

## NOTICE OF DECISION

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<b>Case File:</b>	T2-2021-14567	<b>Permit:</b>	Lot of Record Verification
<b>Applicants:</b>	Paul Roeger, CMT Surveying & Consulting	<b>Owners:</b>	Mark Scheidegger Lynn Scheidegger
<b>Location:</b>	11303 NW Skyline Blvd, Portland Tax Account #: R961050030		Map, Tax Lot: 1N1W05B -00100 Property ID #: R323884
<b>Base Zone:</b>	Commercial Forest Use – 2 (CFU-2)		
<b>Overlays:</b>	Significant Environmental Concern for Wildlife Habitat (SEC-h) Geologic Hazards (GH)		
<b>Proposal Summary:</b>	The applicant is requesting a Lot of Record Verification for the above property. A Lot of Record Verification determines that a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration and the County's aggregation requirements. The applicant does not propose any development as part of this application; therefore, Significant Environmental Concern or Geologic Hazard permits are not necessary at this time.		

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**Determination:** The subject property known as 1N1W05B -00100 is not presently a Lot of Record, as an area of land within the subject property was not lawfully created.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, March 22, 2022 at 4:00 pm.**

**Opportunity to Review the Record:** For further information, the complete case file (the Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application) is available for review by contacting Rithy Khut, Staff Planner at 503-988-0176 or at [rithy.khut@multco.us](mailto:rithy.khut@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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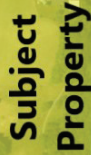
**Issued by:** \_\_\_\_\_

**By:** Rithy Khut, Planner

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

**Date:** Tuesday, March 8, 2022

N↑



**For this application to be approved, the proposal will need to meet applicable approval criteria below:**

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Lot of Record – Commercial Forest Use-2 (CFU-2)

## Chapter 39 - Zoning Code

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 requests a Lot of Record Verification for the property identified as 11303 NW Skyline Blvd, Portland (1N1W05B -00100). The application does not propose any new development at this time. 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 reconfiguration 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. In the Commercial Forest Use – 2 (CFU-2) zone, the County also considers adjacent ownership on February 20, 1990 in determining whether a parcel, lot, or unit of land is a Lot of Record on its own. If the parcel, lot, or unit of land met all applicable zoning laws, applicable land division laws, and meets the aggregation requirements, it may be determined to be a Lot of Record.

### **2.0 Property Description & History:**

**Staff:** This application is for 11303 NW Skyline Blvd, Portland also known as 1N1W05B - 00100 (“subject property”). The subject property is located south of NW Skyline Boulevard between NW Quarry Road and NW McNamee Road in unincorporated west Multnomah County in the area known as the West Hills Rural Area. The subject property is zoned Commercial Forest Use – 2 (CFU-2) and is approximately 20.55 acres in size. The property has multiple overlays on the property including Significant Environmental Concern for Wildlife Habitat (SEC-h) and Geologic Hazards (GH). The SEC-h covers the entire property and the GH covers most of the eastern portions of the property. Aerial photo review from 2021 shows the presence of two large buildings on the subject property (Exhibit B.4).

There have been previous land use/building permit associated with the subject property:

<b>Land Use / Building Permit #</b>	<b>Date Approved</b>	<b>Decision</b>	<b>Description</b>
	April 3, 1992	Approved	Replace an existing single-family dwelling with a new single-family dwelling
HDP 17-92	October 20, 1992	Approved	Hillside Development (HD) permit to replace an existing single-family dwelling with a new single-family dwelling
	August 31, 1992	Approved	Revision to April 3, 1992 approval of a new single-family dwelling and request for a Temporary Mobile Home

### **3.0 Public Comment:**

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 as Exhibited in C.5. Staff did not receive any public comments during the 14-day comment period.

#### **4.0 Code Compliance and Applications Criteria:**

##### **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.**

**(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 Zoning 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:** This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.



Staff identified a building and structure encroachment from the adjacent property 11301 NW Skyline Blvd. to the subject property. The County does not have evidence that a building was authorized, through a land use permit, in this location. Staff described these issues to applicant in a Letter associated with land use case #T2-202-13921, dated for November 20, 2020 (Exhibit B.5).

However, 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. While the County is able to make a land use decision on this Lot of Record Verification, this Code Compliance issue is still outstanding if the applicant or property owner requests County to approve development, a land division, a property line adjustment, or a building permit in the future. *This criterion is not applicable.*

## **5.0 Lot of Record Criteria:**

### **5.1 § 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**
- 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.)**

**Staff:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet MCC 39.3005(B) of this section and meet the Lot of Record standards set forth in the

Commercial Forest Use – 2 (CFU-2) 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 CFU-2 district establish additional requirements unique to the district, which are evaluated in Sections 5.2 of this decision. The findings below analyze whether the Lot of Record provisions in section (B) have been met.

The applicant provided fifteen (15) deeds to support the Lot of Record request (Exhibit A.3, A.6 through A.9, A.11, and A.13 through A.21). Additional deeds were also obtained from the Division of Assessment, Recording, and Taxation to support the Lot of Record request (Exhibit B.6 through B.8). The deeds are discussed in chronological order. The earliest deed provided was recorded in 1904 and contains a legal description of the entire Northwest quarter of Section 5, 1 North, 1 West (Exhibit A.13). Then in 1906, a Bargain and Sale deed was recorded that conveyed 77 acres of the east Northwest quarter of Section 5, 1 North, 1 West south of the County Road known as Old Skyline Road (Exhibit A.14). Then in 1921, another Bargain and Sale Deed recorded on March 8, 1921 deeded an area of land north of Old Skyline Road, which is north of the original 77 acres described in Exhibit A.14. Then in 1948, a Warranty Deed recorded on September 27, 1948 described the area of land north of the deed recorded in 1906 and above the road (Exhibit B.7). The deed also bisects the 1921 deed. Lastly, in 1951 two Warranty Deeds were recorded to convey the lower southeast 20 acres within the 1906 deed. Those deeds are illustrated in the Table below:

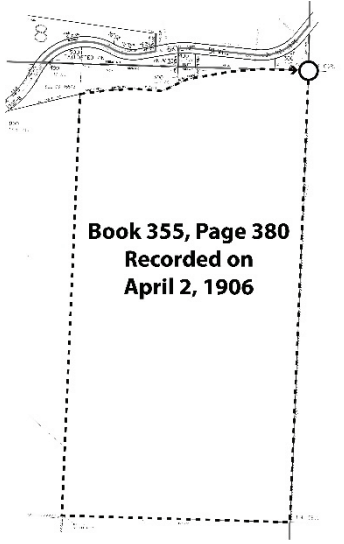
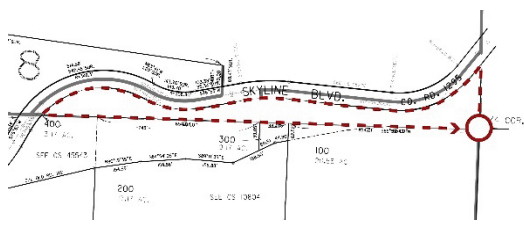
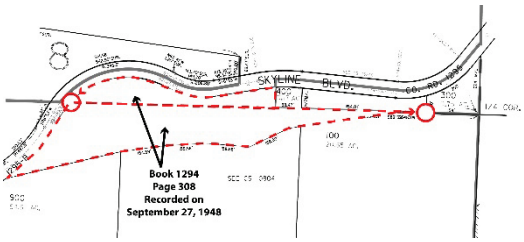
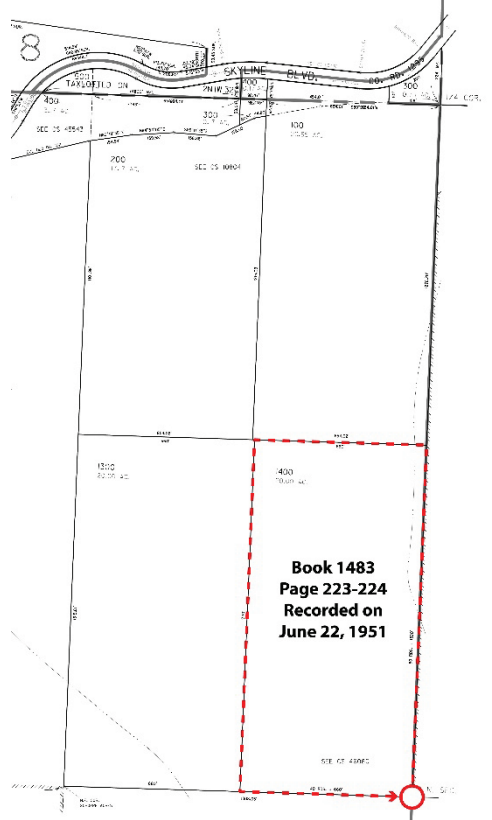
Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
A.14	Bargain and Sale Deed recorded in Book 335, Page 380  <b>Zoning:</b> N/A	John Luethe	Samuel Luethe	April 2, 1906	
A.15 and B.6	Bargain and Sale Deed recorded in Book 845, Page 135  <b>Zoning:</b> N/A	John Ironside and Jessie Ironside	Samuel Luethe	March 8, 1921	

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
B.7	<p>Warranty Deed recorded in Book 1294, Page 308</p> <p><b>Zoning:</b> N/A</p>	Wilma Jeffries and James Jeffries	Ramona Huserik and Frank Huserik	September 27, 1948	
A.16 and A.17	<p>Warranty Deed recorded in Book 1483, Page 223</p> <p>- and -</p> <p>Warranty Deed recorded in Book 1483, Page 224</p> <p><b>Zoning:</b> N/A</p>	Samuel Luethe and Jennie Luethe	William Brooks and Marie Brooks (via Christian Luethe)	June 22, 1951	

At that time in between 1906 and 1951, there was no zoning applied to the described areas of land. The First Interim Zoning Ordinance did not come into effect until May 26, 1953.

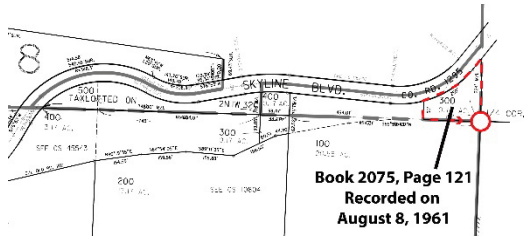
Subsequently, a series of conveyances occurred between 1957 and 1961 to reconfigure the subject property into its configuration today. Each of the conveyances is shown as an illustration in the Table below:

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
B.8	<p>Warranty Deed recorded in Book 1826, Page 409-410</p> <p><b>Zoning:</b> New Interim Ordinance</p>	Frank Huserik and Ramona Huserik	Samuel Luethe and Jennie Luethe	January 24, 1957	
A.17	<p>Warranty Deed recorded in Book 1826, Page 411-412</p> <p><b>Zoning:</b> New Interim Ordinance</p>	Samuel Luethe and Jennie Luethe	Frank Huserik and Ramona Huserik	January 24, 1957	
A.18	<p>Warranty Deed recorded in Book 1868, Page 430-431</p> <p><b>Zoning:</b> New Interim Ordinance</p>	Samuel Luethe and Jennie Luethe	Frank Huserik and Ramona Huserik	July 24, 1957	



The New Interim Ordinance adopted in August 4, 1955 for all land not in a zoning district. This area was not placed in a zoning district until July 10, 1958. For land not in a zoning district, the minimum lot size requirement was 7,000 sq. ft., a minimum average lot width of 60 feet, a minimum average lot depth of 80 feet, and was required to abut a public street or have access held suitable by the Planning Commission (Exhibit B.9).

The next deed was recorded in 1961 that first described what is now known as 2N1W32C - 00300. In 1961, the 2N1W32C -00300 was zoned Suburban Residential (SR) per historical County zoning maps (Exhibit B.10).

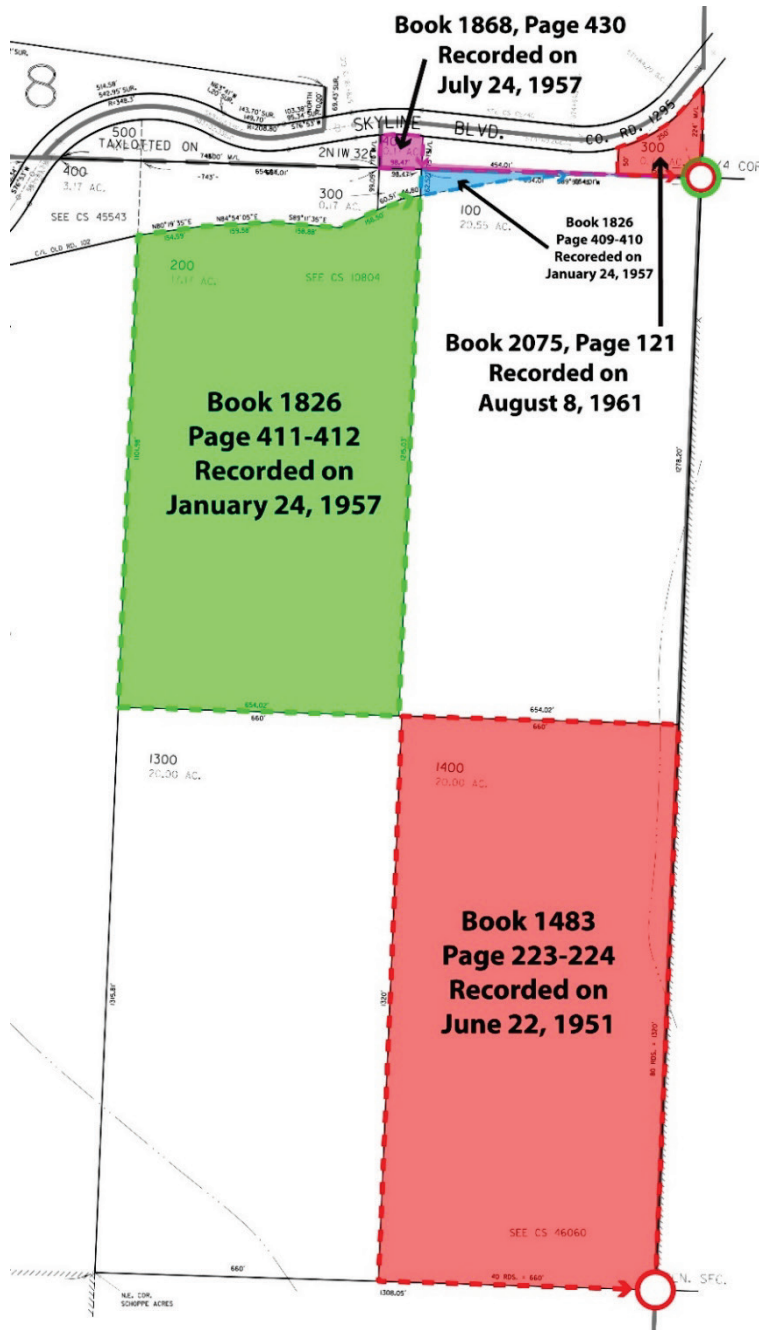
Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
A.19	<p>Warranty Deed recorded in Book 2075, Page 121</p> <p>Zoning: Suburban Residential (SR)</p>	Samuel Luethe and Jennie Luethe	Brooks Luethe and Virginia Luethe	August 8, 1961	

The SR zone had a minimum lot size requirement ranging from 10,000 to 40,000 sq. ft. depending on the services in the area. It also required a minimum average lot width of 70 feet, a minimum average lot depth of 100 feet, and a requirement of public road frontage or other access deemed safe and convenient (Exhibit B.11). The property including portion of a street if the street were vacated is approximately 40,170 sq. ft. or 0.92 acres, abuts NW Skyline Boulevard (a public road), has an average lot width of approximately 160 feet and average lot depth of approximately 140 feet (Exhibit B.3).

With the recording of the Deed in Book 2075, Page 121, it created a remainder property (i.e. a property existing separately, but not yet described on a recorded instrument) of an area of land north of the original 77 acres described in Exhibit A.14. The remainder, which will later be known as “Parcel II,” is also required to meet the SR zone requirements. The remainder property including portion of a street if the street were vacated is approximately 42,237 sq. ft. or 0.96 acres and abuts NW Skyline Boulevard (a public road). The property has an average lot width of approximately 456 feet; however, the average lot depth is approximately 60 feet, which is below the minimum 100 feet. (Exhibit B.3).

*The remainder property now known as “Parcel II” did not satisfy all applicable zoning laws.*

At this point in 1961, all of the surrounding units of land have been separately described with the original owners Samuel and Jennie Luethe holding the remaining property and the property described in Book 1826, Page 409-410 (see figure below).



The subject property was first described in 1979. The deed describes three properties as “Parcel I” and “Parcel II.” In the below graphic, the description of “Parcel I” describes the area of land conveyed on January 24, 1957 (green dashed line) and the remaining undescribed property from the original 77 acres (purple) that was created in 1957 (Exhibit A.4). As the two properties are described as one metes and bound description, the properties were consolidated into one unit of land.

*The property described as “Parcel I” is an individual unit of land and satisfied all applicable zoning laws at the time of its reconfiguration.*

For “Parcel II,” the deed describes remaining area of land north of the 77 acres (brown) after the 1957 and 1961 conveyances of property to either side of the property (Exhibit A.4). As was

discussed previously, this area of land did not meet the zoning requirements of the SR zone in 1961. Therefore, “Parcel II” did not satisfy all applicable zoning laws at the time of its creation.

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
A.4	<p>Warranty Deed recorded in Book 1395, Page 2521-2522</p> <p>Zoning: Suburban Residential (SR)</p>	Samuel Luethe	Irma Walkley and Mark Walkley	October 30, 1979	

As “Parcel II” was unlawfully created, staff recommends that the described property be consolidated into “Parcel I” as allowed by MCC 39.9200, Consolidation of Parcels and Lots.

*The property described as “Parcel II” is not an individual unit of land and did not satisfied all applicable zoning laws at the time of its reconfiguration. Staff recommends the described property be consolidated into “Parcel I” as allowed by MCC 39.9200 Consolidation of Parcels and Lots. When “Parcel II” is consolidated into “Parcel I,” the consolidated unit of land will be a Lot of Record.*

When the properties were put into their current configuration, they also needed to demonstrate that they satisfied all applicable land division laws. In 1957, the process to divide a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As stated above, for “Parcel I,” one deed for the area of land north of Old Skyline Road was recorded was January 24, 1957 (Exhibit B.8). The recording of the deed satisfied all applicable land division requirements at that time.

For the second property contained within “Parcel I,” the area of land south of Old Skyline Road, which was part of the original 77 acres described in 1906, was created in 1957. One land

division occurred in 1951 through the recording of a deed and then a second land division occurred in 1957 left it as a remainder property. Although the remainder had not yet been described, it met the land division requirements of that time.

*The property described as “Parcel I” is an individual unit of land and did satisfied all applicable land division laws at the time of its reconfiguration.*

For “Parcel II,” Planning Staff was unable to find a recorded deed separate from deed provided in 1979. As “Parcel II” was created after the 1957 and 1961 conveyances of property to either side of the property, it did not meet the above land division requirements. Additionally, as was discussed previously, this area of land did not meet the zoning requirements of the SR zone in 1961. Therefore, “Parcel II” did not satisfy all applicable land division laws at the time of its creation. As “Parcel II” was unlawfully created, Staff recommends that the described property be consolidated into “Parcel I” as allowed by MCC 39.9200 Consolidation of Parcels and Lots.

*The property described as “Parcel II” is not an individual unit of land and did not satisfied all applicable zoning laws at the time of its reconfiguration. Staff recommends the described property be consolidated into “Parcel I” as allowed by MCC 39.9200 Consolidation of Parcels and Lots. When “Parcel II” is consolidated into “Parcel I,” the consolidated unit of land will be a Lot of Record.*

**(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.**

**Staff:** The two properties contained in tax lot 100 and are subject to this Lot of Record verification are not congruent with an “acknowledged unincorporated community” boundary, which intersects a Lot of Record. The subject property is two units of land that were created as a remainder as described above. Additionally, the applicant is not requesting a partitioning of the Lot of Record along the boundary therefore this criterion is not applicable. *This criterion is not applicable.*

## **5.2 § 39.3030 LOT OF RECORD – COMMERCIAL FOREST USE-2 (CFU-2).**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 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**

**Staff:** The assessor’s maps and deeds supplied by the applicant indicate that the tax lot is comprised of two (2) described properties. The two (2) properties are contiguous and were under the same ownership on February 20, 1990. As such, the two (2) properties are required to meet the requirements of MCC 39.3030(A)(2) below.

**(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 in MCC 39.3070 Figure 1 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**

**Staff:** The subject property consists of two (2) properties. The properties are described as “Parcel I” and “Parcel II.” “Parcel I” is approximately 873,813.60 sq. ft. (20.06 acres) and “Parcel II” is approximately 21,344.40 sq. ft. or 0.49 acres (excluding the portion within the road). The deeds supplied by the applicant indicate that “Parcel I” and “Parcel II” were under the same ownership on February 20, 1990 (Exhibit A.7 and A.8). As indicated by the deeds, the two (2) properties were owned by Irma Walkley and Mark Walkley.

Additionally, to ensure that no other contiguous parcels or lots were held in under the same ownership on February 20, 1990, a comparison of ownership data from the surrounding tax lots using taxation data from Multnomah County Division of Assessment, Recording, and Taxation (DART) was done. The comparison is shown below:

<b>State ID#</b>	<b>Alternative Account #</b>	<b>Acres</b>	<b>Tax Roll 1989-1990 Property Owner</b>	<b>Tax Roll 1990-1991 Property Owner</b>
1N1W05B -00100	R961050030	20.55	Mark Walkley	Mark Walkley
1N1W05B -00200	R961050180	17.17	Frank and Ramona Huserik	Frank and Ramona Huserik
1N1W05B -00300	R961050040	0.17	Frank and Ramona Huserik	Frank and Ramona Huserik
1N1W05B -01400	R961050090	20	William L. and Karen D. Luethe	William L. and Karen D. Luethe
2N1W32C -00200	R971320070	65.55	Vanport Manufacturing Inc.	Vanport Manufacturing Inc.
2N1W32C -00300	R971320250	0.75	Virginia Luethe	Virginia Luethe



2N1W32C -00400	R971320220	0.17	Frank and Ramona Huserik	Frank and Ramona Huserik
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Based on the review, no contiguous properties were in the same ownership on February 20, 1990 with the subject property. The table above shows the ownership of each of the surrounding properties before and after February 20, 1990. DART records also confirm the deed that shows the two properties that comprise the subject property were owned by Mark Walkley on February 20, 1990.

As part of the second requirement under MCC 39.3030(A)(2), if the continuous parcels or lots were under the same ownership on February 20, 1990 and were less than 19 acres, they would be required to be aggregated to comply with the minimum lot size of 19 acres. Based on deeds provided by the applicant, "Parcel II" is under 19 acres in size and is aggregated to the unit of land known as "Parcel I." Therefore, together, the two properties, "Parcel I" and "Parcel II," shall remain as aggregated into one Lot of Record.

*The subject property was found to be two separate properties. They shall remain as aggregated in order to comply with the minimum lot size of 19 acres. Together, the two properties known as "Parcel I" and "Parcel II" are one Lot of Record.*

**(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.**

**Staff:** The two (2) properties were not created by partition or subdivision plat after February 20, 1990; therefore, this criterion is not applicable. *This criterion is not applicable.*

**(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 Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.**

**Staff:** "Parcel I" does not contain a lawfully established habitable dwelling. "Parcel II" is developed with a lawfully established habitable dwelling; therefore, this criterion is not applicable. Additionally, the subject property was not created through a Lot of Exception application; therefore, these criteria do not apply. *These criteria are not applicable.*

**(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**

- (5) February 20, 1990, lot of record definition amended, Ord. 643;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) August 8, 1998, CFU-2 zone applied, Ord. 916 (reenacted by Ord. 997);**
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;**

**Staff:** Subsection (B) states important dates pertinent to zoning changes in Multnomah County. The dates are for informational purposes and not approval criteria.

**(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** The subject property is located in the Commercial Forest Use -2 (CFU-2) zoning district. The approximately 20-acre property and the 0.49-acre property are both less than the minimum 80-acre lot size for new parcels. As the subject property is less than the minimum lot size for new parcels or lots, the Lot of Record is subject to subsection (C) above. As such, it may be occupied by any allowed, review, or conditional use when in compliance with the other requirements of the CFU-2 district, if it remains a Lot of Record. However, the applicant is not proposing review of an allowed use, review use, or conditional use therefore this requirement is not applicable at this time. *This criterion is not applicable.*

**(D) The following shall not be deemed 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) A Mortgage Lot.**
- (4) An area of land created by court decree.**

**Staff:** As discussed above in section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes, nor is it an area of land created by foreclosure of a security interest, a mortgage Lot, or an area of land created by court decree. *This criterion is met.*

## **6.0 Conclusion**

Based on the findings and other information provided above, it has been determined that the subject property known as 1N1W05B -00100 is not presently a Lot of Record, as an area of unit of land within the subject property was not lawfully created. The property described as “Parcel II” is not an individual unit of land as it did not satisfy all applicable zoning and all applicable land division laws at the time of its reconfiguration. Staff recommends the described property be consolidated into “Parcel I” as allowed by MCC 39.9200 Consolidation of Parcels and Lots. When “Parcel II” is consolidated into “Parcel I,” the consolidated parcel will be a Lot of Record.

## 7.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

All exhibits are available for review in Case File T2-2021-14567 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	04/20/2021
A.2	1	Ticor Title Company Report	04/20/2021
A.3	4	Statutory Warranty Deed recorded as 2021-011989 on January 22, 2021	04/20/2021
A.4	2	Warranty Deed recorded in Book 1395, Page 2521-2522 on October 30, 1979	04/20/2021
A.5	1	Division of Assessment, Recording, and Taxation (DART): Map with 1N1W05B -00100 (Alt Acct #R961050030) with Warranty Deed recorded in Book 1395, Page 2521-2522 on October 30, 1979 highlighted	04/20/2021
A.6	2	Warranty Deed recorded in Book 1415, Page 534-535 on January 25, 1980	04/20/2021
A.7	2	Warranty Deed recorded in Book 1431, Page 1725-1726 on April 4, 1980	04/20/2021
A.8	2	Bargain and Sale Deed recorded in Book 2573, Page 813-814 on August 5, 1992	04/20/2021
A.9	3	Bargain and Sale Deed recorded as 94-13385 on January 25, 1994	04/20/2021
A.10	1	Updated General Application Form	05/20/2021
A.11	1	Bargain and Sale Deed recorded in Book 829, Page 88 on an unknown date	05/20/2021
A.12	1	Narrative	09/15/2021
A.13	1	Bargain and Sale Deed recorded on December 28, 1904	09/15/2021
A.14	2	Bargain and Sale Deed recorded on April 2, 1906	09/15/2021
A.15	2	Bargain and Sale Deed recorded on March 8, 1921	09/15/2021
A.16	2	Warranty Deed recorded in Book 1483, Page 223-224 on June 22, 1951	09/15/2021
A.17	2	Warranty Deed recorded in Book 1826, Page 411-412 on January 24, 1957	09/15/2021

A.18	2	Warranty Deed recorded in Book 1868, Page 430-431 on July 24, 1957	09/15/2021
A.19	1	Warranty Deed recorded in Book 2075, Page 121 on August 8, 1961	09/15/2021
A.20	2	Warranty Deed recorded in Book 527, Page 956-957 on September 23, 1966	09/15/2021
A.21	1	Warranty Deed recorded in Book 695, Page 119 on August 28, 1969	09/15/2021
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W05B -00100 (Alt Acct #R961050030)	04/20/2021
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map of 1N1W05B with 1N1W05B -00100 (Alt Acct #R961050030) highlighted	04/20/2021
B.3	1	Division of Assessment, Recording, and Taxation (DART): Map of 2N1W32C with 1N1W05B -00100 (Alt Acct #R961050030) highlighted	04/20/2021
B.4	1	Aerial Photo taken Summer 2021	04/20/2021
B.5	5	Incomplete Letter for T2-2020-13921	01/07/2022
B.6	2	Bargain and Sale Deed recorded on March 8, 1921	02/10/2022
B.7	1	Warranty Deed recorded in Book 1294, Page 308 on September 27, 1948	02/10/2022
B.8	2	Warranty Deed recorded in Book 1826 Page 409-410 on January 24, 1957	02/10/2022
B.9	18	Interim Zoning Ordinance adopted on August 4, 1955	02/15/2022
B.10	1	Map showing the zoning in 2N1W32C in effect until November 15 1962	02/15/2022
B.11	6	Suburban Residential (SR) zoning requirements in Zoning Ordinance in effect on December 22, 1960	02/15/2022
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter and Applicant Response	05/20/2021
C.2	1	Applicant’s acceptance of 180 day clock	05/20/2021
C.3	3	2 <sup>nd</sup> Incomplete letter and Enclosure	06/15/2021
C.4	1	Complete letter (day 1)	10/07/2021
C.5	5	Opportunity to Comment and mailing list	12/21/2021

C.6	1	Extension of the 150 Day Clock	01/07/2022
C.7	4	Short Administrative Decision and mailing list	03/08/2022
C.8	20	Administrative Decision and mailing list	03/08/2022