

NOTICE OF DECISION

Case File: T2-2018-11222

Permit: Lot of Record Verification

Applicant: Mendoy Wright **Owners:** Mendoy Wright

Location: 16970 SE Foster Rd.
Tax Lot 1400, Section 19CA, Township 1S, Range 3E, W.M.
Tax Account #R993190380 Property ID #R340604

Zoning: Rural Residential (RR)

Overlays: Significant Environmental Concern – water resources (SEC-wr); Floodplain Development (FD)

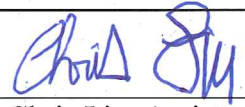
Proposal Summary: Applicant requests a Lot of Record Verification for Tax Lot 1400, Section 19CA, Township 1 South, Range 3 East.

Decision: The property known as 16970 SE Foster Road is verified as a Lot of Record 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 Monday, January 14, 2019 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 at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@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.

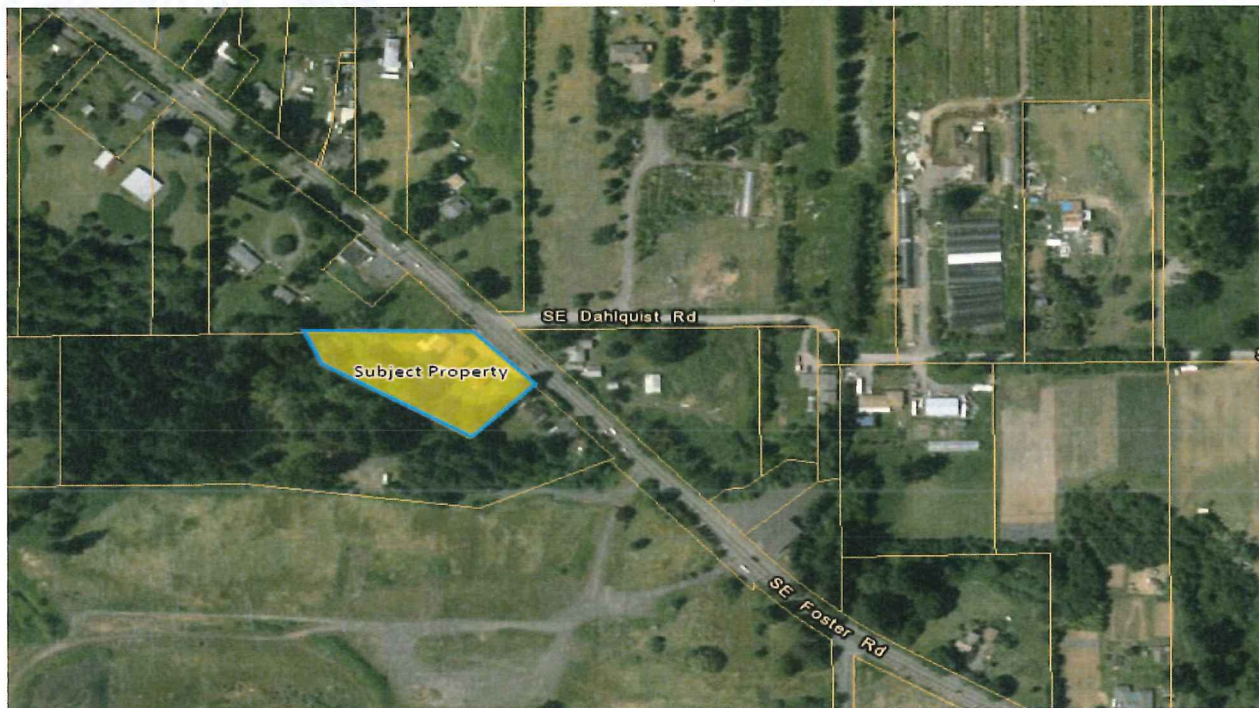
Issued By: 
Chris Liu, Assistant Planner

For: Michael Cerbone, AICP
Planning Director

Date: Monday, December 31, 2018

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC): MCC 39.3005 Lot of Record - Generally, MCC 39.3090 Lot of Record – Rural Residential (RR), MCC 39.1515 Code Compliance and Applications

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at multco.us/landuse/zoning-codes under the link *Chapter 39: Multnomah County Zoning Code*.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Approval of this land use permit is based on the submitted written narrative(s), plan(s), and deed information.

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 to determine the Lot of Record status for an existing 1.16 +/- acres property known as 16970 SE Foster Rd, Gresham (1S3E19CA-01400) in the Pleasant Valley Urban area.

2.0 Property Description & History:

Staff: The subject property is located in east Multnomah County within the Metro Urban Growth Boundary in the Rural Residential zone. The City of Gresham boundary is immediately east of the subject property and the City of Portland boundary is immediately west.

Tax records indicate a single-family dwelling constructed in 1990 currently exists on the subject property. There are no building permits or land use approvals on record for the dwelling. Tax records also indicate two garages constructed in 1918 exist on the subject property. The property owner will be able to attempt to resolve the compliance issues on the subject property through land use review/permit applications following the verification of the subject property as a Lot of Record.

3.0 Administrative Procedures Criteria:

3.1 Code Compliance and Applications

MCC 39.1515: 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: As noted in section 2.0 above, there are no building permits or land use approvals on record for the dwelling on the subject property. The two garages constructed in 1918 predate zoning and building permit requirements; however, a previous compliance case (#UR-2015-3920) addressed non-permitted improvements in one of the garages.

Once this Lot of Record verification is complete, the property owner will be able to schedule a pre-filing conference to discuss the land use review/permit applications necessary to attempt to resolve the remaining compliance issues on the property. After the pre-filing conference, the property owner will be able to prepare and submit the identified land use review/permit applications.

4.0 Rural Residential Zone Criteria:

4.1 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, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) 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:

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

Staff: The applicant submitted various documents to support the Lot of Record Verification. The relevant documents are listed in the table below. In 1932, a Warranty Deed (Book 194, Page 270) created the subject parcel (Exhibit A.4). There were no zoning regulations in 1932; hence, there was no minimum lot size or other zoning requirements in effect at the time of creation. The current deed description (Exhibit A.2) matches the original lot configuration; therefore, the subject property is a single Lot of Record. *Criteria met.*

Exhibit	Instrument	Date Recorded	Map Image
A.2	Warranty Deed 2017-077005	June 26, 2017	None
A.4	Warranty Deed Book 194, Page 270	September 16, 1932	None
A.5	Parcel Record Card for 1S3E19CA-1400	N/A	None
A.6	Warranty Deed Book 1863, Page 112	November 5, 1985	None

4.2 Lot of Record

MCC 39.3090: Lot of Record – Rural Residential (RR)

- (A) In addition to the standards in MCC 39.3005, for the purposes of the RR 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;
 - (4) October 6, 1977, RR zone applied, Ord. 148 & 149;
 - (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
 - (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
 - (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.
- (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 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.
- (C) Except as otherwise provided by MCC 39.4380, 39.4385, 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.
- (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: The above criteria noted in (A), (B), and (C) do not affect this determination.

The subject property is not a tax lot described solely for assessment and taxation purposes, nor was the subject property created through a foreclosure or by a court decree. *Criteria met.*

5.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the determination that Tax Lot 1400, Section 19CA, Township 1 South, Range 3 East 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 T2-2018-11222 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	11.27.2018
A.2	3	Warranty Deed 2017-077005 (June 26, 2017)	11.27.2018
A.3	2	Warranty Deed 2005-211566 (November 1, 2005)	12.11.2018
A.4	1	Warranty Deed Book 194, Page 270 (September 16, 1932)	12.11.2018
A.5	2	Parcel Record Card for Tax Lot 1400	12.11.2018
A.6	2	Warranty Deed Book 1863, Page 112 (November 5, 1985)	12.11.2018
A.7	2	Bargain & Sale Deed Book 2489, Page 127 (December 20, 1991)	12.11.2018
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	11.27.2018
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	12.5.2018
C.2	1	Applicant's Response	12.11.2018
C.3	1	Complete Letter (Day 1)	12.12.2018
C.4	2	Opportunity to Comment	12.14.2018
C.5	6	Administrative Decision	12.31.2018