

NOTICE OF DECISION

Case File: T2-2022-16062

Permit: Lot of Record Verification

Applicant: Ryan Jones

Owners: Ryan & Amy Jones

Location: **Address:** 31010 SE Jackson Rd, Gresham
Tax Account #R994201550

Map, Tax Lot: 1S4E20BA-01000
Property ID #R342409

Base Zone: Multiple use Agriculture – 20 (MUA-20)

Overlays: None

Proposal Summary: The applicant is requesting a Lot of Record Verification for the above property. A Lot of Record Verification determines if 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 1S4E20BA-01000 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 Wednesday, January 4, 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 staff planner, Anna Shank-Root at 503-988-4159 or via email at anna.shank-root5@multco.us.

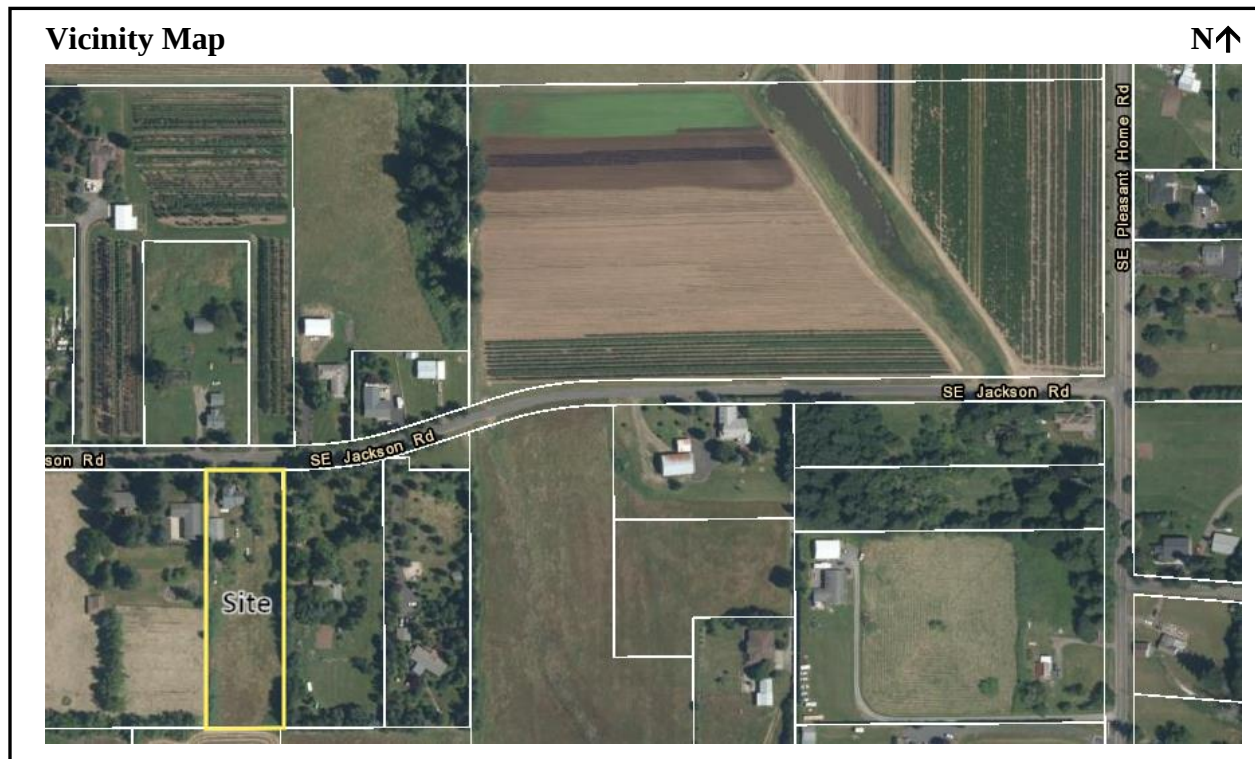
Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at land.use.planning@multco.us or via phone at (503) 988-3043. The appeal form is available at www.multco.us/landuse/application-materials-and-forms under Other Application Materials and information. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: _____

Lisa Estrin, Senior Planner

For: Adam Barber,
Interim Planning Director

Date: Wednesday, December 21, 2022



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 39.3080 Lot of Record – MUA-20

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 1S4E20BA-01000 (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.

2.0 Property Description & History:

Staff: The subject property is located in unincorporated east Multnomah County in the area known as West of Sandy River rural area. The property is zoned Multiple Use Agriculture – 20 (MUA-20) and is located outside of Metro’s Urban Growth Boundary (UGB). The subject property is occupied by single-family dwelling and an outbuilding.

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.2). Staff did not receive any public comments during the 14-day comment period.

4.0 Code Compliance and Applications Criteria:

4.1 MCC 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**

*** * ***

(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 MUA-20 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 applicant provided four deed(s) (Exhibit A.2 – A.5) to support the Lot of Record request. The subject property was not described in a separate legal description until 1974 (Exhibit A.2), but was created as a remainder lot earlier when a unit of land (1S4E20BA-01100 & 1S4E20BA-01300 combined) east of the subject property was sold via contract (Exhibit A.4) on March 20, 1967. The subject property was first described in a legal description in 1974 when a deed was recorded selling the property (Exhibit A.2). The legal description contained in the 1974 deed (Exhibit A.2) matches the current legal description contained in the 2022 deed (Exhibit B.7). At the time of the 1967 land division, the subject property was zoned Suburban Residential (SR) (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, as shown in the table below. 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.8).

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 2.06 acres (1.97 acres without the public right-of-way), abuts SE Jackson Road (a public road), and has a front lot line length of 160.05 feet. The subject property has an average lot width of 160.05 feet and average lot depth of 561 feet (Exhibit B.2).

The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration in 1967.

In 1967, 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 1967 sales contract (Exhibit A.4), 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 1967.

5.2 MCC 39.3080 - LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-20).

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 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;**

* * *

(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 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Section (A) is for information purposes. The subject property has less than the minimum lot size for new parcels or lots in the MUA-20 zone (20 acres) and is subject to (B) above. 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. *Criteria met.*

(C) Except as otherwise provided by MCC 39.4330, 39.4335, 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 (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. *Criterion met*

(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: 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 or created by court decree. *Criteria met.*

Based on the findings in 5.1 & 5.2 above, 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 T2-2022-16062 by contacting Anna Shank-Root at anna.shank-root5@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	8/15/2022
A.2	1	Warranty Deed recorded May 8, 1974 in Book 984, Page 1209 [Describes 1S4E20BA-01000]	8/15/2022
A.3	1	Warranty Deed recorded January 10, 1968 in Book 599, Page 1550 [Describes 1S4E20BA-01100 & -01300]	8/15/2022
A.4	2	Contract signed March 20, 1967 recorded in Book 554, Page 1524-1524 on April 4, 1967 [Describes 1S4E20BA-01100 & -01300]	8/15/2022
A.5	1	Warranty Deed recorded October 7, 1952 in Book 1562, Page 300 [Describes 1S4E20BA-01000, -01100 & -01300]	8/15/2022

'B'	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1S4E20BA-01000 (R342409 / R994201550	8/15/2022
B.2	1	Current Tax Map for 1S4E20BA	9/16/2022
B.3	3	Parcel Record Card for R994201550	9/16/2022
B.4	1	Survey 29258	9/16/2022
B.5	1	1962 Zoning Map	9/16/2022
B.6	1	Oct 5, 1977 Zoning Map	9/16/2022
B.7	4	Warranty Deed recorded April 26, 2022 in Instrument 2022-043084 [Describes 1S4E20ba-01000]	9/16/2022
B.8	5	SR Zoning District and Lot Size Information	12/16/2022
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1 – 9/14/22)	9/16/2022
C.2	2	Opportunity to Comment	9/21/2022
C.3	7	Decision	12/21/2022
C.4	2	Mailing Lists	12/21/2022