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## NOTICE OF DECISION

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**Case File:** T2-2019-11821  
**Permit:** Lot of Record Determination  
**Applicant(s):** Bonney & Leroy Cothrell      **Owner(s):** Eric Cothrell  
**Location:** 28100 SE Division Drive  
Tax Lot 300, Section 12D, Township 1 South, Range 3 East, W.M.  
Tax Account: R993120170      Property ID: R339577  
**Zoning:** Exclusive Farm Use (EFU)  
**Overlays:** Significant Environmental Concern for Water Resources  
**Proposal Summary:** Request for a Lot of Record Verification

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**Decision:** Approved, the subject property is a 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 July 30, 2019, at 4:00 pm.**

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**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 George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or [george.a.plummer@multco.us](mailto:george.a.plummer@multco.us)

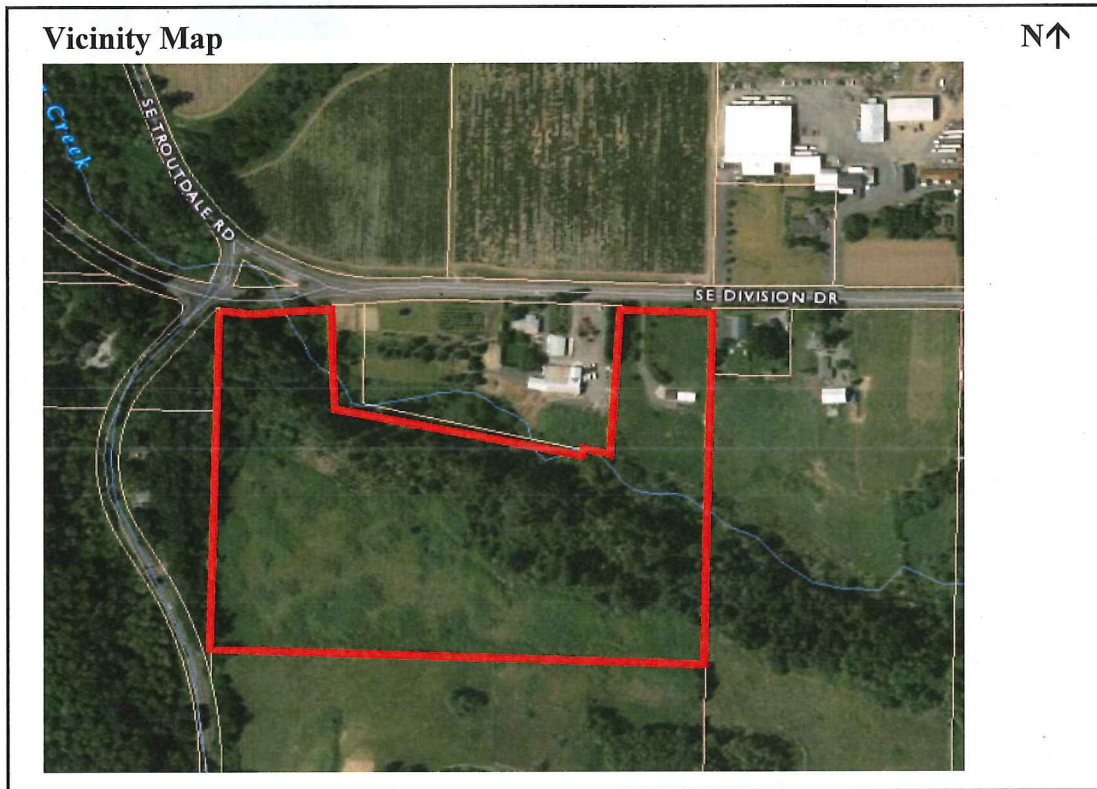
**Opportunity to Appeal:** An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

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**Issued By:**   
George A. Plummer, Planner

**For:** Adam Barber,  
Interim Planning Director

**Date:** July 16, 2019



**For this application to be approved, the proposal will need to meet the applicable approval criteria below:**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 39.3005 et al: Lot Of Record – Generally and MCC 39.3070 Lot of Record – Exclusive Farm Use (EFU) Zone. 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*.

**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. Proposed Request:**

**Staff:** Request for a Lot of Record Verification for a 23.31 acre property in the Exclusive Farm Use Zone. The subject property is located on SE Division St. in the Exclusive Farm Use (EFU) zoning district. The property is outside of the Urban Growth Boundary.

### **2. LOT OF RECORD**

#### **2.1 Lot of Record – Generally**

##### **2.1.1. MCC 39.3005(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.**

**Staff:** The property is in the Exclusive Farm Use (EFU) Zone, thus must meet the standards of MCC 39.3005(B) and MCC 39.3070 (A) to be a stand-alone Lot of Record. See the findings in the follow section of this decision demonstrating compliance with the required standards.

##### **2.1.2. MCC 39.3005(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 parent parcel of the subject property dates back to 1931 (Exhibit A.2). In 1966 Tax Lot 100 was excepted out of the parent parcel at 5.26 acres with new balance of 23.52 acres for the subject property which was a remainder parcel, now described as Tax Lot 300 of Township 1 South Range 3 East, Section 12D Willamette Meridian (Exhibit A.2 and A.8). In 1986 a Property Line Adjustment was approved by County Land Development Section (County Land Use Planning predecessor) as shown on Exhibit A.12 which reduced the subject property to 23.31 acres.

The subject property was created as a remainder parcel in 1966 when Tax Lot 100 was divided out by deed (Exhibit A.2 and A.8). In 1966 properties could be created by filing a deed with no land division review required. In 1966 the area was zoned Suburban Residential (SR) with a minimum of 10,000 to 40,000 square feet depending on services and other qualifier (Exhibit B.3 and B.4)s. An additional requirement was the property had to abut the road for access. The subject property was 23.52 acres and abutted Division Drive for more than 400 feet, thus meeting zoning requirements when the parcel was created as a remainder parcel. The subject property was adjusted in 1986 through an approved Property Line Adjustment reducing it to 23.31 acres, it's current size.

**2.2. Lot of Record – Exclusive Farm Use (EFU)**

**MCC 39.3070 (A)** In addition to the standards in MCC 39.3005, for the purposes of the EFU district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
- (2) A group of contiguous parcels or lots:**
  - (a) Which were held under the same ownership on February 20, 1990; and**
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.**
    - 1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.**
    - 2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.**
    - 3. Three examples of how parcels and lots shall be aggregated are shown in Figure 1 below with the solid thick line outlining individual Lots of Record:**
    - 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g., MUA-20, RR, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or**
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.**

**Staff:** The property is zoned Exclusive Farm Use (EFU). A review of County Assessment microfiche records from 1989 and 1990 indicate there was no adjacent property owned by the owners of the subject property. There are no aggregation requirements.

### 2.3. Lot of Record Conclusion

**Staff:** The subject property meets the standards to be a Lot of Record. The subject Property was created according to zoning and land division requirement when it was created. There is no other property in same ownership on February 20, 1990. *The subject property is a Lot of Record.*

### 3. Conclusion:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Lot of Record Determination to establish the subject property described as Tax Lot 300 of Township 1 South Range 3 East, Section 12D Willamette Meridian (Tax Account: R993120170, Property ID: R339577) in the EFU zone. *The subject property is a Lot of Record.*

### 4. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	6	Application Form with Power of Attorney attached	4/12/19
A.2	2	County Assessment Parcel Card (Cartographic Unit) for subject property Tax lot 300	4/12/19
A.3	2	County Assessment Parcel Card (Cartographic Unit) Tax lot 100 adjacent property	4/12/19
A.4	2	County Assessment Parcel Card (Cartographic Unit) for subject property Tax lot 200 adjacent property	4/12/19
A.5	1	Copy of deed recorded in Book1127 on Page 285	4/12/19
A.6	5	First American Title ownership information for subject property Tax Lot 300 with attached copy of deed recorded in Book 2272, on Page 895 on January 29, 1990	4/12/19
A.7	10	First American Title ownership information for Tax Lot 200 with attached copy of deeds recorded as: <ul style="list-style-type: none"><li>• Instrument Number 2010-135708 on 10/28/2010</li><li>• Instrument Number 2005-130183 on 07/15/2005</li><li>• Book 2637 on Page 1243 on January 12, 1993.</li></ul>	4/12/19
A.8	13	First American Title ownership information for Tax Lot 100 with attached copy of deeds recorded as: Instrument Number 2010-135708 on 10/28/2010 Instrument Number 2005-130183 on 07/15/2005 Book 1127 on Page 585 on 08/15/1976	4/12/19

		Book 1127 on Page 583 on 08/15/1976 Book 1127 on Page 582 on 08/15/1976	
A.9	1	Property Survey Recording Number 39608 filed on 08/10/1976(Tax Lot 100)	4/12/19
A.10	1	Property Survey Recording Number 39796 filed on 10/22/1976 (Tax Lot 100)	4/12/19
A.11	1	Lot Line Adjustment Survey Recording Number 48803 filed on 02/24/1986	4/12/19
A.12	1	Lot Line Adjustment Survey Recording Number 49011 filed on 05/28/1986 signed by Irv Ewing, County Land Development Section	4/12/19
A.13	1	Record of Survey Recording Number 64232 filed on 10/9/2014	4/12/19
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	1	County Assessment Property Information	NA
B.2	1	County Assessment Map	NA