
NOTICE OF DECISION

Case File: T2-2019-12588

Permit: Lot of Record Verification

Applicants /Owners: Glynn & Julie Allott

Location: Adjacent to and west of 33341 SE Carpenter Lane
Tax Lot 1000, Section 21DB, Township 1 South, Range 4 East, W.M.
Alternative Tax Account: R994210660 Property ID: R342516

Zoning: Multiple Use Agriculture – 20 (MUA-20)

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, known as 1S4E21DB – 01000 is not 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 February, 21, 2020, 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, George Plummer via email at george.a.plummer@multco.us or phone (503) 988-0202 or (503) 988-3043 for Planner on Counter Duty, office hours 8 am to 4 pm Tuesday through Friday

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:



George A. Plummer, Planner

For: Carol Johnson, AICP
Planning Director

Date: February 7, 2020

Vicinity Map

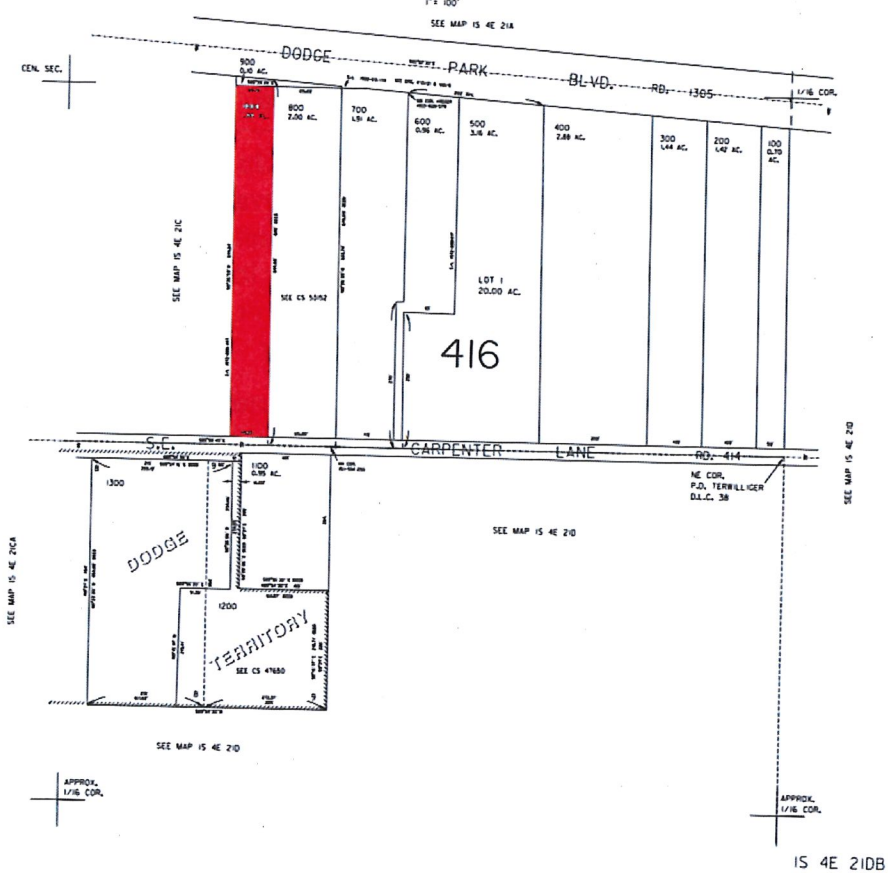
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THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW1/4 SE1/4 SEC. 21 T.1S. R.4E. W.M.
MULTNOMAH COUNTY

IS 4E 21DB



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 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: 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 PROPOSAL:

Staff: The applicant requests a Lot of Record Verification for the property known as tax lot 1S4E21DB – 01000 (subject property). The subject property is adjacent to and west of 33341 SE Carpenter Lane (Exhibit A.1). The subject property is in rural unincorporated Multnomah County within the Multiple Use Agriculture (MUA-20) Zone, outside of the Urban Growth Boundary.

Through the Lot of Record Verification process, the County reviews the creation or reconfiguration of each parcel, lot or unit of land involved in the request. The County then verifies that the creation or reconfiguring of the unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. If the unit of land met all the applicable zoning and land division laws in effect at the time, it may be determined to be a Lot of Record.

2.0 GENERAL PROVISIONS:

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: The subject property contains existing outbuildings that may not have been approved through an applicable approval process. As noted in Section 1.0 above, this application is a request for a Lot of Record Verification, which does not require the County to approve development, a land division, a property line adjustment, or a building permit. Therefore, this standard is not applicable.

3.0 LOT OF RECORD

3.1 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: To qualify as a Lot of Record, the subject property, when created or reconfigured, must have (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

Per County Zoning maps, between 1958 and October 5, 1977, the subject property was within the Suburban Residential (SR) Zone (Exhibit B.3). The applicant provided information that demonstrates the first deed describing the subject property in its current configuration was recorded on July 8, 1971 (Exhibit A.4). According to the Warranty Deed, County Assessment records and a recorded 1992 Survey, the subject property is approximately one acre and is 69.20 feet wide by 644.4+/- feet long (Exhibits A.2, A.5 and B.2).

Between 1958 and 1977, the SR zone had a minimum lot size matrix with three potential minimum lot sizes depending on available services to the parcel. The largest SR minimum lot size was 40,000 square feet. The subject parcel is an acre meeting the 40,000 square foot size. To establish a 40,000 sq. ft. lot or larger, the parcel was required to have public road frontage, public water service or a private well, and an approved individual sewage disposal system (Exhibit B.4). The SR zone at the time stated the following requirement:

“The minimum average lot width shall be seventy (70) feet, and the minimum lot width at the building line shall be seventy 70 feet. The minimum lot depth shall be one hundred (100) feet.” [Exhibit B.4, MCC 3.153 (c)]

Per the submitted survey and warranty deed (Exhibit A.4, A.5 and B.5), the subject property is a rectangle with a 69.20 ft. lot width and a lot depth in excess of 640 feet. The subject property fronts onto SE Carpenter Lane (a public right-of-way) and is served by the Pleasant Home Water district. Because the Suburban Residential (SR) zone required a 70-ft minimum average lot width and a minimum average lot width of 70 feet at the building line, the subject property did not satisfy all the minimum dimensional requirements for the SR zone in 1971. *The subject property did not satisfy all applicable zoning laws at the time.*

In 1971, the County’s Subdivision ordinance did not regulate the creation of 3 or less parcels. The process to create a new unit of land in 1971 was to write a new legal description and record a new deed or contract that utilized the new legal description. A warranty deed including the legal description for the subject property was recorded on July 8, 1971 in Book 798 on Page 1587 (Exhibit B.5). *The recordation of this warranty deed in 1971 satisfied all applicable land division laws at the time.*

3.2 MCC 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-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: As discussed in section 3.1 above, the subject property is not a Lot of Record. Therefore, the provisions of MCC 39.3080(A) and (B) are not applicable.

(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 applicant did not provide any land use decisions or permits approving any structure(s) on the subject property. Therefore, MCC 39.3080(C) is not applicable.

(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 through the recordation of a warranty deed in 1971 (Exhibit B.5). The subject property was not created by the foreclosure of a security interest or a court decree and is not an area of land described solely for assessment and taxation purposes.

Based on the information discussed in section 3.1 – 3.2 above, the creation of the subject property in 1971 did satisfy all applicable land division laws, but did not satisfy all applicable zoning laws at the time. Therefore, the subject property does not qualify as a Lot of Record.

4.0 PUBLIC COMMENT

Comment: Letter of comment submitted November 26, 2019 by Daniel and Penny Volker, neighbors of the applicants. The letter states that “Daniel and Penny Volker have No problem with folks that own this piece of land to have a building sight available to them at a further date.” They continued stating that the subject property was shown on the tax lot maps when they bought their property. They support that all lots should be buildable.

Staff: The tax lot maps are for taxation purposes only and do not indicate that a tax lot met the zoning and land division requirements when a property was created.

5.0 EXHIBITS

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Administration and Procedures
- ‘D’ Comments Received

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	10/17/19
A.2	1	County Assessment Parcel Card (Cartographic Unit) Tax lot 1000 (1S4E21DB)	10/17/19
A.3	2	Copy of a warranty deed recorded with County Records Management on October 28, 1953 in Book 1628 on Pages 579 and 580 signed on October 26, 1953.	10/17/19
A.4	1	Copy of a warranty deed recorded with County Records Management in Book 798 on Page 1587 signed July 7, 1971 with no dated of recording noted.	10/17/19

A.5	1	Boundary Survey by Kent W Cox dated 18 Sep. 1992 of the subject property and the adjacent property to the west Tax Lot 100 (1S4E21DB) in the same ownership.	10/17/19
A.6	1	Partial copy (page 2 of 3) File No: 7012-2443581 dated May 13, 2015 of "Personnel Representatives Deed" describing the subject property (as Parcel I that heading not on the page) and the other property adjacent to the east in same ownership as Parcel II.	10/17/19
'B'	#	Staff Exhibits	Date
B.1	1	County Assessment Property Information	NA
B.2	1	Current County Assessment Map	NA
B.3	1	1962 County Zoning Map & October 5, 1977 Zoning Map	NA
B.4	5	Suburban Residential Zoning Code in effect on July 8, 1968	NA
B.5	1	Applicant's Exhibit A.4 in its Entirety showing deed was recorded on July 8, 1971 in Book 798, Page 1587	NA
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter	11/08/2019
C.2	2	Opportunity to Comment	11/15/2019
C.3	9	Administrative Decision	2/6/2020
'D'	#	Public Comments	Date
D.1	1	Letter of comment by Daniel and Penny Volker, 3326 SE Carpenter Lane, Gresham, OR. 97080	11/26/19