



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/landuse>

NOTICE OF DECISION

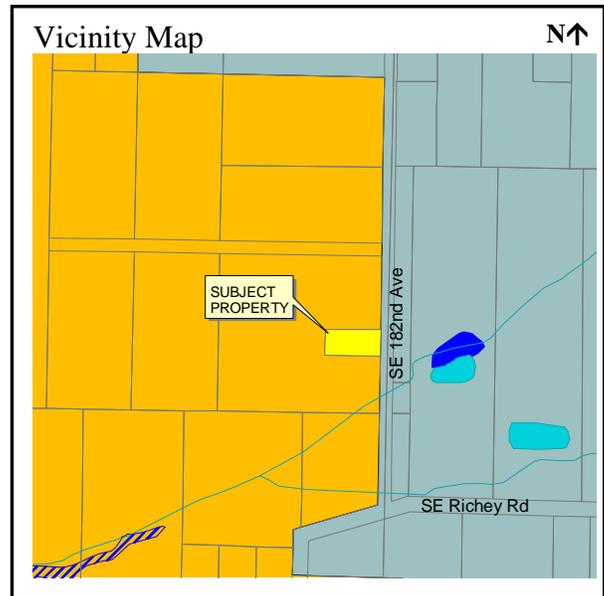
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-07-117

Permit: Lot of Record Determination

Location: 7401 SE 182nd Ave, Gresham, OR
Tax Lot 900, Section 19A,
Township 1S, Range 3E, W.M.

**Applicant
/ Owner:** Curtis Peterson



Summary: The property owner has applied for an administrative decision for a Lot of Record determination in the Rural Residential zoning district.

Decision: Denied. The subject property is not a Lot of Record.

Unless appealed, this decision is effective **Friday, February 15, 2008**, at 4:30 PM.

Issued by:

By: _____
Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director

Date: Friday, February 1, 2008

Opportunity to Review the Record: A copy of the Planning Director's 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 Kenneth Born, AICP, Staff Planner at 503-988-3043, ext. 29397.

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 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 Friday, February 15, 2008 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 11.15.2222 - 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/landuse>.

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Application Description**

Staff: The applicant has requested a Lot of Record determination for property located at 7401 SE 182nd Ave (Tax Lot 900, Section 19A, Township 1S, Range 3E, W.M.).

2. **Public Comment**

MCC 37.0530(B) Type II Decisions

(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 LUBA within 21 days of when the decision is signed.

Staff: The application was deemed complete upon submittal by the applicant. An opportunity to comment notice was mailed to property owners within 750-feet of the property lines on January 11, 2008. No comments were received. *Procedures met.*

3. **Proof of Ownership**

MCC 37.0550 Initiation Of Action.

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records shows Curtis Peterson as the owner of the subject property (Exhibit B.1). The property owner has signed the General Application Form (Exhibit A.1), thus giving authorization for the application. *This criterion has been met.*

4. **Code Compliance**

MCC 37.0560 Code Compliance And Applications.

The County shall not approve any application for a permit or other approval, including

building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code

Staff: Staff conducted a site visit on January 11, 2008, and did not observe code violations on the subject property. *This criterion has been met.*

5.0 The Subject Property is Not a Lot of Record

5.1 11.15.2222 Lot of Record

A. For the purposes of this district, a Lot of Record is a parcel of land:

- 1. For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and**

Staff: The 0.50-acre subject property was created in its current configuration by a Contract of Sale recorded with Multnomah County prior to October 6, 1977. This contract (Baker to Jordan, recorded October 17, 1958, Book 1929, Pages 487-489) is included as Exhibit A.2. *This criterion has been met.*

5.2 2. Which, when established, satisfied all applicable laws.

Staff: When the property was created in October 1958, it was subject to the rules promulgated under the Suburban Residential (SR) zoning district (Exhibit B.4). The zoning ordinance text for this district was adopted by the county on July 10, 1958.

The purpose of the SR zone was to “assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics,” and had a variable lot size depending on services which were available to each lot. In order to create a lot of at least twenty-thousand (20,000) square feet, and less than forty-thousand (40,000) square feet, the following minimum standards were required to be met [3.1531, page 8-C]:

1. Approved public water supply.
2. Approved individual sewage disposal system.
3. Approved public access.
4. Approved plan for future re-subdivision of total tract when urban conditions develop.

The language of the zoning ordinance did not specify the review procedures or process for determining compliance with these standards. Further, the county did not adopt uniform standards for the division of land and the installation of related improvements until 1978. However, the subject property and surrounding area was not served by an approved public water supply in 1958, and still relies on private wells to meet water supply needs. Therefore, the property owner at that time could not have created a parcel smaller than 40,000 square feet under the SR zoning district regulations. The current property is 21,780 square feet in size (0.50 acres).

The subject property, when established, did not satisfy all applicable laws. *This criterion has not been met.*

5.3 B. A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

Staff: The current minimum lot size pursuant to the Rural Residential zoning district is five acres [MCC 11.12.2218(A)]. This minimum lot size is increased to twenty acres when the property is within one-mile of the Urban Growth Boundary (UGB) (OAR, Chapter 660, Division 004). This property is within one-mile of the UGB.

The front lot line minimum is 50 feet [MCC 11.12.2218(C)]. The subject property is currently 0.50 acres in size, and has a front lot line of approximately 100 feet. However, as discussed under Finding 5.2, the subject property is not a Lot of Record.

5.4 C. Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.

Staff: A street or zoning district boundary does not intersect the subject property. *This criterion is not applicable.*

5.5 D. Except as otherwise provided by MCC .2220, .2224, and .7720, 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: No sale or conveyance of the subject property is proposed at this time. *This criterion is not applicable.*

6. Conclusion

Based on the findings and other information provided above, staff finds that the subject property is not a Lot of Record.

7. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	12/14/07
A.2	14	Deed Information <ul style="list-style-type: none"> a. Contract of Sale, Baker to Jordan, Book 1929 Pages 486-488, Dated 10/17/1958 b. Warranty Deed, Jordan to Jones, Book 1402, Page 2151, Recorded 11/30/1979 c. Quitclaim Deed, Ethel Jones to Robert Jones, Book 2189, Page 2345 d. Statutory Warranty Deed, Jones to Peterson, 	06/07/06

Book 2348, Page 2066			
'B'		Staff Exhibits	Date
B.1	1	A&T Property Information	N/A
B.2	1	Zoning Map (current)	N/A
B.3	1	Zoning Map (deemed to show 1955-58 zoning)	N/A
B.4	2	Zoning Ordinance Text – Suburban Residential, Section 3.15, effective 7/10/1958-10/6/1977	N/A
'C'		Administration & Procedures	Date
C.1	1	Complete Letter	01/11/08
C.2	1	Opportunity to Comment	01/11/08