



**MULTNOMAH COUNTY**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.multco.us/landuse>

---

## NOTICE OF DECISION

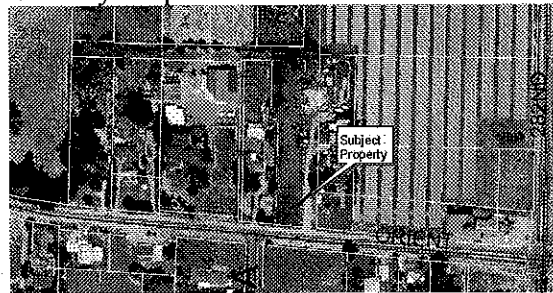
---

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

**Case File:** T2-2011-1413  
**Permit:** Lot of Record Determination  
**Location:** Tax Lot 3500, Section 24AA, Township  
1S, Range 3E, W.M.  
Tax Account#: R316401420  
**Applicant:** James & Cindy Troupe  
**Owner:** Arwyn Barnes, et. al., James & Cindy  
Troupe, Barbara Gunesch, & Beverly  
Barnes.

Vicinity Map

N↑



---


**Summary:** Lot of Record Determination

**Decision:** The property is not a Lot of Record.

Unless appealed, this decision is effective May 27, at 4:00 PM.

---

Issued by:

By:   
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Friday, May 13, 2011

**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 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 Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

**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 May 27, 2011 at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 36.3470 (Lot of Record – OR zone), MCC 36.0005 (Definitions – Lot of Record), MCC Chapter 37 (Administration and Procedures).

Copies of the referenced Multnomah County Code (MCC) 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>  
<http://web.multco.us/transportation-planning>.

**NOTICE OF APPEAL HEARING**  
**CASE FILE T2-2011-1413**

**If an appeal of this decision is filed, a public hearing will be held on June 10, 2011. The hearing will begin at 1:00 PM or soon thereafter.**

If an appeal is filed, the hearing will take place in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing.

The Hearing shall be regarding the application for a Lot of Record Determination for property described as Tax Lot 3500, Section 24AA, Township 1 South, Range 3 East, Willamette Meridian. Applicable criteria are listed on page 2 of the Decision.

This Decision serves as the staff report available at the hearing pursuant to MCC 37.0620(D). Copies of the referenced Multnomah County Code sections and staff report can be obtained by contacting our office at 503-988-3043.

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

**A public hearing to consider any appeal will be conducted before one of the following County Hearings Officer's:**

Joan Chambers  
Liz Fancher

**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*.

### **1.00 Lot of Record Determination**

#### **1.01 MCC 36.0005 Definitions.**

**...Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 36.7785. 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.**

**1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**

**2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.**

**MCC 36.3470 Lot of Record.**

**(A) In addition to the definition standards for a Lot of Record, 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 and R zones 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, RC zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982**

**(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 36.3485, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**(C) Except as otherwise provided by MCC 36.3460, 36.3475, and 36.3400 through 36.3460, 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 the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.**

**(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:** Lot 1 of Block 4 Gillis Subdivision was created on April 18, 1912 (Exhibit B.3) and is currently zoned Orient Rural Center (OR). The subdivision occurred prior to countywide zoning.

The County's earliest zoning maps from 1962 (Exhibit B.7) shows Lot 1 as it was when it was created in 1912.

A County zoning map dated January 1966 (Exhibit B.8) shows a new "lot" that appears to be comprised of the western 42 feet of Lot 1 and the eastern 42 feet of Lot 2 and it is assumed that the property was created between 1962 and 1966. It is not clear what action created this additional lot because the applicant has not provided information regarding how this occurred and staff has no record of a partition. The creation of an additional "lot" from the existing two resulted in three properties ranging in size from 28,400 square feet to 30,000 square feet. The zoning in effect in the period from 1958 through 1977 was Suburban Residential (SR) (Exhibit B.7 map). The SR zone allowed for the creation of property with a minimum lot size ranging from 10,000 square feet to 40,000 square feet depending on various standards (Exhibit B.5). The standards for the creation of property in the SR zone for property with a minimum lot size of 20,000 square feet and up to 39,999.99 square feet were as follows:

- 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.*

We have not received any evidence that the further partitioning of the two existing Subdivision Lots (Lots 1 and 2, Gillis Block 4) that resulted in three properties was reviewed and approved by Multnomah County.

A Boundary Agreement was filed in the Multnomah County Records on November 21, 1981 (Exhibit A.7) that transferred 5,320 square feet to the newer "lot" to the west. The zoning in effect at the time of this second adjustment was Rural Center (RC) (Exhibit B.9).

Because the subject subdivision lot (Lot 1, Block 4, Gillis Subdivision) was reconfigured by deed, the original subdivision lot boundaries are still existing (Exhibit B.4 – plat map) and the entirety of Lot 1, Block 4, Gillis is not under the same ownership. Further, the adjustments to the lot were not reviewed by Multnomah County for compliance with the zoning in effect at the time. *Tax Lot 3500 of Section 24AA, Township 1 South, Range 3 East, Willamette Meridian is not a Lot of Record.*

## 2.00 Conclusion

Based on the findings and information provided above, Tax Lot 3500 of Section 24AA, Township 1 South, Range 3East, Willamette Meridian is not a Lot of Record is not a Lot of Record.

## 3.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

All exhibits are available for review in Case File T2-2011-1413 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	1/21/2011
A.2	1	A&T Parcel Record	1/21/2011
A.3	1	Cert. of Death, Arwyn Barnes date June 26, 2009	1/21/2011
A.4	1	County Plat Map	1/21/2011
A.5	1	Copy of Gillis Subdivision	1/21/2011
A.6	1	October 6, 1977 County Zoning Map	1/21/2011
A.7	3	Boundary Agreement and Deed, recorded in Book 1402, Page 769 (Multnomah County Deed Records) on November 21, 1979.	1/21/2011
A.8	2	Warranty Deed recorded in Book 1943, Page 1835 (Multnomah County Deed Records), dated September 23, 1981.	1/21/2011

A.9	2	Warranty Deed recorded as Instrument Number 2006-210870 in the Multnomah County Deed Records, dated November 9, 2006.	1/21/2011
A.10	1	Letter of Authorization from property owner Barbara Gunesh dated November 17, 2010.	1/21/2011

'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	1/21/2011
B.2	4	Pre-file Meeting Notes	1/21/2011
B.3	1	Gillis Subdivision Plat, dated April 18, 1912	5/10/2011
B.4	1	A&T Plat Map	5/11/2011
B.5	6	Copy of Suburban Residential Zoning Code from December 22, 1960.	5/11/2011
B.6	7	Copy of Rural Center Zoning Code from September 6, 1977.	5/11/2011
B.7	1	1962 County Zoning Map – depicts first zoning	5/11/2011
B.8	1	1966 County Zoning Map	5/11/2011
B.9	1	October 6, 1977 County Zoning Map	5/11/2011

'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter	2/22/2011
C.2	1	14-Day Opportunity to Comment	2/23/2011