

NOTICE OF DECISION

Case File: T2-2021-14220
Permit: Lot of Record Verification
Applicants: Taylor Thompson **Owners:** Marc S. Blackstein and
Hannah M. Treuhaft
Location: 22620 NW Gillihan Rd., Portland **Map, Tax Lot:** 2N1W02B-00600
Tax Account #R971020340 Property ID #R324778
Base Zone: Multiple Use Agriculture - 20
Overlay: Flood Hazard (FH)
Proposal Summary: The applicant is requesting a Lot of Record Verification for the above property. A Lot of Record Verification determines that a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration and the County's aggregation requirements.

Determination: The subject property known as 2N1W02B -00600 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 July 26, 2021 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 by contact the case planner. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Aldo Rodriguez, Staff Planner at 503-988-4159 or via email 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:  Digitally signed by Aldo Rodriguez DN: cn=Aldo Rodriguez
o=Multnomah County cu=Land Use Planning Division
email=aldo.rodriguez@multco.us c=US

By: Aldo Rodriguez, Planner

For: Carol Johnson, AICP
Planning Director

Date: July 12, 2021

Vicinity Map

N↑



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet applicable approval criteria below:

Multnomah County Code (MCC): General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agriculture-20 (MUA-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 - 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 2N1W02B -00600. (the “subject property”). The application does not propose any new development at this time.

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 west Multnomah County in the Multiple Use Agriculture-20 zoning district on Sauvie Island. The subject property is rectangular shaped. The Assessment and Taxation tax records indicate that the subject property contains a single-family dwelling with an attached garage, a detached garage and green house.

3.0 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 as Exhibited in C.4. Staff did not receive any public comments during the 14-day comment period.

4.0 Administrative Procedures Criteria:

4.1 § 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*

5.0 Lot of Record Criteria:

5.1 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.

In 1978, the zoning for the subject property was Exclusive Farm Use – 38 (EFU-38), which had minimum lot size of 38 acres, required a frontage on a public road and a minimum front line length of 50 feet. According to the recorded survey (Exhibit B.8), the subject property has a front line length of 179.39 feet and abuts NW Gillihan Road, a public street. The EFU-38 zone also had provisions for the creation of parcels less than 38 acres in size subject to the approval criteria under the Lot of Exception regulations.

On April 18, 1978, the County issued a decision for a land use case, #LE2-78 (Exhibit B.6) approving the creation of two Lots of Exception pursuant to the provisions of Multnomah County Code Ordinance 148 (Exhibit B.7). LE2-78 enabled the creation of a neighboring 2.23 acre property (currently identified as 22700 NW Gillihan Rd) and the 2.25 acre subject property. Following the issuance of the decision, a warranty deed containing the adjusted property description for the 2.25 subject property was recorded on June 8th, 1978 (Exhibit A.7) which established the current configuration for the subject property.

The current legal description (Exhibit A.8) for the subject property remains the same as described in the June 8, 1978 warranty deed (Exhibit A.7 & A.8). Therefore, the creation of the 2.25 acre parcel in 1978 satisfied all applicable zoning laws and land division laws at the time through the implementation of land use case #LE2-78 and the recording of a deed to create the subject property (Exhibit A.7).

5.2 MC 39.3080: Lot of Record - Multiple Use Agriculture-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: The current zoning for the property is Multiple Use Agriculture – 20 (MUA-20), which has a twenty-acre minimum lot size, requirement of public or private street frontage and a minimum front lot line length of 50 feet. The subject property is an approximately 2.25 acre parcel, fronts onto the public road known as NW Gillihan Road and has a front lot line length of approximately 179.39 feet (Exhibit B.8). While the parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it is a legally created parcel under finding 5.1 of this land use decision. *Criteria met.*

- 5.3 (C) Except as otherwise provided by MCC 39.4380, 39.4385, 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: Subsection (C) is for informational purposes. The property owner is not proposing to convey any portion of the parcel at this time.

- 5.4 (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: As discussed above under Section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is a legally described parcel created by the recording of a deed and is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based upon the findings in 5.1 through 5.4, the subject property is a single 2.25 +/- acre Lot of Record.

6.0 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 T2-2021-14220 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form	1.11.2021
A.2	3	Update General Application Form	2.17.2021
A.3	2	Fidelity National Title Cover Page	1.11.2021
A.4	4	Warranty Deed recorded on October 21, 2020 as instrument number #2020-105102	1.11.2021
A.5	3	Warranty Deed recorded on June 30, 1993 in Book 2716 Page 1791	1.11.2021
A.6	2	Warranty Deed recorded on December 18, 1978 in Book 1316 Page 2250	1.11.2021
A.7	3	Warranty Deed recorded on June 8, 1978 in Book 1270 Page 562	2.17.2021
A.8	4	Warranty Deed record on October 21, 2020 as instrument #2020-105102	1.11.2021
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R324778 (Alt Acct# R971020340)	1.11.2021
B.2	6	Applicant Submittal Emails	1.11.2021
B.3	2	Email Receipt	1.11.2021
B.4	3	Parcel Record Card for R971020340	2.16.2021
B.5	3	Parcel Record Card for R971020150	2.16.2021
B.6	40	Copy of Case #LE2-78	2.16.2021

B.7	71	Zoning Ordinance adopted September 6, 1977 (Ord 148)	2.16.2021
B.8	1	October 5, 1978 Recorded Survey	2.16.2021
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	2.16.2021
C.2	3	Applicant's acceptance of 180 day clock	2.16.2021
C.3	1	Complete letter (day 1)	3.15.2021
C.4	4	Opportunity to Comment and mailing list	3.31.2021
C.5		Administrative decision and mailing list	