

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

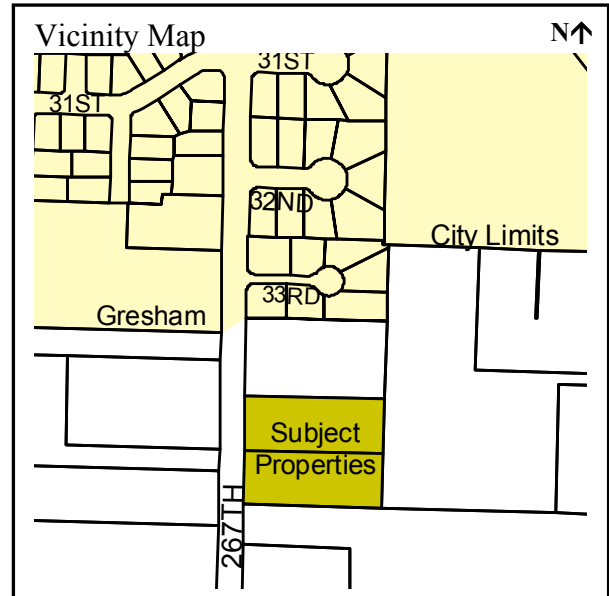
Case File: T2-04-097

Permit: Administrative Determination by the Planning Director

Location: 6932 SE 267th Ave
TL 4200, Sec 24BA, T1S, R3E, W.M.
Tax Account #R993240650 and
TL 4300, Sec 24BA, T1S, R3E, W.M.
Tax Account #993240610

Applicant: Susie Baynham
4500 West Road
Lake Oswego, OR 97035

Owner: Robert & Susie Baynham
Baynham Family Trust
4500 West Road
Lake Oswego, OR 97035



Summary: Request for a Director's Determination of whether the subject properties were legally created thus Lots of Record.

Decision: The Planning Director has determined that both of the subject properties are Lots of Record.

Unless appealed, this decision is effective February 23, 2005 , at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, February 9, 2005

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is February 23, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 37, MCC 36.0005(L)(13): Definitions Lot of Record and MCC 36.2870: Multiple Use Agriculture, Lot of Record

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.co.multnomah.or.us/dbcs/LUT/land_use.

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.


Note: To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. At the end of the report, Exhibits are described. The applicant's submittal is included and made part of this decision as Exhibit I.

1. **REQUEST FOR A LOT OF RECORD DETERMINATION**

MCC 37.0740 Interpretations: (A) The Planning Director shall have the authority to decide all questions of interpretation or applicability to specific properties of any provision of the comprehensive framework plan, rural area plan, or other land use code. Any interpretation of a provision of the comprehensive framework plan, rural area plan or other land use code shall consider applicable provisions of the comprehensive framework plan, rural area plan, and the purpose and intent of the ordinance adopting the particular code section in question. A request for an interpretation shall be processed as a Type II application.

Staff: The request is for a Planning Director's Determination of whether Tax Lot 4200 (Tax Account # R993240650) and Tax Lot 4300 (Tax Account # 993240610) are Lots of Record under MCC 36.2870 and MCC 36.0005(L)(13): Definitions Lot of Record. This type of request is processed as a Type II case with Administrative Decision.

2. **SITE AND VICINITY CHARACTERISTICS**

Staff: The subject properties are located along SE 267th Avenue. The properties  located about 190 feet south the Gresham City Limits and is within the Gresham Urban Growth Boundary (UGB) Springwater Community Plan Area and is designated as a Regionally Significant Industrial Area. The properties are within the Multiple Use Agriculture – 20 (MUA-20) Zone district.

3. **TYPE II CASE PROCEDURES**

MCC 37.0530 (B): Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Land Use Board of Appeals (LUBA) within 21 days of when the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Staff: Procedures outlined in MCC 37.0530 were followed in processing this case. An opportunity to appeal this case will be provided, if not appeal is failed the decision will become

final after 14 days after the date on the decision. The application was submitted November 22, 2004 and was deemed complete on January 7, 2005.

An "Opportunity to Comment" notice was mailed on January 10, 2005 to all owners of property within 750 feet of the subject site. They were given a 14-day period to provide comments on the application (MCC Chapter 37). Staff received a number of calls from neighbor requesting clarification of the application request. There was no opposition expressed.

4. **MULTIPLE USE AGRICULTURE ZONE DISTRICT LOT OF RECORD REQUIREMENTS**

MCC 36.2870 (A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this 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;

MCC 36.0005(L)(13) Lot of Record - Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. 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:

*** * ***

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;

Staff: The applicant submitted the following deeds

- Book 560, Pages 451 - 452, executed May 3, 1967, recorded May 8, 1967, describing Tax Lot TL 4200, Sec 24BA, T1S, R3E, W.M. (Tax Account #R993240650) and TL 4300, Sec 24BA, T1S, R3E, W.M. (Tax Account #993240610) as one parcel (Exhibit 1.3); and
- Book 606, Page 1067 and 1068, executed and recorded on February 12, 1968, describing Tax Lot 4200, Sec 24BA, T1S, R3E, W.M. (Tax Account #R993240650) (Exhibit (1.2)).

The deed recorded under Book 560, Pages 451 - 452, show both properties TL 4200 and TL 4300 were described as one parcel on May 8, 1967 thus the parent parcel for the subject properties. Since the parent property does not appear on the 1962 Zoning Map, it is possible this deed created the parent parcel. The parent parcel was within the SR District and existed as of 1967 as indicated by the deed. The SR District required for a parcel served by septic system to be a minimum parcel size of 20,000 or 40,000 square feet depending on whether the water source was public or private. The property was two acres in size, meeting the minimum acre requirement when it was created. The SR District also required that a new parcel abut a street. The parcel abuts 267th Avenue for slightly more than 260 feet.

On February 12, 1968 a deed recorded under Book 606, Page 1067 created TL 4200. While a deed was not filed also creating TL 4300, it was also created by the filing the deed recorded under Book

606, Page 1067 because that deed divided the property by dividing out TL 4200 with the reminder being 4300.

Both TL 4200 and TL 4300 created on February 12, 1968 were within the Suburban Residential (SR) Zone District at that time. These properties are each one acre in size, meeting the minimum size requirement for the SR District (as discussed earlier) when they were created. Both parcels about 267th Avenue for slightly more than 130 feet meeting the SR District requirement for access.

5. CONCLUSION

Considering the findings and other information contained herein, both of the subject properties, Lot TL 4200, Sec 24BA, T1S, R3E, W.M. (Tax Account #R993240650) and TL 4300, Sec 24BA, T1S, R3E, W.M. meet the requirements for a Lot of Record to satisfy all applicable laws when established as required under MCC 36.2870 (A).

6. EXHIBITS

Exhibits I: Submitted by the Applicant

- Exhibit 1.1: Application form submitted November 22, 2005 (1 page);
- Exhibit 1.2: Deed filed in County Records on February 12, 1968 on Book 606, Page 1067 and 1068, November 22, 2005 (2 pages);
- Exhibit 1.3: Deed filed in County Records on May 8, 1967 on Book 560, Pages 451 – 452 submitted December 17, 2005 (2 pages);

Exhibits II Supplied by County

- Exhibit 2.1: County Assessment Records (2 pages);
- Exhibit 2.2: Current County Assessment Map (1 page);
- Exhibit 2.3: 1962 Multnomah County Zoning Map showing SR Zone District

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.