

NOTICE OF DECISION

Case File: T2-2019-11866
Permit: Lot of Record Verification
Applicant(s): Brian Stevens **Owner(s):** Brian and Trisha Stevens
Location: Tax lot located between 33407 and 33419 SE Carpenter Lane, Gresham
Tax Lot 600, Section 21DB, Township 1 South, Range 4 East, W.M.
Alternate Account #R994210680 Property ID #R342518
Zoning: Multiple Use Agriculture -20 (MUA-20)
Overlays: None
Proposal Summary: The applicant requests a Lot of Record Verification for the above referenced property. Staff will determine if the current configuration of the subject property satisfies the relevant Lot of Record approval criteria found in Multnomah County Code.

Determination: The subject property (1S4E21DB-00600) is 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 Thursday, August 8, 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, July 25, 2019

Vicinity Map

N↑



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 – Multiple Use Agriculture - 20

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*.

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 Tax Lot 600, Section 21DB, Township 1 South, Range 4 East, W.M. The subject property is located between 33407 and 33419 SE Carpenter Lane.

2.0 Property Description:

Staff: The subject property is located in rural East Multnomah County in the Multiple Use Agriculture – 20 (MUA-20) zone. The subject property is vacant and does not have any valid land use decisions or permits approving development on the property. No address has been assigned to the subject tax lot at this time.

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: There are no known compliance issues on the subject property at this time. As noted in Section 1.0 above, this application is a request for a Lot of Record Verification. Therefore, the

County may make a decision on this application request without making a finding that all buildings, structures or uses are in full compliance with Multnomah County Code.

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 February 8, 1972 describing the subject property without the “flagpole” section (Exhibit A.6). At the time it was believed (or still has) frontage onto Dodge Park Blvd. The subject property was assigned tax lot ‘68’ at the time. In 1972, 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.4).

On April 4, 1978, the County issued a decision for land use case #LE 8-78 approving the creation of two Lots of Exception pursuant to the provisions of Ordinance No. 100 (Exhibit B.4). LE 8-78 related to old Tax Lots '61' (current tax lot 700) and '68' (current tax lot 600) in Section 21, Township 1 South, Range 4 East which allowed the transfer of an approximately 15 ft. wide strip of land from Tax Lot 61 (currently tax lot 700 to the west) for access purposes from SE Carpenter Lane. Following the issuance of the decision, a new deed containing the adjusted property description for Tax Lot 61 (currently Tax Lot 700) was recorded on May 12, 1978 (Exhibit A.4). On May 17, 1978, a contract of sale containing the new property description for Tax Lot 68 (currently Tax Lot 600) was recorded (Exhibit B.5) which established its current configuration.

The applicant provided a copy of their bargain and sale deed from 2017 (Exhibit A.2), the legal description matches the legal description found in the 1978 contract of sale (Exhibit B.5). The creation of this parcel in 1978 satisfied all applicable zoning laws and land division laws at the time as indicated in the decision for land use case #LE 8-78. *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 an approximately 1 acre flag lot, fronts onto the public road known as SE Carpenter Ln. and has a front lot line length of approximately 55 feet (Exhibit A.7). The front lot line length is not the “flag pole” portion of the parcel but the property line parallel with SE Carpenter Lane where the access strip (flag pole) connects to the parcel. 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.

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: The subject property is vacant and there are no current land use decisions or permits approving a structure on the subject property. *Criterion met.*

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 legal configuration of the subject property was not created by the foreclosure of a security interest or a court decree. The legal configuration of 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 T2-2019-11866 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	04.17.2019
A.2	3	Bargain and Sale Deed recorded on August 3, 2017 as Instrument # 2017-093796	04.17.2019
A.3	1	Tax Map for 1S 4E 21DB with highlights	04.17.2019
A.4	1	Legal Description recorded on May 12, 1978 in Book 1262, Page 1610	04.17.2019
A.5	1	Tax Map for 1S 4E 21DB with highlights	04.17.2019
A.6	1	Warranty Deed recorded on February 8, 1972 in Book 838, Page 1417	04.17.2019
A.7	1	Tax Map for 1S 4E 21DB with highlights	04.17.2019
A.8	2	Warranty Deed recorded on January 28, 2003 as Instrument # 2003-020598	04.17.2019
'B'	#	Staff Exhibits	Date

B.1	1	A&T Property Information	04.17.2019
B.2	1	Email from Michael Cerbone (former Planning Director) describing fee waiver.	04.17.2019
B.3	2	Warranty Deed recorded February 8, 1972 in Book 838, Page 1417-1418	04.17.2019
B.4	10	Land Use Case #LE 8-78	07.02.2019
B.5	5	Contract of Sale recorded May 17, 1978 in Book 1263, Page 1806-1809	07.02.2019
B.6	2	Parcel Record Card for 1S4E21DB -00600	07.02.2019
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	05.16.2019
C.2	2	Opportunity to Comment	07.01.2019
C.3	7	Administrative Decision	07.25.2019