

NOTICE OF DECISION

Case File: T2-2020-13383

Permit: Lot of Record Verification

Applicant: Charles Nolen **Owner:** Charles Nolen

Location: 7920 SE Orient Drive, Gresham
Tax Lot 1200, Section 20CB, Township 1 South, Range 4 East, W.M.
Tax Account #R994200800 Property ID #R342343

Base Zone: Orient Rural Center Residential (OR)

Overlays: None

Proposal Summary: The applicant requests a Lot of Record Verification to determine if the subject property (1S4E20CB -01200) satisfied all applicable zoning and land division laws at the time of its creation/reconfiguration.

Determination: The subject property (1S4E20CB -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 Friday, July 24, 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. Copies of these documents may be able to be sent to you in an email. Copies of all documents are available at the rate of \$0.35/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** Digitally signed by Chris Liu
Date: 2020.07.09 09:08:43
-07'00'

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, July 10, 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 39.3120 Lot of Record – Orient Rural Center Residential

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 PROPOSAL & PROPERTY DESCRIPTION:

Staff: The applicant requests a Lot of Record Verification for a property adjacent to SE Orient Drive, and is identified as 1S4E20CB -01200 (the “subject property”). The subject property is located in the rural area known as the West of Sandy River in unincorporated Multnomah County and is zoned Orient Rural Center Residential (OR). The subject property is outside of Metro’s urban growth boundary. The subject property contains a single-family dwelling and in-ground pool. This application does not propose any new development.

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:

2.1 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.

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.

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

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.

In 1983, the County authorized an Exempt Minor Partition involving the subject property (Exhibit B.7). The property owner at the time recorded a new legal description to create the subject property. At the time, the area was zoned ‘RC’ (Rural Center) per County Zoning Maps (Exhibit B.5). The RC zone had a minimum lot size requirement of 1.0 acre, a minimum front lot line length of 50 feet, public road frontage or other access deemed safe and convenient (Exhibit B.6). The subject property is 1.33 acres, abuts SE Orient Dr. (a public road), and has a front lot line length of approximately 539 feet (Exhibit B.4). The applicant provided a current deed for the subject property (Exhibit A.4) that contains a legal description that matches the recorded 1983 legal description (Exhibit B.7).

The subject property complied with all zoning minimum lot size, dimensional standards, and access requirements of the RC zone in 1983 when it was created/reconfigured.

In 1983, per MCC 11.45.110, Minor Partitions not listed in MCC 11.45.100 were exempt from the provisions of the chapter [the County land division ordinance]. As evidenced by the recorded 1983 Exempt Minor Partition and legal descriptions (Exhibit B.7), the County verified that the partition was exempt from all provisions of the County land division ordinance [MCC 11.45] in effect at the time.

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1983. The subject property is a Lot of Record in its current configuration.

3.2 (A) In addition to the standards in MCC 39.3005, for the purposes of the PH-RC, OR, and OCI districts 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) May 16, 2002, Lot of Record section amended, Ord. 982

(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 39.4545, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 39.4530, 39.4535, 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 the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.

Staff: (A) is for information purposes. The subject property is a Lot of Record and subject to (B) above. The subject property is vacant and in the same configuration as shown in the 1983 Exempt Minor Partition and legal descriptions.

3.3 (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 is not an area of land described as a tax lot 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. It was created by the recording of a new legal description after zoning authorization by Multnomah County. *Criteria met.*

4.0 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 T2-2020-13383 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application Form	06.11.2020
A.2	3	Warranty Deed recorded October 24, 2018 as instrument no. 2018-110359	06.11.2020
A.3	3	Personal Representative’s Deed recorded July 10, 2018 as instrument no. 2018-072213	06.11.2020

A.4	3	Warranty Deed recorded March 17, 2020 as instrument no. 2020-032586	06.11.2020
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E20CB -01200	06.11.2020
B.2	1	Department of Assessment, Records and Taxation (DART): Map for 1S4E20CB	06.11.2020
B.3	3	Stamped Legal Descriptions from 1983 Exempt Minor Partition	06.11.2020
B.4	1	Stamped Survey Map from 1983 Exempt Minor Partition	06.11.2020
B.5	1	1980 Zoning Map for 1S4E20	06.11.2020
B.6	6	RC Zone Regulations from MCC 11.15 from March 23, 1982	06.11.2020
B.7	8	1983 Legal Descriptions and Exempt Minor Partition documents recorded on October 18, 1983 in Book 1699, Page 1937-1944	06.11.2020
B.8	3	Parcel record card for 1S4E20CB -01200	06.11.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (Day 1)	06.18.2020
C.2	2	Opportunity to Comment	06.25.2020
C.3	6	Administrative Decision	07.10.2020