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## NOTICE OF DECISION

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**Case File:** T2-2019-12054

**Permit:** Lot of Record Verification

**Applicant(s):** Jeff Jones      **Owner(s):** Jeff Jones

**Location:** 31439 SE Division Dr., Troutdale  
Tax Lot 400 and 500, Section 08AC, Township 1 South, Range 4 East, W.M.  
Alternate Account #R994080310 & R994080260  
Property ID #R341622 & R341617

**Zoning:** Rural Residential (RR)

**Overlays:** Significant Environmental Concern – wildlife habitat (SEC-h)

**Proposal Summary:** The applicant requests a Lot of Record Verification for the above referenced property.

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**Determination:** Once the two units of land contained in the two tax lots, 1S4E08AC – 00400 and 1S4E08AC - 00500 are combined back into a single, 2.0 acre parcel, the subject property will be a 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 August 29, 2019 at 4:00 pm.**

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**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](mailto: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 190<sup>th</sup> Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

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**Issued By:**   
Chris Liu, Assistant Planner

**For:** Adam Barber  
Interim Planning Director

**Date:** Thursday, August 15, 2019

Instrument Number for Recording  
Purposes: #2006 -234529

## 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 39.3090 Lot of Record – Rural Residential

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at [multco.us/landuse/zoning-codes](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. If the property owner is not able to consolidate the two tax lots into a single tax lot with Assessment and Taxation, they shall record pages 1 through 3 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]
  - (a) Proof of recording of the decision if required as noted above, must be presented prior to issuance of any development permit.

### **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*.

### **1.0 Project Description:**

**Staff:** The applicant requests a Lot of Record Verification for Tax Lots 400 and 500, Section 08AC, Township 1 South, Range 4 East, W.M. The subject property is located at 31439 SE Division Dr.

### **2.0 Property Description:**

**Staff:** The subject property is located in rural East Multnomah County in the Rural Residential (RR) zone. The property is outside of the Metro Urban Growth Boundary and outside of the Columbia River Gorge National Scenic Area. It contains an existing single family dwelling constructed around the year 1968 and an outbuilding.

### **3.0 Administrative Procedures Criteria:**

#### **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:** There are no identified compliance issues on the subject property other than the creation of two unpermitted units of land. This section of the code does not require Staff to make an



affirmative finding that there are no existing violations on the subject property as no development is proposed. 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.)...**

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**Staff:** The applicant submitted a recorded real estate contract from May 20, 1965 describing a single 2.0 acre parcel. Tax Lots 400 and 500 combined encompass this 2.0 acre parcel (Exhibit A.2). In 1965, the zoning for the subject property was F2, which had a minimum lot size of 2.0 acres (Exhibit B.4). From the information provided by the applicant (Exhibits A.5 & A.6), planning staff obtained from County records a copy of the statutory warranty deed from 2006 (Exhibit B.3), the legal description matches the legal description found in the 1965 contract of

sale (Exhibit A.2). The creation of this 2.0 acre parcel in 1965 satisfied all applicable zoning laws and land division laws at the time. *Criteria met.*

#### **4.2 MCC 39.3090: Lot of Record – Rural Residential:**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the RR 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, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

**(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 39.4395, 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 Rural Residential (RR), which has a five-acre minimum lot size, requirement of public or private street frontage and a minimum front lot line length of 50 feet. The subject property is approximately 2.0 acres, fronts onto the public road known as SE Division Dr. and has a front lot line length of approximately 183 feet (Exhibit A.7). While the parcel has less than the minimum lot size for a new parcel in the RR zone, it is a legally created parcel under finding 4.1 of this land use decision.

#### **4.3 (C) Except as otherwise provided by MCC 39.4380, 39.4385, and 39.5300 through 39.5350, 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 current deed for the subject property contains the same legal description (Exhibit B.3) as described in the 1965 deed (Exhibit A.2). No changes to the configuration in the aforementioned legal descriptions are proposed as part of this application.

#### **4.4 (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 legal configuration of the subject property was not created by the foreclosure of a security interest or a court decree. The legal configuration of the subject property is not an area of land described solely for assessment and taxation purposes. *Criteria met.*

*Based upon the findings in 4.1 through 4.4, once the two units of land contained in the two tax lots, 1S4E08AC – 00400 and 1S4E08AC - 00500 are combined back into a single, 2.0 acre parcel, the subject property will be a 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 T2-2019-12054 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	06.04.2019
A.2	4	Contract recorded on May 20, 1965 in Book 298, Page 252-254	06.04.2019
A.3	4	Warranty Deed recorded on October 4, 1967 in Book 585, Page 181-184	06.04.2019
A.4	1	Parcel Record Card for 1S4E08AC -00800	06.04.2019
A.5	2	Parcel Record Card for 1S4E08AC -00500	06.04.2019
A.6	2	Parcel Record Card for 1S4E08AC -00400	06.04.2019
A.7	1	Tax Map identifying the subject property	06.04.2019
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	1	A&T Property Information for 1S4E08AC -00500	06.04.2019
B.2	1	A&T Property Information for 1S4E08AC -00400	06.04.2019
B.3	2	Statutory Warranty Deed recorded on December 20, 2006 as Instrument #2006-234529	06.04.2019
B.4	1	F2 Zoning Code effective June 18, 1964	06.04.2019
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	1	Complete Letter (Day 1)	05.16.2019
C.2	2	Opportunity to Comment	07.01.2019
C.3	6	Administrative Decision	08.14.2019