

NOTICE OF DECISION

Case File: T2-2020-13485

Permit: Lot of Record Verification

Applicants: Ryan Sexton, ODOT **Owner:** Oregon Dept. of Transportation

Location: Adjacent to NW Cornelius Pass Road, Portland
Tax Lot 2500, Township 2 North, Range 1 West, Section 31C, WM
Alt. Acct. #R661101910 Property ID #R244442

Base Zone: Exclusive Farm Use (EFU)

Overlays: Significant Environmental Concern – wildlife habitat (SEC-h); Geologic Hazards (GH)

Proposal Summary: The applicant requests a Lot of Record Verification to determine if the subject property (2N1W31C -02500) satisfied all applicable zoning and land division laws at the time of its creation/reconfiguration. Geologic Hazard and Significant Environmental Concern permits are not required, as there is no proposed development as part of this application.

Determination: The subject property 2N1W31C – 02500 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 September 28, 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 digitally. 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

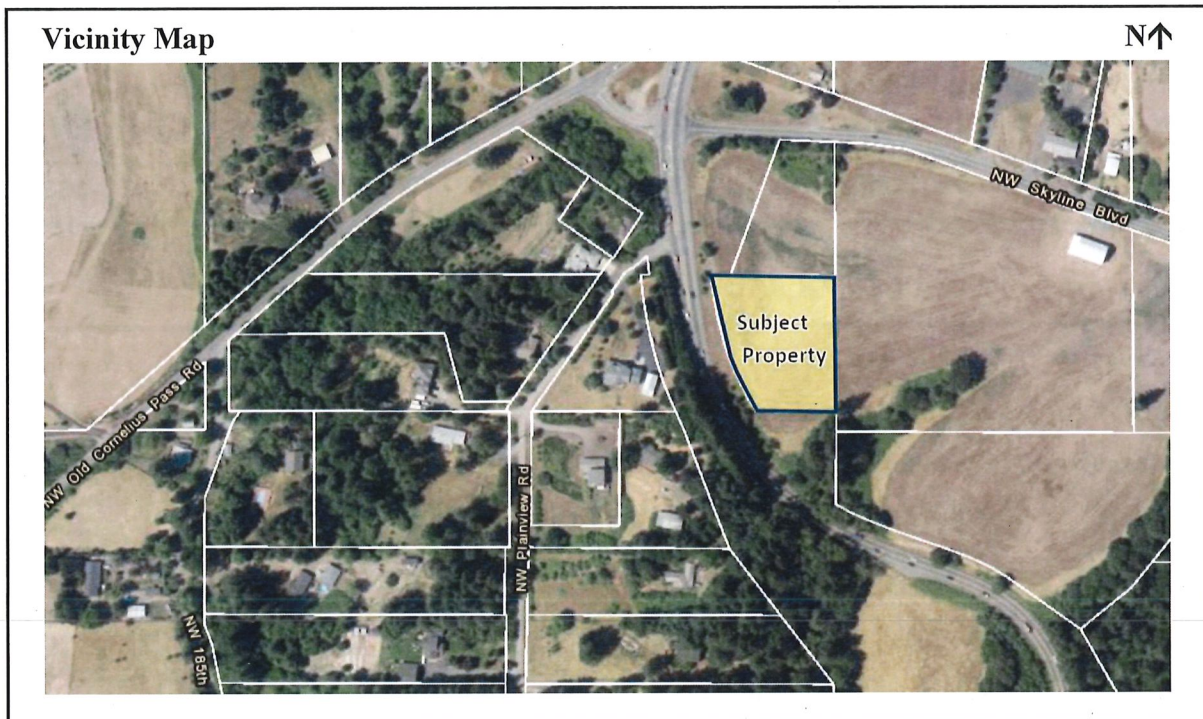
Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 503-988-3043. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: Chris Liu Digitally signed by Chris Liu
Date: 2020.09.10 07:22:47 -07'00'

Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Monday, September 14, 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 39.3070 Lot of Record – Exclusive Farm Use

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 the property identified as 2N1W31C -02500 (the “subject property”). The subject property is in the unincorporated Multnomah County area known as the West Hills and is zoned Exclusive Farm Use. The subject property is vacant and located outside of the Metro urban growth boundary. Geologic Hazard (GH) and Significant Environmental Concern (SEC) permits are not required, as 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 PUBLIC COMMENT:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 (Exhibit C.2.). Staff did not receive any public comments during the 14-day comment period.

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.

(A) A permit or other approval, including building permit applications, may be authorized if:

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

Staff: To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet (B) of this Section and meet the Lot of Record standards set forth in the EFU zoning district. More specifically, Section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The Lot of Record standards set forth in the EFU district establish additional requirements unique to the district, which are evaluated in Sections 5.2-5.4 of this decision. The finding below analyzes whether the Lot of Record provision in Section (B) have been met.

The applicant provided a deed recorded in 1947 that contains a legal description describing the parent parcel (“parent parcel”) of the current configuration of the subject property (Exhibit A.4). Image #1 below depicts this area.



Image #1

In 1947, the County did not have zoning regulations in-place for the subject property; hence, there were no minimum lot size requirements, dimensional standards or access requirements for the parent parcel. From 1947 – 1990 the property remained in the same configuration.

In 1990, the State of Oregon granted in fee simple a portion of the parent parcel to Multnomah County for Cornelius Pass Road (Exhibit A.5 – A.6). Image #2 below depicts this [approximate] area highlighted in yellow. Following the aforementioned public right-of-way dedication, the area highlighted in orange and in red remained.



Image #2

The area in Image #2 highlighted in orange was zoned Rural Residential (RR) in 1990 (Exhibit B.6). With the transfer of the land in yellow in Image #2, the reconfigured parent parcel, became two separate parcels: the area highlighted in orange and the area highlighted in red (Exhibit B.7). The subject property is the area highlighted in red in Image #2, was zoned EFU, and is the current configuration of the subject property (Exhibit B.5).

Based on the above, the subject property complied with all applicable zoning regulations in 1947 and 1990 when it was created/reconfigured.

In 1990, the process to divide land for a fee-simple public street required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be recorded with the County Recorder. As evidenced by the warranty deeds recorded in 1990 (Exhibit A.5 – A.6), the applicable land division laws were satisfied.

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1990. The subject property is a Lot of Record in its current configuration.

5.2 MCC 39.3070 Lot of Record – Exclusive Farm Use

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU 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

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

Staff: The State of Oregon owned the subject property on February 20, 1990. Per tax records and the application materials provided by the applicant, the State of Oregon did not own any contiguous parcels at that time. The fee-simple portion of NW Cornelius Pass Road was owned by Multnomah County (Exhibits A.5 & A.6). Therefore, the subject property is a single Lot of Record. *Criteria met.*

5.3 (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, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(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 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Subsection (B) is for information purposes. The subject property is a Lot of Record and is subject to (C) above. The subject property met all applicable zoning and land division laws at the time of its creation. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record.

5.4 (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 as a tax lot solely for assessment and taxation purposes; an area of land created by the foreclosure of a security interest; a mortgage lot; or an area of land created by court decree (Exhibit B.5). It is an area of land described in a deed and created or reconfigured in 1990 per Exhibits A.4 – A.6. *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. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2020-13485.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	07.01.2020
A.2	11	Preliminary Title Report	07.01.2020
A.3	2	Warranty Deed recorded January 16, 2015 as instrument no. 2015-005254	07.01.2020
A.4	2	Warranty Deed recorded April 30, 1947 in Book 1167, Page 364-366	07.01.2020
A.5	10	Correction Deed recorded July 23, 1990 in Book 2325, Page 1251-1260	07.01.2020
A.6	9	Deed recorded May 29, 1990 in Book 2306, Page 316-324	07.01.2020
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 2N1W31C -02500	07.01.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 2N1W31C	07.01.2020
B.3	1	1962 Historic Zoning Map for 2N1W31C	07.08.2020
B.4	1	1966 Historic Zoning Map for 2N1W31C	07.08.2020

B.5	2	Parcel Record Card for 2N1W31C -02500	07.08.2020
B.6	1	1983 Historic Zoning Map for 2N1W31C	08.19.2020
B.7	4	1990 RR Zoning Regulations from MCC 11.15	08.19.2020
B.8	4	Parcel Record Card for 2N1W31C -02600	08.19.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	07.16.2020
C.2	2	Opportunity to Comment	08.05.2020
C.3	8	Administrative Decision	09.14.2020