

NOTICE OF DECISION

Case File: T2-2022-15705

Permit: Lot of Record Verification

Applicant: Jeremy Keepers, Timber Valley Dev. Inc. **Owner:** Weyerhaeuser Co. c/o Jim Bunker

Location: **Property North of 44101 E Larch Mtn Rd, Corbett**
Map, Tax Lot: 1S5E05A-00100
Tax Account #R995050330 **Property ID #**R342752

Base Zone: Commercial Forest Use – 4 (CFU-4) **Overlays:** Geologic Hazards (GH)

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 1S5E05A-00100 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, September 29, 2022 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 by contacting the case planner. Copies of all documents are available at the rate of \$0.40/per page. For further information, contact case planner Lisa Estrin at 503-988-0167 or via email at lisa.m.estrin@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.

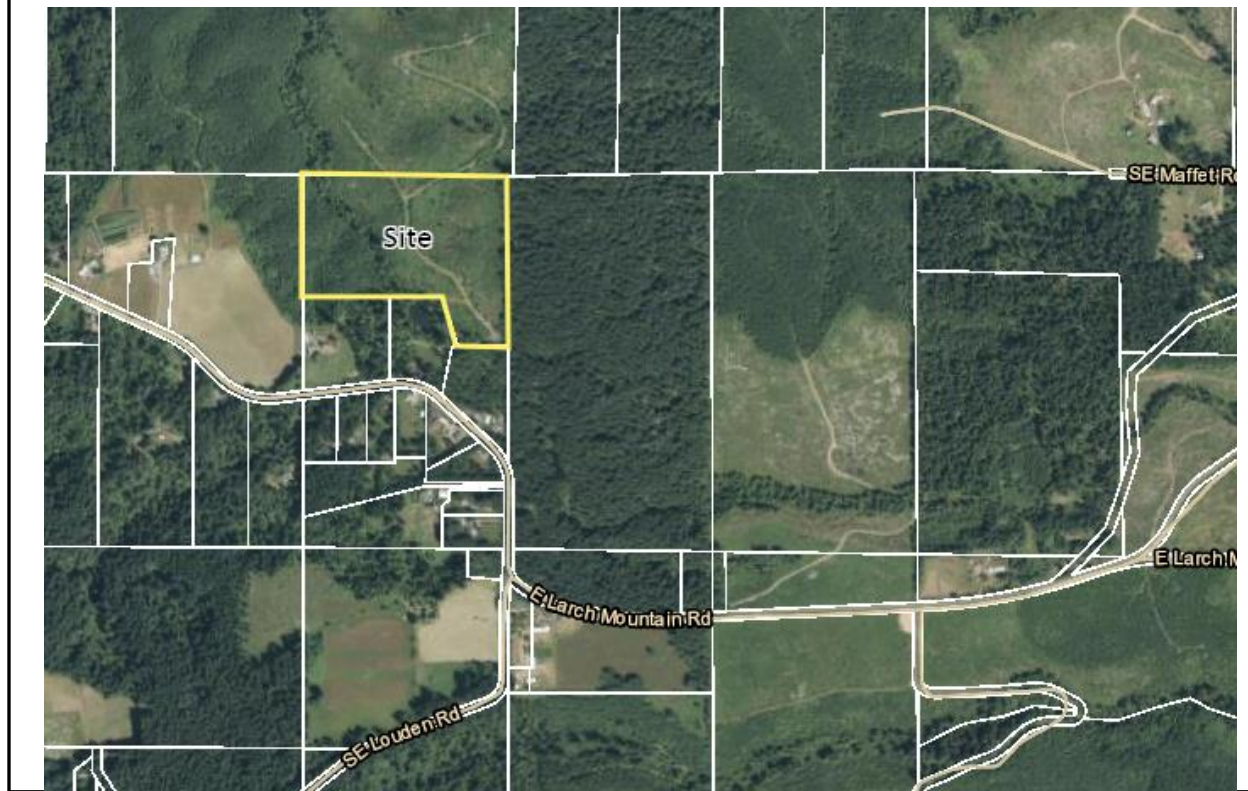
Issued by: _____

By: Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, September 15, 2022

Vicinity Map



Applicable Approval Criteria:

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

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 – CFU-4

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 the property identified as 1S5E05A-00100 (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 reconfiguration of the parcel, lot, or unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. In the CFU-4 zone, the County also considers adjacent ownership on February 20, 1990 in determining whether a parcel, lot, or unit of land is a Lot of Record on its own. If the parcel, lot, or unit of land met all applicable zoning laws, applicable land division laws and meets the aggregation requirements, it may be determined to be a Lot of Record.

2.0 Property Description & History:

Staff: The subject property is located in unincorporated east Multnomah County in the area known as East of Sandy River rural area. The property is zoned CFU-4 and is located outside of Metro’s Urban Growth Boundary (UGB). The subject property is vacant.

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.2. Staff did not receive any public comments during the 14-day comment period.

4.0 Code Compliance and Applications 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.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

* * *

Staff: To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet MCC 39.3005(B) of this section and meet the Lot of Record standards set forth in the CFU-4 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 CFU district establish additional requirements unique to the district, which are evaluated in Sections 5.2 of this decision. The findings below analyze whether the Lot of Record provisions in section (B) have been met.

The applicant provided six deeds (Exhibits A.5, A.7, A.9, A.14, A.16 & A.20) to support the Lot of Record request. The earliest deed describing the subject property was recorded on May 25, 1976 (Exhibit A.14) and contains a legal description matching the current configuration of the subject property (Exhibit A.20). In 1976, the subject property was zoned F-2 per historical County zoning maps (Exhibit A.10).

The F-2 zone had a variable minimum lot size ranging from 2 acres to 38 acres depending on whether the land was defined as Agricultural Lands, Forest Lands or Non-Agricultural/Non-Forest Lands pursuant to MCC 1.015 (Exhibit A.11).

Agricultural Land was defined as: “a. Land of predominantly Class I, II, III and IV as identified in the Soil Capability Classification System of the United States by the Soil Conservation Service;

b. Other land suitable for farm use, taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices; and

c. Land in other soil classes which is necessary to permit farm practices to be undertaken on adjacent or nearby lands.”

Forest Land was defined as: “...a. Land composed of existing forested land suitable for commercial forest uses;

b. Other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;

c. Land on which extreme conditions of climate, soil and topography require the maintenance of vegetative cover; and

d. Other forested land in urban and agricultural areas which provides an urban buffer, wind break, wildlife and fisheries habitat, scenic corridor or recreational use. etc.”

The soils on the subject property are 5E Bull Run silt loam (15 – 30%) Class VI.e. and 5E Bull Run silt loam (30 – 60%) VI.e. The County’s 1977 Aerial Photograph for 1S5E05 shows the area as forested (see graphic below):



The subject property is “...composed of existing forested land suitable for commercial forest uses” based on its aerial, soil type and present day use as forested land. The Minimum Lot Size in 1976 for the subject property would have been 38 acres. In addition, the F-2 zone required a Minimum Front Lot Line Length of 50 feet and required a Lot to abut a street or shall have other access held suitable by the Hearings Council (Exhibit A.11).

The subject property is only 26.58 acres. Planning staff reviewed the Board of Adjustment cases for 1975 and 1976 to see if a Lot of Exception was approved. Planning staff found no Board of Adjustment case that would have authorized a smaller lot size.

On October 6, 1977, the subject property was rezoned to Multiple Use Forest 20 (MUF-20) (Exhibit B.7). The MUF-20 zone had a minimum lot size of 20-acres, required a 50-ft front lot line and access to a public street via a safe and convenient route (Exhibit B.9). The parent parcel in which the subject property was created did not abut a public street and did not have a front lot line length of 50-ft. Since the parent parcel was nonconforming to the access requirement and minimum front lot line length, staff believes that the use of an easement road from Larch Mountain Road to the subject property and the lack of a front lot line was found to be acceptable by staff as the County allowed a 6.78-acre unit of land to be divided out of the parent parcel and then adjusted into adjacent parcels in 1992. The subject property is 26.58 acres and met the minimum lot size at the time. The rezone to MUF-20 legalized the subject property as it met the minimum 20-acre lot size requirement.

The subject property complied with all applicable zoning laws after October 6, 1977 due to the rezone. Criteria met.

In 1976, the process to create or divide a parcel required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the May 1976 deed (Exhibit A.14), the applicable land division laws were satisfied.

Based upon the above, the subject property satisfied all applicable land division laws when it was created or reconfigured in 1976. Criteria met.

5.2 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

(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.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or

lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, SRC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

Staff: The subject property is 26.58-acres in size and is not adjacent to any CFU-4 properties that are less than 19-acres in size; it is not required to aggregate with any of the adjacent CFU-4 zoned properties to be a Lot of Record. The smaller properties to the south are zoned Rural Residential (RR). To the west, the property is zoned Multiple Use Agriculture – 20 (MUA-20). Aggregation requirements do not apply to properties within an exception zone. *MCC 39.3050(A)(1) has been met.*

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Staff: The subject property was not created by either a partition or subdivision plat in 1976.

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(c) Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

Staff: The subject property is currently vacant. Staff did not find a Lot of Exception or a Conditional Use permit that approved a smaller lot size. The subject property is not aggregated with any adjacent parcel, so disaggregation is not applicable.

(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 CFU-38 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;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) August 8, 1998, CFU-4 zone applied, Ord. 916 (reenacted by Ord. 997);**
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(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: Section (B) is for information purposes. The subject property has less than the minimum lot size for new parcels or lots in the CFU-4 zone and does not front onto a public street. It is subject to (C) above. It may be occupied by any allowed use, review use or conditional use provided it remains a Lot of Record.

(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: 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 tracts are not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

(E) Disaggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

(1) A Lot of Record may be disaggregated for consideration of a new dwelling under MCC 39.4090 and 39.4095 if: ...

* * *

Staff: The subject property is not aggregated with any adjacent CFU-4 property.

Based on the findings in 5.1 & 5.2, the subject property is a Lot of Record.

6.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

All exhibits are available for review in Case File T2-2022-15705 by contacting case planner, Lisa Estrin via email at lisa.m.estrin@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	4/26/2022
A.2	1	Certificate of Authority and Incumbency	4/26/2022
A.3	2	Narrative Lot of Record:1S5E05A-00100	4/26/2022
A.4	1	Exhibit A: Map Showing Area contained in Exhibit A.5. Date: April 1944	4/26/2022
A.5	2	Warranty Deed recorded on April 10, 1944 in Book 827, Page 395 & 396 [Describes TL 100, northern portion of 500 & 400, 1S5E05A (area within the NE1/4 of the NE 1/4)]	4/26/2022
A.6	1	Exhibit B: Map Showing Area contained in Exhibit A.7. Date: April 1955	4/26/2022
A.7	1	Warranty Deed recorded on April 22, 1953 in Book 1596, Page 436 [All of 1S5E05A-00100, 400, 500 & 600]	4/26/2022
A.8	1	Exhibit C: Map Showing Area Contained in Exhibit A.9 Date September 1975	4/26/2022
A.9	2	Bargain & Sale Deed recorded on November 20, 1975 in Book 1073, Page 720 [All of 1S5E05A-00100, 400, 500 & 600]	4/26/2022
A.10	1	Exhibit D: 1975 Zoning Map with Property Highlighted	4/26/2022
A.11	11	Exhibit D: 1975 Ordinance 115	4/26/2022
A.12	1	Exhibit E1: Map Showing Area After Land Division May 1976	4/26/2022
A.13	1	Survey 39495 for Conveyance July 1976	4/26/2022

A.14	1	Warranty Deed recorded on May 25, 1976 in Book 1105, Page 952 – 954 [Tax lot 1S5E05A-00100 only]	4/26/2022
A.15	1	Exhibit E2: Map Showing Area Tax Lot 1S5E05A-00100 Dated February 1988	4/26/2022
A.16	5	Bargain & Sale Deed recorded February 29, 1988 in Book 2083, Pages 588 – 596 & 602 [Tax lot 1S5E05A-00100 only]	4/26/2022
A.17	1	Exhibit F: Zoning Map 1977 Property Highlighted	4/26/2022
A.18	15	Exhibit F: Zoning Ordinance 148	4/26/2022
A.19	1	Exhibit G: Map Showing Area Contained in Tax Lot 1S5E05A-00100 Highlighted Dated May 2007	4/26/2022
A.20	6	Bargain & Sale Deed recorded on June 1, 2007 Instrument #2007-098727 [Tax lot 1S5E05A-00100 only]	4/26/2022
A.21	11	Exhibit H: Merger Longview Timberlands LLC into Weyerhaeuser Columbia Timberlands LLC	4/26/2022
A.22	12	Exhibit I: Preliminary Title Report	4/26/2022
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1S5E05A-00100 (R995050330 / R342752)	
B.2	8	Definitions for Zoning Ordinance dated 5/17/1974	5/19/2022
B.3	3	Parcel Record Card for R995050330 (1S5E05A-00100)	5/17/2022
B.4	1	Survey 39495	5/17/2022
B.5	1	Current Tax Map for 1S5E05A	5/17/2022
B.6	1	Zoning Map for 1S5E05 from 1962 to 10/5/1977 (F2)	5/19/2022
B.7	1	Zoning Map for 1S5E05 adopted 10/6/1977 (MUF-20)	5/19/2022
B.8	18	1975 Zoning Regulations	9/8/2022
B.9	7	Multiple Use Forest – 20 (MUF-20) Zoning Regulations adopted 9-16-1977	9.9.2022
‘C’	#	Administration & Procedures	Date
C.1	2	Complete letter (day 1)	5/19/2022
C.2	4	Opportunity to Comment and mailing list	5/25/2022
C.3	10	Administrative Decision and mailing list	9/15/2022