

NOTICE OF DECISION

Case File:	T2-2022-16106	Permit:	Lot of Record Verification
Applicants:	Wilber Miller and Margaret Miller	Owners:	Clara Miller (dec'd), Wilber Miller, and Margaret Miller
Location:	11715 NW Old Cornelius Pass Rd, Portland	Map, Tax Lot:	2N1W31C -01900
	Tax Account #R661102310	Property ID #R244447	
Base Zone:	Multiple Use Agriculture - 20 (MUA-20)		
Overlays:	Significant Environmental Concern for Wildlife Habitat (SEC-h) Geologic Hazards (GH)		
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.		

Determination: The subject property known as 2N1W31C-01900 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, March 3, 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 is available for review by contacting Rithy Khut at 503-988-0176 or via email at rithy.khut@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 Land Use Board of Appeals until all local appeals are exhausted.

Issued by:

By: Rithy Khut, Planner

For: Adam Barber,
Interim Planning Director

Date: Friday, February 17, 2023

Vicinity Map



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agriculture-20 (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: Multnomah County 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 2N1W31C -01900 also known as 11715 NW Old Cornelius Pass Road (“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:

Staff: The subject property is located on the north side of NW Old Cornelius Pass Road in unincorporated west Multnomah County in the area known as the West Hills Rural Plan Area. The subject property is zoned Multiple Use Agriculture – 20 (MUA-20) and is located outside of Metro’s Urban Growth Boundary (UGB) boundary. The subject property is approximately 3.08 acres in size. The property has multiple overlays including a Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay and Geologic Hazards (GH) overlay. The SEC-h overlay covers the entire property and the GH overlay is located in the middle of the property. Aerial photo review from 2021 shows the presence of two (2) buildings or structures on the subject property (Exhibit B.3).

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

4.0 Code Compliance and Applications Criteria:

4.1 MCC 39.1250 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 or zoning review approval of development or any other approvals authorized by this code 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 criterion is not applicable. *This criterion 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.

(1) “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.

(2) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

* * *

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 (4) deeds to support the Lot of Record request (Exhibit A.3 through A.5 and Exhibit A.7). The earliest deed provided was recorded in 1947 and contains a legal description matching the current configuration of the subject property (Exhibit A.2). In 1947, the County did not have zoning requirements as the County had not yet enacted zoning laws. The first interim zoning ordinance was adopted on May 26, 1953 (Exhibit B.9).

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

In 1947, 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 1947 deed, the applicable land division laws were satisfied (Exhibit A.7).

Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1947.

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

* * *

Staff: The properties subject to this land use application are not congruent with an “acknowledged unincorporated community” boundary, which intersects a Lot of Record. 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 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:

Staff: Section (A) is for information purposes and not a criterion.

(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: The subject property has less than the minimum lot size for new parcels or lots in the MUA-20 zone and is subject to (B) above. *This criterion is 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 sell or convey any portion of the lot at this time. *This criterion is 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 a legally described parcel/lot created by the recording of a deed and is not an area of land created by the foreclosure of a security interest or created by court decree. *These criteria are met.*

6.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

All exhibits are available for review in Case File T2-2022-16106 by contacting the case planner Rithy Khut via email at rithy.khut@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	08/24/2022
A.2	1	Warranty Deed recorded in Instrument #94-180431 on December 14, 1994	08/24/2022
A.3	1	Quitclaim Deed recorded in Book 2757, Page 320 on September 27, 1993	08/24/2022
A.4	1	Warranty Deed recorded in Book 1677, Page 866 on July 13, 1983	08/24/2022
A.5	1	Warranty Deed recorded in Book 1169, Page 424-425 on unknown illegible date	08/24/2022
A.6	1	Death Certificate for Clara Ruth Miller who died on March 12, 2003	09/21/2022
A.7	2	Warranty Deed recorded in Book 1169, Page 424-425 on May 7, 1947	09/21/2022
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 2N1W31C-01900 (Alt Acct# R661102310 / Property ID# R244447)	08/24/2022
B.2	1	Division of Assessment, Recording, and Taxation (DART): for 2N1W31C	08/24/2022
B.3	1	Aerial Photo taken on June 17, 2021	08/24/2022
B.4	3	Parcel Record Card for R661102310	09/21/2022
B.5	1	1962 Zoning Map for 2N1W31C	09/21/2022
B.6	1	1978 Assessor Map of 2N1W31	09/21/2022
B.7	1	Plat of Plain View Acres recorded in Book 561, Page 77 on June 28, 1911	09/21/2022
B.8	1	Map of Plain View Acres subdivision recorded in Book 619, Page 29 on March 6, 1913	09/21/2022
B.9	6	Interim Zoning Ordinance adopted May 26, 1953	09/21/2022

‘C’	#	Administration & Procedures	Date
C.1	4	Incomplete letter	09/23/2022
C.2	1	Applicant’s acceptance of 180 day clock	09/24/2022
C.3	2	Complete letter (day 1) sent on October 26, 2022	10/24/2022
C.4	3	Opportunity to Comment and mailing list	12/07/2022
C.5	9	Administrative Decision and mailing list	02/17/2023