in Sections 5.2 – 5.3 of this decision. The finding below analyzes whether the Lot of Record provisions in Section (B) have been met.

In 1978, the subject property was zoned ‘MUF-20’ per County Zoning Maps (Exhibit B.5). The ‘MUF-20’ zone had a minimum lot size requirement of 20 acres, a minimum front lot line length of 50 feet, and a requirement of public road frontage or other access deemed safe and convenient (Exhibit B.6). The subject property is 5.0 +/- acres, has a front lot line length over 50 feet, and abuts NW Gilkison Rd. (Exhibit A.11).

Because the subject property did not satisfy the minimum lot size requirements, a ‘Lot of Exception’ approval by the County was required. Per MCC 3.144.1, approval of a Lot of Exception allowed the creation of a lot that did not meet the minimum zoning requirements. The County approved the request to create the subject property as a ‘Lot of Exception’ in land use case LE 26-78 (Exhibit B.4).

In February 1979, a Warranty Deed (Exhibit B.7) was recorded dividing 3.12 acres from the subject property. This deed altered the subject property to its current configuration and size. While a new deed with a new legal description for the subject property failed to be recorded until 1988 (Exhibit A.8), the subject property had been reconfigured by the 1979 deed. This

reconfiguration was authorized by land use case LE 26-78 (Exhibit B.4). The 1988 legal description matches the current configuration of the subject property as described in the current legal description (Exhibit A.10).

*Based on the above, the subject property complied with all zoning minimum lot size, dimensional standards, and access requirements of the MUF-20 zone when it was created in 1979.*

**5.2 MCC 39.3090 Lot of Record – Rural Residential (RR)**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the RR 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, RR zone applied, Ord. 148 & 149;**

\* \* \*

**(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 39.4395, 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 39.4380, 39.4385, and 39.5300 through 39.5350, 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.**

**Staff:** Subsection (A) is for information purposes. The subject property is a Lot of Record and is subject to (B) above. The subject property met all applicable zoning and land division laws at the time of its creation. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. (C) The subject property is in the same configuration as described in the 1988 warranty deed (Exhibit A.8) and the applicant is not presently proposing to alter its configuration.

**5.3 (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.**

**Staff:** The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes, an area of land created by the foreclosure of a security interest, or an area of land created by court decree. The subject property is a legal parcel created by deed with a separate legal description as discussed in Section 5.1 above. *Criteria met.*

*The subject property is a Lot of Record.*

## 6.0 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. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for digital review in Case File T2-2021-14022.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	11.18.2020
A.2	1	Letter of Authorization	11.18.2020
A.3	1	Revised General Application Form	01.20.2021
A.4	2	Deed Recorded December 27, 1963 in Book 2200, Page 650-651	05.10.2021
A.5	1	Deed recorded May 5, 1972 in Book 855, Page 360	05.10.2021
A.6	1	Deed recorded May 5, 1972 in Book 855, Page 361	05.10.2021
A.7	3	Deed Recorded September 29, 1977 in Book 1210, Page 2139-2141	05.10.2021
A.8	3	Deed recorded November 23, 1988 in Book 2157, Page 2492-2494	05.10.2021
A.9	4	Deed recorded November 25, 2019 as instrument no. 2019-128515	05.10.2021
A.10	4	Deed recorded December 09, 2019 as instrument no. 2019-133837	05.10.2021
A.11	1	Survey #48326 recorded May 02, 1985	05.10.2021
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for Alt Acct# R982260230	11.18.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 3N2W26	11.18.2020
B.3	3	Parcel Record Card for Alt Acct# R982260230	05.10.2021
B.4	11	Copy of land use case LE 26-78	07.13.2021
B.5	1	Copy of 1977 Historic Zoning Map for 3N2W26	07.13.2021

B.6	7	Copy of MUF-20 Zoning Code from Ordinance 100 as amended 09.06.1977	07.13.2021
B.7	3	1979 Deed from T2-2020-14023	07.13.2021
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	12.17.2020
C.2	4	Applicant's acceptance of 180 day clock	12.22.2020
C.3	-	Application Complete	05.10.2021
C.4	2	Opportunity to Comment	07.12.2021
C.5	7	Administrative Decision	08.02.2021