
NOTICE OF DECISION

Case File: T2-2019-12037

Permit: Lot of Record Verification

Applicant(s): Brad Troutner **Owner(s):** CDC Properties II, LLC.

Location: NE Lucas Road, Troutdale
Tax Lot 200, 600, and 1300 Section 32D, Township 1 North, Range 4 East, W.M.
Alternate Account # R944320040, R944320100, R944320110,
Property ID #R322482, R322487, R322488

Zoning: Exclusive Farm Use (EFU)

Overlays: Significant Environmental Concern – Streams (SEC-s)

Proposal Summary: The applicant requests a single Lot of Record Verification for the three tax lots referenced above. Staff will determine if the three tax lots combined are a single parcel and whether it satisfies the relevant Lot of Record approval criteria found in Multnomah County Code.

Determination: Tax Lot 200, 600, and 1300, when consolidated, form a single Lot of Record

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, August 12, 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 are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@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: 
Chris Liu, Assistant Planner

For: Adam Barber
Interim Planning Director

Date: Monday, July 29, 2019

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC):

MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3070 Lot of Record – Exclusive Farm Use

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at <http://multco.us/landuse/zoning-codes> under the link *Chapter 39: Zoning Code*.

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. Record pages 1 through 2 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 39.1175]

Note: A *Request for Consolidation* form is included with this decision for you to submit to County Assessment, Recording & Taxation to consolidate the three (3) tax lots into a single tax lot to correspond with the Lot of Record.

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 single parcel contained in the three tax lots (1N4E32D -00200, 1N4E32D -00600, and 1N4E32D -01300).

2.0 PROPERTY DESCRIPTION:

Staff: The legal description submitted is for a single parcel that is approximately 12.79 acres in size. The single parcel is divided into three tax lots for taxation purposes only. Tax lots do not always contain the entire legal parcel within their boundaries. Tax lot 1300 fronts onto NE Lucas Road. The other two tax lots do not have road frontage. The subject parcel is located in rural East Multnomah County within the Exclusive Farm Use (EFU) zoning district. The property is outside of the Metro Urban Growth Boundary and outside the boundaries of the National Scenic Area.

3.0 GENERAL PROVISIONS:

3.1 MCC 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: The subject property is vacant. This section of the code does not require Staff to make an affirmative finding that there are no existing violations on the subject property. This decision is limited to the Lot of Record Verification request.

4.0 LOT OF RECORD CRITERIA:

4.1 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.)...**

Staff: The applicant submitted a real estate contract recorded on January 6, 1961 that describes tract of land that is a single parcel of 12.79 acres in size (Exhibit A.2). In 1961, the zoning for the subject property was F2, which had a minimum lot size of 2.0 acres (Exhibit B.4). The subject 12.79-acre parcel exceeded the minimum lot size requirements of the F2 zone and it fronts onto NE Lucas Road, which is a public road. In 1975, a warranty deed describing a single parcel was recorded, which sold the subject property to the Noonan Family.

A copy of the Memorandum of Contract of Sale, which was recorded as Instrument #2016-148188 and is included as Exhibit B.5, contains a legal description for a single parcel and matches the original legal description found in the 1961 real estate contract (Exhibit A.2). This contract relates to the terms of sale to transfer the property from the Noonan Family to the current owners. Therefore, the creation of this property in 1961 satisfied all applicable zoning laws and land division laws at the time. *Criteria met.*

4.2 MCC 39.3070: Lot of Record – Exclusive Farm Use (EFU)

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU 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 Figure 1 below 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 or urban zones (e.g., MUA-20, RR, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

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

Staff: The applicant provided a warranty deed recorded on May 15, 1975 (Exhibit A.3) transferring ownership of the approximately 12.79 acre subject property to the Noonan Family. The Noonan Family owned the subject property from 1975 until the recording of the memorandum of Contract of Sale in 2016 (Exhibit B.5). The Applicant provided a map of adjacent properties with the names of the property owners from 1990 as Exhibit A.4. The associated title reports demonstrating ownership for the adjacent properties are included as Exhibits A.6 – A.14. As shown on the Applicant's map and the associated title reports, the Noonan Family did not own any contiguous parcels or lots as of February 20, 1990. Therefore, the subject property is a single approximately 12.79 acre Lot of Record. *Criteria met.*

- 4.3 (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 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

Staff: The subject property remains in the same configuration as the tract described in 1961.

- 4.4 (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: The subject parcel was created by the recording of a real estate contract in 1961 which followed the land division process at that time (Exhibit A.2). The subject property was not created by the foreclosure of a security interest or a court decree. The single parcel is not an area of land described solely for assessment and taxation purposes, though three tax lots together contain the entirety of the legal parcel. *Criteria met.*

Based upon the findings in 4.1 through 4.4, the subject property is a single approximately 12.79 acre Lot of Record.

5.0 EXHIBITS:

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

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 T2-2019-12037 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	4	Application Form	05.31.2019

A.2	2	Real Estate Contract recorded on January 6, 1961 in Book 2043, Page 324-325	05.31.2019
A.3	3	Warranty Deed recorded on May 15, 1975 in Book 1040, Page 1560-1562	05.31.2019
A.4	1	Map of Adjacent Properties and Ownership on February 20, 1990	05.31.2019
A.5	14	Title Report for 1N4E32D -00200 (Tax Lot 200); 1N4E32D -00600 (Tax Lot 600); 1N4E32D -01300 (Tax Lot 1300)	05.31.2019
A.6	11	Title Report for 1N4E32D -00700 (Tax Lot 700)	05.31.2019
A.7	13	Title Report for 1N4E32D -00100 (Tax Lot 100)	05.31.2019
A.8	22	Title Report for 1N4E32D -00500 (Tax Lot 500)	05.31.2019
A.9	25	Title Report for 1N4E32D -00300 (Tax Lot 300)	05.31.2019
A.10	12	Title Report for 1N4E32D -01400 (Tax Lot 1400)	05.31.2019
A.11	11	Title Report for 1N4E32A -03700 (Tax Lot 3700)	05.31.2019
A.12	10	Title Report for 1N4E32A -03800 (Tax Lot 3800)	05.31.2019
A.13	9	Title Report for 1N4E32D -01200 (Tax Lot 1200)	05.31.2019
A.14	6	Title Report for 1N4E32D -01900 (Tax Lot 1900)	05.31.2019
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N4E32D -00200 (Tax Lot 200)	05.31.2019
B.2	2	A&T Property Information for 1N4E32D -00600 (Tax Lot 600)	05.31.2019
B.3	2	A&T Property Information for 1N4E32D -01300 (Tax Lot 1300)	05.31.2019
B.4	1	F2 Zoning Code as of December 22, 1960	05.31.2019
B.5	3	Memorandum of Contract of Sale recorded as Instrument #2016-148188	05.31.2019
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	06.25.2019
C.2	2	Opportunity to Comment	06.27.2019
C.3	7	Administrative Decision	07.29.2019