
NOTICE OF DECISION

Case File: T2-2019-11867
Permit: Lot of Record Verification
Applicant(s): Brian Stevens **Owner(s):** Brian and Trisha Stevens
Location: 33407 SE Carpenter Lane, Gresham
Tax Lot 700, Section 21DB, Township 1 South, Range 4 East, W.M.
Alternate Account #R994210610 Property ID #R342511
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-00700) 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 Tuesday, September 17, 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 Katie Skakel, Staff Planner at 503-988-0213 or at katie.skakel@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: Katie Skakel
Katie Skakel, Senior Planner

For: Adam Barber,
Interim Planning Director

Date: Tuesday, September 3, 2019

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 – 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 700, Section 21DB, Township 1 South, Range 4 East, W.M. The subject property is known as at 33407 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 contains a dwelling and accessory structures.

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: 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 Lot of Record 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 corporation trust deed from August 16, 1968 describing the subject property (1S4E21DB -00700) in its larger configuration (Exhibit A.6). The subject property was assigned Tax Lot ‘61’ at the time. In 1968, 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 November 25, 1968, a deed containing the same description of the subject property in its larger configuration was recorded to formalize the sale of the property to a new owner.

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. LE 8-78 allowed the transfer of an approximately 15 ft. wide by 270 ft. long strip of land from the western side of Tax Lot 61 (currently tax lot 700) to Tax Lot '68' (currently tax lot 600) for access purposes from SE Carpenter Lane. Following the issuance of the decision, a contract of sale containing the new property description for Tax Lot '68' (currently Tax Lot 600) was recorded on May 17, 1979 (Exhibit B.5). A new deed containing the adjusted property description for Tax Lot '61' (currently Tax Lot 700) was recorded on May 12, 1978 (Exhibit A.3) which established the current configuration for the subject property.

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 warranty deed (Exhibit A.3) establishing the property in its current configuration. The creation of this parcel in 1978 satisfied all applicable zoning laws and land division laws at the time through the implementation of land use case #LE 8-78 and the recording of the deeds within one year.

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 1.91 acre parcel, fronts onto the public road known as SE Carpenter Ln. and has a front lot line length of approximately 125 feet. 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: At the time of the land use decision for the Lot of Exception (LE 8-78), the property owner represented tax lot 700 as only having an existing dwelling (Exhibit B.4). The proposed transfer of the strip of land did not reduce the required yards below the minimum for that building. The lot of exception granted permission to reduce the minimum lot size further below the 20 acre minimum at that time. *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 T2-2019-11867 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	Statutory Warranty Deed recorded on August 1, 2017 as Instrument # 2017-092899	04.17.2019
A.3	2	Warranty Deed recorded on May 12, 1978 in Book 1262, Page 1610-1611	04.17.2019
A.4	1	Warranty Deed recorded on November 25, 1968 in Book 651, Page 1495	06.18.2019
A.5	3	Corporation Trust Deed recorded on August 16, 1968 in Book 635, Page 1129-1131	06.18.2019
‘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	Parcel Record Card for 1S4E21DB -00700	07.02.2019
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
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	05.15.2019
C.2	1	Applicant Response	05.21.2019
C.3	1	Complete Letter (Day 1)	06.20.2019
C.4	2	Opportunity to Comment	08.06.2019
C.5	7	Administrative Decision	09.03.2019