

NOTICE OF DECISION

Case File: T2-2019-11800
Permit: Lot of Record Verification
Applicant(s): William & Emily Graeper **Owner(s):** William & Emily Graeper
Location: 17136 NW Lucy Reeder Rd.
Tax Lot 1200, Section 06A, Township 2 North, Range 1 West, W.M.
Tax Account #R971060120 Property ID #R324821
Zoning: Multiple Use Agriculture – 20 (MUA-20)
Overlays: None
Proposal Summary: Applicants request a Lot of Record Verification for the property identified as 17136 NW Lucy Reeder Rd.

Determination: The property identified as 17136 NW Lucy Reeder Rd (2N1W06A-01200) is a single Lot of Record.

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, May 23, 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: Adam Barber
Interim Planning Director

Date: Thursday, May 9, 2019

Instrument Number for Recording
Purposes: #2018-117156

Vicinity Map

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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) 988-304 or by visiting our website at <https://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. The property owners or their representative shall:
 - a) Record pages 1 through 2 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]

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 submitted an application to verify the Lot of Record status for the property identified as 17136 NW Lucy Reeder Rd., Portland (2N1W06A-01200).

2.0 PROPERTY DESCRIPTION:

Staff: This Lot of Record Verification is for a property located on NW Lucy Reeder Rd., Portland in the Multiple Use Agriculture – 20 (MUA-20) zoning district in the Sauvie Island and Multnomah Channel Rural Area. The subject property is outside the Metro Urban Growth Boundary.

County Tax records show that the subject property contains a single-family dwelling constructed in 1997 and an Animal Barn and Storage Shed constructed in 1992. In 1995, County Land Use Planning issued a permit to convert the Barn to an Accessory Building containing a Garage/Shop area, Art & Craft space and Exercise Space. Review of the County's aerial photographs did not find any additional buildings on the subject property.

3.0 ADMINISTRATIVE PROCEDURES CRITERIA:

3.1 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.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: Staff conducts a compliance review as part of the building plan review. If Staff discovers any compliance issues at that time, Staff will identify potential permits/reviews to address the issue(s).

4.0 LOT OF RECORD 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, 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.)...**

Staff: The applicant submitted a recorded warranty deed from July 1964 describing the subject property in its current configuration, including the portion subsequently dedicated for road purposes through instrument no. 95-094574 (Exhibit A.3). In 1964, the zoning for the subject property was Suburban Residential (SR) which had a minimum lot size of 40,000 sq. ft., required frontage on a public road and a minimum average width of 70 feet and a minimum lot depth of 100 feet (Exhibit B.2). The subject property is approximately 4.35

acres; hence, the property met the minimum lot size requirements of the SR zone. It fronts onto NW Lucy Reeder Road a public road. The property is approximately 251 ft. wide and 822 ft. long. The applicant provided a copy of their statutory warranty deed from 2018 (Exhibit A.2), the legal description matches the original legal description (excepting the portion dedicated for road purposes) found in the 1964 warranty deed (Exhibit A.3 and B.3). The creation of this parcel in 1964 satisfied all applicable zoning laws and land division laws at the time. *Criteria met.*

4.2 MCC 39.3080: Lot of Record – Multiple Use Agriculture – 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;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) 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 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The current zoning for the property is Multiple Use Agriculture – 20 (MUA-20), which has a twenty-acre minimum lot size, requirement of public or private street frontage and a minimum front lot line length of 50 feet. The subject property is only 4.35 acres, fronts onto the public road known as NW Lucy Reeder Road and has a front lot line length of approximately 251 ft. While the parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it is a legally created parcel under finding 4.1 of this land use decision. The subject property may be occupied by any land use permissible under the MUA-20 requirements provided the proposed use does not have a minimum lot size requirement larger than 4.35 acres. (Exhibit A.5).

4.3 (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: In 1995, the property owner conveyed a portion of the property along NW Lucy Reeder Road for road purposes. This conveyance reduced the subject parcel from 4.51 acres to 4.35 acres, and the conveyance is the last alteration of the parcel to create its current size and shape.

4.4 (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 subject property was created by the recording of a metes and bounds description in 1964 which followed the land division process at that time (Exhibit A.2). The subject property was not created by the foreclosure of a security interest or a court decree. The subject property is not an area of land described solely for assessment and taxation purposes.
Criteria met.

Based upon the findings in 4.1 through 4.4, the subject parcel is a Lot of Record.

5.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a "*"after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-11800 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	4.10.2019
A.2	3	Statutory Warranty Deed Instrument no. 2018-117156	4.10.2019
A.3	2	Warranty Deed recorded June 23, 1964 on Book 79, Pages 344-345	4.10.2019
A.4	3	Parcel Record Card for 2N1W06A-01200	4.10.2019
A.5	2	Site Plan for Subject Property	4.10.2019
A.6	1	Revised General Application Form	4.18.2019
'B'	#	Staff Exhibits	Date
B.1	1	A&T Property Information for 2N1W06A-01200	4.10.2019
B.2	1	1962 Zoning Map for 2N1W06	4.18.2019
B.3	1	Current Tax Map for 2N1W06	4.18.2019
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	4.19.2019
C.2	2	Opportunity to Comment	4.22.2019
C.3	6	Administrative Decision	5.9.2019