

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2018-11180

Permit: Lot of Record Verification

Applicants: Zach Owen

Owners: Michael and Antonia Robinson

Location: 33925 E Historic Columbia River Highway, Corbett
Tax Lot 400, Township 1 North, Range 4 East, Section 33DD, W.M.
Tax Account #R944330730 Property ID #R322560

Base Zone: Multiple Use Agriculture – 20 (MUA-20)

Overlays: None

Proposal Summary: The applicant requests a Lot of Record Verification for Tax Lot 400, Township 1 North, Range 4 East, Section 33DD

Determination: The property known as 33925 E Historic Columbia River Highway is a single Lot of Record.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, February 21, 2019 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 at the Land Use Planning office. Copies of all documents may be purchased for \$0.30/per page. For further information on this case, contact Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@multco.us.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 39.1160. 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 or at (503) 988-3043. This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by:

By:

Chris Liu, Assistant Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, February 7, 2019

Instrument Number for Recording
Purposes: #2016-042576



Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560 Code Compliance and Applications, MCC 35.0005 Definitions, MCC 35.2870 Lot of Record

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 35 – East of Sandy River Rural Area* and *Chapter 37 – Administration and Procedures*

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Prior to Land Use Planning sign-off for a building permit, the property owners or their representative shall:
 - a) Record pages 1 through 2 and Exhibit A.5 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]

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 has submitted an application to verify the Lot of Record status for the property known as 33925 E Historic Columbia River Hwy., Corbett (1N4E33DD-00400).

2.0 Property Description:

Staff: This Lot of Record Verification is for a property on E Historic Columbia River Hwy, Corbett in the Multiple Use Agriculture – 20 (MUA-20) zoning district in the East of Sandy River Rural Area. The subject property is outside of the Columbia River Gorge National Scenic Area and the Metro Urban Growth Boundary.

According to County tax records, the subject property contains a single-family dwelling constructed in 1974. Tax records also indicate that there is 836 sq. ft. accessory/farm building, a 370 sq. ft. shed and a 200 sq. ft. covered deck. Review of the County’s aerial photographs finds at least two unpermitted outbuildings, at least one unauthorized addition to the accessory/farm building and one unauthorized addition to the dwelling.

3.0 Public Comment:

3.1 E-mail from Laurie and George Grove, Nearby Property Owners

The Groves expressed that they would be opposed to any proposal related to a Marijuana operation on the subject property.

Staff: This application is for a Lot of Record Verification and does not contain any proposal for a Marijuana operation on the subject property.

4.0 Administration & Procedures

4.1 MCC 37.0560 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 Land Use 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 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: Aerial photos indicate that there are numerous accessory buildings on the subject property. Staff did not find permits on record for any of these accessory buildings. Upon approval of this Lot of Record Verification, the property owners will be able to attempt to permit these building, the addition to the dwelling, and the addition to the barn to bring the property into full compliance.

5.0 Multiple Use Agriculture -20 Criteria:

5.1 MCC 35.2870 LOT OF RECORD.

5.1.1 (A) In addition to the Lot of Record definition standards in MCC 35.0005, 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;**
- (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.**

MCC 35.0005 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 35.7785. 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.

Staff: The applicant submitted a warranty deed from 1967 describing the subject property in its current configuration (Exhibit A.3). In 1967, the zoning for the subject property was 'F-2' and the minimum lot size was 2.0 acres (Exhibit B.2). The subject property is approximately 3.09 acres; hence, the property met the minimum lot size requirements of the F-2 zone. In the statutory warranty deed from 2016 (Exhibit A.4), the legal description matches the original legal description found in the 1967 warranty deed (Exhibit A.3). Therefore, the subject property is a single lot of record. *Criteria met.*

5.1.2 (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 35.2885, 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 MUA-20, which has a twenty-acre minimum lot size and the requirement of 50 feet of street frontage. The subject property is only 3.09 acres, but has been found to be a Lot of Record under finding 5.1.1. The subject property may be occupied by any land use permissible under the MUA-20 requirements provided the proposed use does not have a minimum lot size requirement larger than 3.09 acres. In addition, the subject property contains an access point onto the public street known as E Historic Columbia River Hwy.

5.1.3 (C) Except as otherwise provided by MCC 35.2860, 35.2875, and 35.4300 through 35.4360, 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: The applicant is not proposing a land division or property line adjustment at this time (Exhibit A.1). This criterion does not affect the outcome of this Lot of Record Verification.

5.1.4 (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: The subject property was created by the recording of a metes and bounds description in 1967 which followed the land division process at that time (Exhibit A.3). The subject property was not created by the foreclosure of a security interest or a court decree. The subject property is not an area of land described solely for assessment and taxation purposes. *Criteria met.*

6.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received

Exhibits with a "*" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2018-11180 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received
A.1	1	General Application Form	11.16.2018
A.2	2	Parcel Record Card for 1N 4E 33DD -00400	11.16.2018
A.3	1	Warranty Deed recorded in Book 573, Page 1644 on July 26, 1967	11.16.2018
A.4	3	Statutory Warranty Deed recorded as instrument #2016-042576 on April 8, 2016.	11.16.2018
*A.5	1	Tax Lot map for 1N 4E 33DD	11.16.2018
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E07DB -00300 (R994070350)	11.16.2018
B.2	1	1962 Zoning Map	11.16.2018
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	11.26.2018
C.2	5	Opportunity to Comment	11.28.2018
C.3	7	Administrative Decision	2.7.2019

'D'	#	Comments Received	Date
D.1	1	E-mail from Laurie and George Grove	12.9.2018

