Department of Community Services
Land Use Planning Division
www.multco.us/landuse

Multnomah County

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

Case File:	T2-2022-15537
Permit:	Lot of Record Verification
Applicants:	Nick Rossi **Owners:** CS Reeder LLC
Location:	**Address**: 22140 NW Reeder Rd, Portland **Map, Tax Lot**: 2N1W04-00900 **Tax Account** #R971040090 **Property ID** #R324793
Base Zone:	Exclusive Farm Use (EFU)
Overlays:	None
Proposal Summary:	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.

Determination: The subject property known as 2N1W04-00900 is **not** 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 Friday, July 14, 2022 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 by contacting the case planner. Copies of all documents are available at the rate of $0.40/per page. For further information, contact case planner Lisa Estrin at 503-988-0167 or via email at *lisa.m.estrin@multco.us*

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.

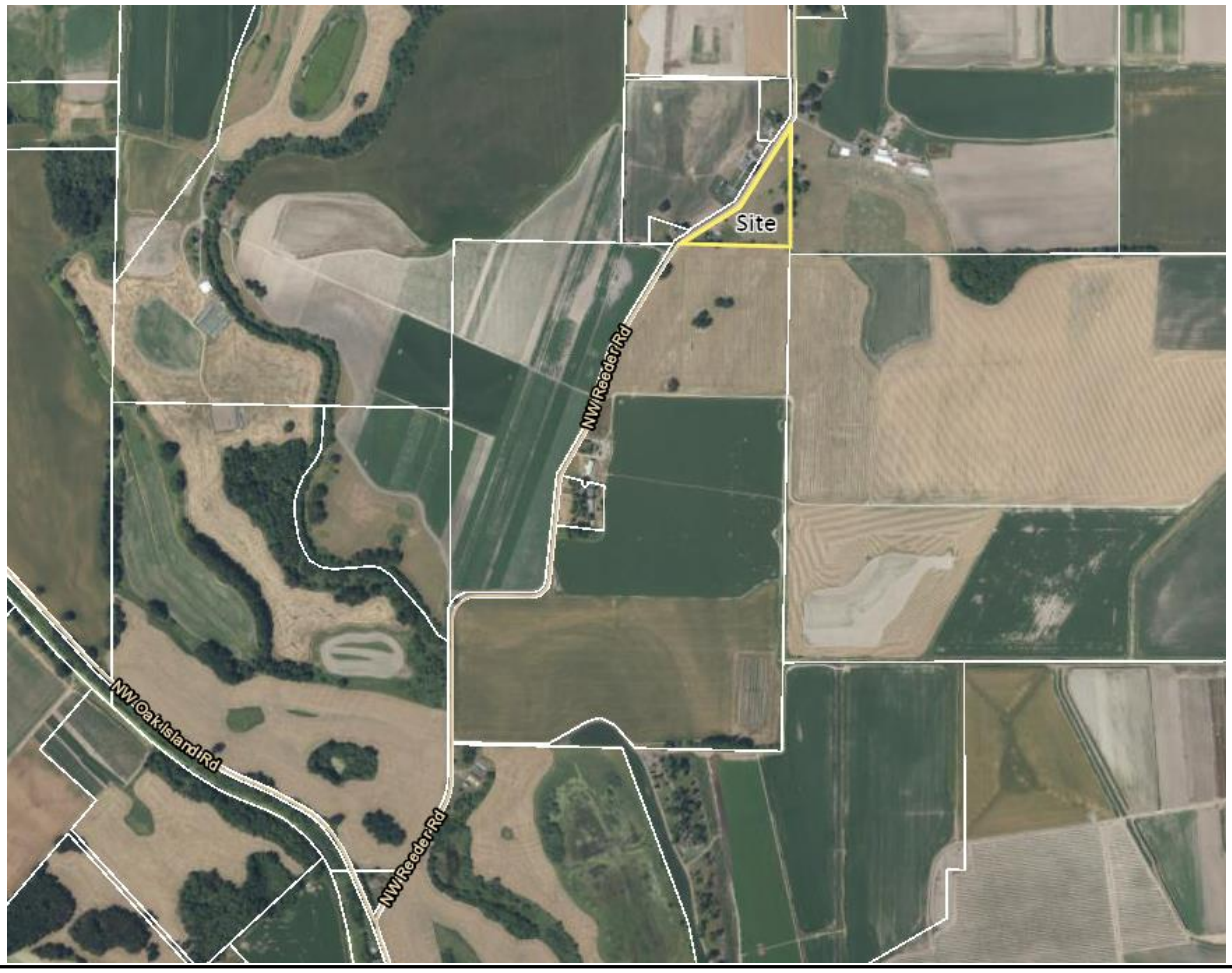
Issued by: _____

By: Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: June 30, 2022

Vicinity Map **N↑**



Applicable Approval Criteria:

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

Multnomah County Code (MCC): MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3070 Lot of Record – EFU

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 requests a Lot of Record Verification for the property identified as 2N1W04-00900 (subject property). 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 EFU 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: The subject property is located in unincorporated west Multnomah County in the area known as Sauvie Island. The property is zoned Exclusive Farm Use (EFU) and is located outside of Metro's Urban Growth Boundary (UGB). Assessment & Taxation records indicate that he subject property is occupied by a single-family dwelling and carport. County aerials show at least four outbuildings.

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 as Exhibited in C.2. 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: 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.*

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

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

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 Exclusive Farm Use (EFU) 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 EFU 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 two (2) deed(s) (Exhibit A.2 & A.3) to support the Lot of Record request. The earliest deed provided was recorded on May 16, 1966 and contains a legal description matching the current configuration of the subject property (Exhibit A.2 & A.3). In 1966, the subject property was zoned Suburban Residential (SR) per historical County zoning maps (Exhibit B.5 & B.6).

The SR zone had a minimum lot size requirement ranging from 10,000 to 40,000 square feet 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. To establish a lot that is (a) 40,000 sq. ft. or more, (b) between 40,0000 to 20,000 sq. ft., or (c) between 20,000 sq. ft. to 10,000 sq. ft., the property would need to have the following characteristics:

Lot Area	Minimum Standards
40,000 sq. ft.	• Approved public or private water supply • Approved individual sewage disposal system • Approved public access
20,000 sq. ft.	• Approved public water supply • Approved individual sewage disposal system • Approved public access
10,000 sq. ft.	• Approved public water supply • Approved public sewer or State approved cesspool • Approved public access

The subject property is 8.30+/- acres (7.68 acres without 20 ft r.o.w.), abuts NW Reeder Rd (a public road), has a front lot line length of 1,350+/- feet and an average lot width of

approximately 677 feet and average lot depth of 205+/- feet (Exhibit B.2). The applicant provided the current deed for the subject property (Exhibit A.2) that contains a legal description that matches the recorded 1966 legal description (Exhibit A.3).

The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration.

In 1966, the process to created or divide a parcel 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 evidenced by the 1966 deed (Exhibit A.3), the applicable land division laws were satisfied.

Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1966.

5.2 MCC 39.3070 LOT OF RECORD – EXCLUSIVE FARM USE (EFU).

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU 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 in Figure 1 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, RC, SRC, 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) Exception to the standards of (A)(2) above:

(a) 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: The subject property is 8.30 acres in size (7.68 acres plus 20-feet of adjacent right of way). Planning staff reviewed the surrounding tax lots to see if any were held by the same property owner(s) as the subject property in 1990. On February 20, 1990, the subject property was owned by Richard W & Evelyn S Vetsch (Exhibit B.4). Richard W Vetsch owned tax lot R971030130 which is immediately adjacent to the subject property to the east. Tax lot R971030130 is 157.68 +/-acres. No other adjacent tax lot was owned by either Evelyn S or Richard W Vetsch at the time that can be used to create a separate Lot of Record from tax lot R971030130 (Exhibit B.4). Neither of the two tax lots were created by a partition or subdivision plat. Both tax lots are zoned Exclusive Farm Use (EFU). Based upon MCC 39.3070(A)(2)(b)2. It would appear that these two tax lots are aggregated by the Lot of Record provisions. At present they are in separate ownership (Exhibit B.1 & B.8). *Criterion not met.*

(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, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, zone change from EFU-38 to EFU-76 for some properties. Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(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 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Section (B) is for information purposes. The subject property has less than the minimum lot size for new parcels or lots in this zone and is subject to (C) above. Provided it is demonstrated that it is a Lot of Record in the future, 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. *Until such time as it is determined to be a Lot of Record, the County may not allow these uses pursuant to MCC 39.4215 Uses.*

(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 under section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject tracts are not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met*.

Based on the findings in 5.1 & 5.2, the subject property is a single Lot of Record.

6.0 Exhibits

'A' Applicant's Exhibits
'B' Staff Exhibits
'C' Procedural Exhibits

All exhibits are available for review in Case File T2-2022-15537 by contacting case planner, Lisa Estrin at 503-988-0167 or via email at lisa.m.estrin@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	3.1.2022
A.2	3	Warranty Deed recorded on December 10, 2021 at 2021-178380	3.1.2022
A.3	1	Warranty Deed recorded on May 16, 1966 at Book 497, Page 5	3.1.2022
'B'	#	Staff Exhibits	Date
B.1	2	Assessment & Taxation Property Information for 2N1W04 -00900 (R971040090/ R324793)	3.1.2022
B.2		Tax Map 2N1W04	3.23.2022
B.3	3	Parcel Record Card for R971040090	3.23.2022
B.4	1	February 20, 1990 Adjacent Property Ownership	5.19.2022
B.5	1	1962 Zoning Map for 2N1W04 (SR Zone)	3.23.2022
B.6	1	12-9-1975 Zoning Map for 2N1W04 (SR Zone)	3.23.2022
B.7	6	Suburban Residential (SR) Zoning Ord adopted 1964	3.23.2022
B.8	2	Assessment & Taxation Property Information for 2N1W03 -00400 (R971030130/ R324782)	6.28.22
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	3.23.2022
C.2	2	Opportunity to Comment and mailing list	3.25.2022
C.3	8	Administrative Decision and mailing list	6.30.2022