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## NOTICE OF DECISION

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**Case File:** T2-2019-12626

**Permit:** Lot of Record Verification

**Applicant:** Christopher Williams      **Owners:** Christopher Williams Living Trust  
Karyn Williams Living Trust

**Location:** 43400 SE Hogg Mill Road, Corbett  
Tax Lot 1200, Township 1 South, Range 5 East, Section 20, W.M.  
Tax Account #R995200310      Property ID #R343021

**Base Zone:** Commercial Forest Use - 4 (CFU-4)

**Overlays:** None

**Proposal Summary:** The Applicant requests a Lot of Record Verification for the subject property. The application does not propose any development at this time.

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**Determination:** The subject property 1S5E20 – 01200 is a Lot of Record in its current configuration.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, March 12, 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, contact Chris Liu, Staff Planner at 503-988-2964 or at [chris.liu@multco.us](mailto: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.

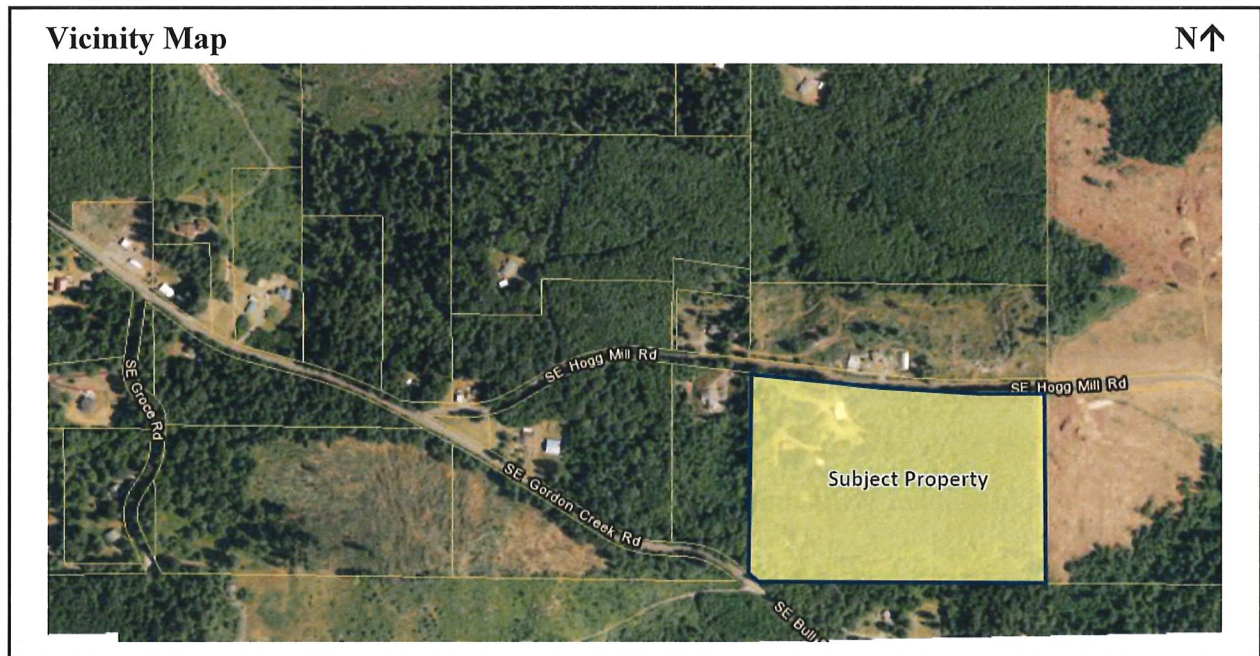
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**Issued by:** 

**By:** Chris Liu, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Thursday, February 27, 2020



**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 39.3050 Lot of Record – Commercial Forest Use-4 (CFU-4)

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 - 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 Tax Lot 1S5E20 - 01200 (the “subject property”). The subject property is located adjacent to SE Hogg Mill Road and is identified as 43400 SE Hogg Mill Rd.

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 PROPERTY DESCRIPTION:**

**Staff:** The subject property is located in rural East Unincorporated Multnomah County in the Commercial Forest Use -4 (CFU-4) zone. The subject property is 26.22 +/- acres and is outside the Urban Growth Boundary.

### **3.0 GENERAL PROVISIONS:**

#### **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.**

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**Staff:** 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.

### **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**

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**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.

The applicant provided a Contract of Sale recorded December 7, 1978 in Book 1314, Page 660-664 (Exhibit A.7). The legal description contained in the 1978 Contract of Sale matches the current legal description for the subject property (Exhibit A.6). In 1978 the area where the subject property is located was zoned Multiple Use Forest – 20 (‘MUF-20’) per County zoning maps (Exhibit A.4). Per the dimensional requirements of the MUF-20 zone, the minimum lot size for newly created parcels was 20 acres and the minimum front lot line length was 50 feet (Exhibit B.4). Additionally, parcels must abut a street or have other access determined by the Hearings Council to be safe and convenient. The subject property is 26.22 +/- acres, has a front lot line length that exceeds 1000 feet, and abuts the public road known as SE Hogg Mill Road.

*Based on the information above, the subject property satisfied all applicable zoning laws in 1978.*

On October 19, 1978, the County adopted Land Division Regulations for Subdivisions and Partitions via Ordinance No.174 (Exhibit B.5). In section 1.224 of Ordinance No.174, the regulations state: “Minor partitions exempted. Minor partitions not listed in section 1.223 are exempt from the provisions of this Ordinance.” (Exhibit B.5). The partition completed through the recording of the 1978 Contract of Sale (Exhibit A.7) qualified as an Exempt Minor Partition.

*Based on the information above, the subject property satisfied all applicable land division laws in 1978.*

**4.2 MCC 39.3050 Lot of Record – Commercial Forest Use -4 (CFU-4)**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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**

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**(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**
- (5) February 20, 1990, Lot of Record definition amended, Ord. 643;**

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**Staff:** Per County tax records, the Darland family owned the subject property as of February 20, 1990. The 1978 Real Estate Contract provided as Exhibit A.7, supports the County tax records. County tax records do not list the Darlands as owners of any other contiguous parcels or lots on February 20, 1990. The applicant did not provide any deed information that contradicts the ownership shown on county tax records. *Criteria met.*

- 4.3 (C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** The subject property is a Lot of Record as stated in section 4.1 above. The subject property is less than the 80-acre minimum lot size for new parcels in the Commercial Forest Use – 4 (CFU-4) zone and is subject to the provisions of MCC 39.3050(C).

- 4.4 (D) The following shall not be deemed 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) A Mortgage Lot.**
- (4) An area of land created by court decree.**

**Staff:** The subject property is not an area of land described solely for assessment and taxation purposes, an area of land created by the foreclosure of a security interest, or an area of land created by court decree. The subject property is not a Mortgage Lot (Exhibit A.6).

**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 T2-2019-12626 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	10.31.2019
A.2	1	Department of Assessment, Records and Taxation (DART) Map with 1S5E20 -01200 (R995200310) highlighted	10.31.2019
A.3	1	Warranty Deed recorded in Book 1438, Page 1869 on May 5, 1980	10.31.2019
A.4	1	Map showing Zoning effective on October 6, 1977	10.31.2019
A.5	1	Map showing Zoning effective on August, 14, 1980	10.31.2019
A.6	2	Cover Page and Warranty Deed recorded as document #94-052195 on April 1, 1994	10.31.2019
A.7	5	Contract of Sale recorded in Book 1314, Page 660-664 on December 7, 1978	10.31.2019
‘B’	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S5E20 -01200 (R995200310)	10.31.2019
B.2	1	Department of Assessment, Records and Taxation (DART) map with 1S5E20 -01200 (R995200310) highlighted	10.31.2019
B.3	1	Parcel Record – Cartographic Unit Card for 1S5E20 -01200	10.31.2019
B.4	7	MUF-20 Zoning Code from Ordinance No. 148 amending Ordinance No. 100, adopted September 6, 1977.	01.31.2020
B.5	11	Ordinance No. 174, adopted October 19, 1978	01.31.2020
‘C’	#	Administration & Procedures	Date
C.1	1	Complete letter (Day 1)	11.22.2019
C.2	2	Opportunity to comment & mailing list	02.05.2020
C.3	7	Administrative decision & mailing list	02.27.2020