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

Multnomah County

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NOTICE OF NSA DECISION

Case File:	T2-2022-16029		
Permit:	NSA Parcel Determination		
Applicant:	Robert Burk	**Owner:**	Bonelli Irrevocable GST Exempt, Jeff Harbaugh
Location:	37710 NE Clara Smith Rd., Corbett **Alternate Account #**: R944260390	**Map, Tax Lot**: 1N4E26DD -00200 **Property ID #**: R322244	
Zoning:	Gorge General Residential – 5 (GGR-5)		
Proposal Summary:	Applicant requests a NSA Parcel Determination for the property known as 37710 NE Clara Smith Rd. (1N4E26DD -00200). A NSA Parcel Determination determines if a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration.		
Determination:	The subject property 1N4E26DD -00200 is a Legal Parcel in its current configuration		

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **February 23, 2023, 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 are available for review by contacting Anna Shank-Root by phone at (503) 988-4159 or via email anna.shank-root5@multco.us. Paper 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 land.use.planning@multco.us or (503) 988-3043. The appeal form is available at www.multco.us/landuse/application-materials-and-forms. This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued By: Anna Shank-Root, Planner

For: Adam Barber,
Interim Planning Director

Date: February 9, 2023

Vicinity Map **N↑**

Applicable Approval Criteria:

Multnomah County Code (MCC): MCC 38.0015 Definitions, Parcel.

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 38: Columbia River Gorge National Scenic Area**

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: Applicant requests a NSA Parcel Determination for the property known as 37710 NE Clara Smith Road (1N4E26DD -00200). A NSA Parcel Determination determines if a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration.

2.0 Property Description & History:

Staff: The subject property is located in unincorporated east Multnomah County in the Columbia River Gorge National Scenic Area. The property is zoned Gorge General Residential (GGR-5). The property is located outside of Metro's Urban Growth Boundary. Assessment & Taxation records indicate the property improvements include an existing single family dwelling, a 768 sq. ft. farm building, and a 240 sq. ft. detached garage.

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 38.0530 (Exhibit C.2). Staff received the following public comments during the 14-day comment period:

3.1 Steve McCoy on behalf of The Friends of the Columbia River Gorge, provided a letter via email with comments on December 1, 2022 (Exhibit D.1).

Staff: The comments from the Friends of the Columbia River Gorge indicate that staff must apply the definition for "Parcel as found in MCC 38.0015 Definitions. Staff has reviewed the application for compliance with this standard, see section 5.1 below.

4.0 Administrative Procedures Criteria:

4.1 MCC 38.0560 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 Land Use Code and/or any permit approvals previously issued by the County.

* * *

Staff: This application does not involve the approval of development, a land division, property line adjustment, or building permit. Therefore, these criteria are not applicable. *Criteria met*.

5.0 NSA Parcel Determination Criteria:

5.1 MCC 38.0015 DEFINITIONS, PARCEL

Parcel:

(a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because it:

1. Is a unit of land created solely to establish a separate tax account;

2. Lies in different counties;

3. Lies in different sections or government lots;

4. Lies in different zoning designations; or

5. Is dissected by a public or private road.

Staff: To qualify as a Parcel, the subject property, when created or reconfigured, must meet the definition of "Parcel" in MCC 38.0015 Definitions. More specifically, the language above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

The applicant provided three (3) deed(s) (Exhibit A.3 through A.5), which staff supplemented with one additional deed referenced by the document in A.3 (Exhibit A.6) to support the Parcel Determination. The earliest deed creating the subject property in its current configuration was recorded on June 7, 1965 (Exhibit A.6). The deed divided out the property known as 1N4E26DD-00400 (R322267) which is south of the subject property. This 1965 deed left a 5.58-acre undescribed unit of land as a remainder parcel (Exhibit A.5). The first deed presented to the County by the applicant that describes the subject property is the 1991 deed (Exhibit A.3). The 1991 deed (Exhibit A.3) describes the property in its current configuration. The legal description in the latest deed recorded in 2020 (Exhibit A.2) matches the legal description from the 1991 deed maintaining the subject property 5.58-acre parcel.

In 1965, when the division created the subject property, the area was zoned F-2 per historical County zoning maps (Exhibit B.3). 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

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

In 1965, 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 1965 deed (Exhibit A.6), the applicable land division laws were satisfied.

The subject property consists of a 5.58 acre parcel as described in the warranty deed (Exhibit A.2) and as shown in tax lot 1N4E26DD -00200. The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes.

Based upon the above findings, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1965. The subject property is a "Parcel" as defined in MCC 38.0015.

6.0 Exhibits

'A' Applicant's Exhibits
'B' Staff Exhibits
'C' Procedural Exhibits
'D' Comments Received

All exhibits are available for review by contacting Anna Shank-Root by phone at (503) 988-4159 or via email anna.shank-root5@multco.us

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	09.20.2022
A.2	5	Deed recorded July 17, 2020 as instrument no. 2020-087556	09.20.2022
A.3	2	Deed recorded February 07, 1991	09.20.2022
A.4	3	Deed recorded November 16, 1945	09.20.2022
A.5	2	Applicant Narrative and Copy of Parcel Card	09.20.2022
A.6	1	Deed recorded June 07, 1965	01.19.2023
'B'	**#**	**Staff Exhibits**	**Date**
B.1	2	Assessment and Taxation Property Information for 1N4E26DD-00200 (Alt Acct# R944260390)	09.20.2022
B.2	1	Current Tax Map for 1N4E26DD	09.20.2022
B.3	1	1962 County Zoning Maps for 1N4E26D	01.23.2023
'C'	**#**	**Administration & Procedures**	**Date**
C.1	1	Complete Letter (Day 1)	10.13.2022
C.2	3	Opportunity to Comment	11.27.2022
C.3	5	Decision	02.09.2023
'D'	**#**	**Comments Received**	**Date**
D.1	2	Comments from Steve McCoy on behalf of The Friends of the Columbia River Gorge	12.01.2022