

NOTICE OF DECISION

Case File: T2-2019-12667

Permit: Lot of Record Verification

Applicants: Eric Mauck **Owners:** Cathy Schaefer & Khalid Rasulpuri

Location: 32720 SE Hurlburt Rd
Tax Lot 1500, Section 04BA, Township 1S, Range 4E, W.M.
Alternate Account #R994040640 Property ID #R341322

Base Zone: Springdale Rural Center (SRC)

Overlays: Significant Environmental Concern – Stream (SEC-s)

Proposal Summary: The applicant requests a Lot of Record Verification for the subject property. The County will review the creation or reconfiguration of the subject property to verify that the creation or reconfiguration of the unit of land satisfied all applicable zoning and land division laws in effect on the date of its creation or reconfiguration.

Determination: The subject property, known as 1S4E04BA – 01500 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 March 23, 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 Aldo Rodriguez, Staff Planner at 503-988-4159 or at aldo.rodriguez@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:



By: Aldo Rodriguez, Assistant Planner

For: Carol Johnson, AICP
Planning Director

Date: Monday, March 9, 2020

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 39.3110 Lot of Record - Springdale Rural Center (SRC)

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 - 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 1S4E04BA – 01500 (the “subject property”). The subject property is located between 32640 SE Hurlburt Rd. to the North and 1105 SE Christensen Rd. to the South.

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 & History:

Staff: The subject property is located in rural East Multnomah County in the Springdale Rural Center zoning district in the East of the Sandy Rural Plan Area. The subject property is configured similar to a right angle triangle and contains an overlay: Significant Environmental Concern - stream on the majority of the property.

Multnomah County Department of Assessment, Records, and Taxation (DART) indicates the subject property is owned by Cathy Schaefer & Khalid Rasulpuri. According to DART records, the subject property contains a single-family dwelling with an attached garage and a carport.

3.0 Code Compliance and Applications 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, 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 Base Zone 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: 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.

Applicable Zoning Laws

The applicant submitted a recorded warranty deed from November 24, 1947 describing the subject property in its current configuration (Exhibit A.3). The current size of the subject property is approximately .52 acres.

Prior to the 1950's, there was no minimum parcel size, no minimum front lot line length or minimum access standards. Therefore, at the time of creation in 1947, the subject property complied with the zoning minimum lot size, dimensional standards, and access requirements.

Application Land Division Laws

In 1947, the process to divide a property into new units of land was to write a legal descriptions and record new deeds or contracts that utilized the new description. The property owner utilized the correct land division process and satisfied all applicable land division laws in effect in 1947. Furthermore, a current recorded deed (Exhibit A.4) indicates the property has not been reconfigured since the time it was originally created in 1947.

Based on the information discussed above, the creation of this parcel in 1947 satisfied all zoning minimum lot sizes, dimensional standards, and access requirements at the time.

4.2 MCC 39.3110: Lot of Record – Burlington Rural Center (BRC) and Springdale Rural Center (SRC):

(A) In addition to the standards in MCC 39.3005, for the purposes of the BRC district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR and R zones 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, RC zone applied, Ord. 148 & 149;**

(5) October 13, 1983, zone change to RC for some properties, Ord. 395;

(6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside “acknowledged unincorporated communities” except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;

(7) 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 39.4495, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: While the parcel has less than the minimum lot size required today for a new parcel in the Springdale Rural Center, it is a legally created parcel under finding 4.1 of this land use decision. The subject property is subject to the same rights and restrictions as other properties in the Springdale Rural Center. *Criteria Met.*

4.3 (C) Except as otherwise provided by MCC 39.4480, 39.4485, 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.

(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 remains in the same configuration as described in the 1947 deed (Exhibit A.3). A recording of a warranty deed created the subject parcel in 1947, which followed the land division process at that time by recording of said warranty deed (Exhibit A.3). The subject property was not created by the foreclosure of a security interest or a court decree. The single parcel is not an area of land described solely for assessment and taxation purposes. *Criteria met.*

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 **T2-2019-12667** at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	10.29.2019
A.2	1	Letter of Authorization	12.11.2019
A.3	3	Warranty Deed recorded November 24, 1947 in Book 1223, page 245	12.11.2019
A.4	4	Warranty Deed recorded November 9, 2018 as instrument number #2018-116229	12.11.2019
A.5	12	Miscellaneous Recorded Deeds and Property Descriptions	12.11.2019
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E04BA-01500	11.12.2019
'C'	#	Administration & Procedures	Date
C.1	2	Incomplete letter	12.05.2019
C.2	3	Complete letter (day 1)	01.03.2020
C.3	3	Opportunity to comment & mailing list	01.09.2020
C.4	7	Administrative decision & mailing list	03.09.2020