

NOTICE OF DECISION

Case File: T2-2022-15706

Permit: Lot of Record Verification

Applicant: Jeremy Keepers, Timber Valley Development Inc. **Owner:** Weyerhaeuser Company

Location: **Property East of** 43108 E. Haines Rd Corbett **Map, Tax Lot:** 1N5E32-00900
Tax Account # R945320140 **Property ID #** R323140

Base Zone: Commercial Forest Use – 4 (CFU-4) **Overlays:** Geologic Hazard (GH)

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 1N5E32-00900 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 Friday, September 30, 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

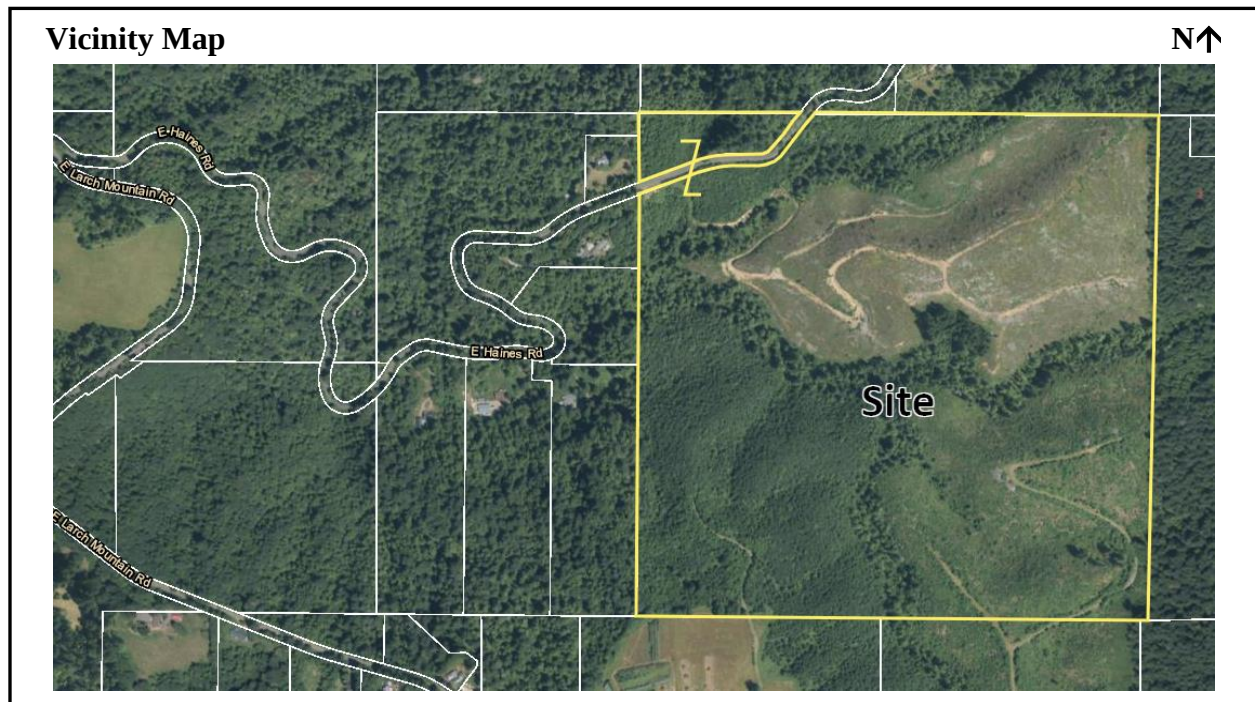
Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by:

By: _____
Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, September 16, 2022



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 39.3050 Lot of Record – CFU-4

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 1N5E32-00900 (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 CFU-4 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 east Multnomah County in the area known as East of Sandy River Rural area. The property is zoned Commercial Forest Use - 4 and is located outside of Metro’s Urban Growth Boundary (UGB). Assessment and Taxation records indicate the subject property is vacant.

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.

* * *

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 CFU-4 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-4 district establish additional requirements unique to the district, which are evaluated in Section 5.2 of this decision. The findings below analyze whether the Lot of Record provisions in section (B) have been met.

The applicant provided three (3) deeds (Exhibit A.6, A.8 & A.10) to support the Lot of Record request. The earliest deed provided was recorded on June 12, 1961 (Exhibit A.6). In 1961, the subject property was zoned F-2 per historical County zoning maps (Exhibit A.4).

The F-2 zone had a minimum lot size of 2 acres. There was no requirement for road frontage or minimum front lot line length or lot width.

The subject property is 153.94 acres, abuts E. Haines Road (a public road), and has a front lot line length of over 1,000 feet (Exhibit B.2). The applicant provided the current deed and legal description for the subject property (Exhibit A.10), the legal description matches the subject property configuration in 1961 (Exhibit A.6).

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

In 1961, the process to create 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 1961 deed (Exhibit A.6), 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 1961.

5.2 MCC 39.3050 LOT OF RECORD – COMMERCIAL FOREST USE-4 (CFU-4).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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 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, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, SRC, R-10, GGA-40), 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 is 153.94-acres in size. Planning staff reviewed adjacent CFU-4 zoned properties in the 1989 and 1990 tax records to determine if any adjacent properties under 19-acres in size would be aggregated with the subject property. No adjacent properties were held under the same ownership on February 20, 1990 as the subject site. As the subject property was not contiguous to any other parcel or lot under the same ownership, the property complies with MCC 39.3050(A)(1) and does not require aggregation. *MCC 39.3050(A)(1) has been met.*

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

Staff: The subject property was created by metes and bounds description in 1961. No partition or subdivision plat was recorded for its creation.

(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.

(c) Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

Staff: The subject property is currently vacant. Staff did not find a Lot of Exception or a Conditional Use permit that approved a smaller lot size. The subject property is not aggregated with any adjacent parcel, so disaggregation is 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-4 zone applied, Ord. 916 (reenacted by Ord. 997);
- (8) 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 39.4135, 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 exceeds the 80-acre minimum lot size for new parcels or lots in the CFU-4 zone. It fronts onto a public street and has a minimum front lot line length of over 1,000 feet, which far exceeds the 50-ft minimum front lot line length of the CFU-4 zone. *MCC 39.3050(C) is not applicable to the subject property.*

(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 property is not an area of land created by the foreclosure of a security interest, a mortgage lot, or an area of land created by court decree.
Criteria met.

(E) Disaggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

(1) A Lot of Record may be disaggregated for consideration of a new dwelling under MCC 39.4090 and 39.4095 if: ...

* * *

Staff: The subject property is not aggregated with any adjacent CFU-4 property.

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 for Case File T2-2022-15706 by contacting the 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	4/26/2022
A.2	1	Certificate of Authority and Incumbency	4/26/2022
A.3	1	Narrative for Lot of Record on 1N5E32-00900	4/26/2022
A.4	1	Exhibit A Zoning at Time of Lot Creation (F2)	4/26/2022
A.5	1	Exhibit B1: Map showing Lot #2 (1N5E32-00900)	4/26/2022
A.6	4	Exhibit B1: Warranty Deed recorded on June 12, 1961 in Book 2066, Page 192 - 195	4/26/2022
A.7	1	Exhibit B2: Map Showing Lot #2 circa 1988 (1N5E32-00900)	4/26/2022
A.8	5	Bargain & Sale Deed recorded on February 29, 1988 in Book 2083, Page 588, 589, 595, 596, 602	4/26/2022
A.9	1	Exhibit C: Map Showing Lot #2 circa 2007 91N5E32-00900)	4/26/2022
A.10	8	Exhibit C: Bargain & Sale Deed recorded on June 1, 2007 Instrument #2007-098727	4/26/2022
A.11	11	Exhibit D: Merger Paperwork for Longview Timberlands LLC into Weyerhaeuser Columbia Timberlands LLC	4/26/2022
A.12	11	Exhibit E: Preliminary Title Report dated March 16, 2022	4/26/2022
‘B’	#	Staff Exhibits	Date
B.1	3	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N5E32-00900 (Alt Acct#R945320140/ Prop ID#R323140)	4/26/2022
B.2	1	Current Tax Map	4/26/2022
B.3	3	Parcel Record Card for R945320140	4/26/2022
B.4	1	1990 Property Ownership	
‘C’	#	Administration & Procedures	Date
C.1	2	Complete letter (day 1)	5/20/2022
C.2	2	Opportunity to Comment	5/25/2022
C.3	8	Administrative Decision	9/16/2022
C.4	2	Mailing Lists	9/16/2022