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## NOTICE OF DECISION

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**Case File:** T2-2019-12633

**Permit:** Lot of Record Verification

**Applicants:** Joshua Hardy **Owners:** Joshua & Justine Hardy

**Location:** 7507 SE Pleasant Home Road, Gresham  
Tax Lot 100, Section 20DB, Township 1 South, Range 4 East, W.M. (1S4E20DB-00100)  
Tax Account #R994200550 Property ID #R342322

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

**Overlays:** N/A

**Proposal Summary:** Applicant requests a Lot of Record Verification for the subject property. This process essentially verifies the “legal status”, as staff will determine if the current configuration of the subject property met the zoning and land division laws at the time of creation or reconfiguration

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**Determination:** The subject property (1S4E20DB -00100) is a Lot of Record in its current Configuration.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, December 23, 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](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 190th 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:** 

**By:** Chris Liu, Planner

**For:** Adam Barber, Interim Planning Director

**Date:** Monday, December 9, 2019

Instrument Number for Recording  
Purposes: #2019-112997

## Vicinity Map



### 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 39.3080 Lot of Record – Multiple Use Agriculture - 20

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-304 or by visiting our website at <https://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. Prior to land use sign-off for building plan check, the property owners or their representative shall:
  - a. 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]

#### **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 Lot 1S4E02DB - 00100 (the “subject property”). The subject property is identified as 7507 SE Pleasant Home Road, Gresham. No development is proposed at this time.

Through the Lot of Record Verification process, the County reviews the creation or reconfiguration of each parcel, lot or unit of land involved in the request. The County then verifies that the creation or reconfiguring of the unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. If the unit of land met all the applicable zoning and land division laws in effect at the time, it may be determined to be a Lot of Record.

### **2.0 PROPERTY DESCRIPTION:**

**Staff:** The subject property is located in rural East Multnomah County and is zoned Multiple Use Agriculture - 20 (MUA-20). The subject property is 0.50 +/- acres and is outside the Urban Growth Boundary and outside the Columbia River Gorge National Scenic Area. County Tax Records note improvements on the subject property including a single-family dwelling constructed in 1928, a 336 sq. ft. carport, a 336 sq. ft. detached garage, and a 240 sq. ft. shed.

### **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.**

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**Staff:** As noted in Section 1.0 above, this application is a request for a Lot of Record Verification, which does not require the County to approve development, a land division, a property line adjustment, or a building permit. Therefore, this standard is not applicable at this time.

### **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:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must have (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

#### Applicable Zoning Laws

To satisfy all applicable zoning laws at the time of creation or reconfiguration, the subject property must have been in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

The case file contains a recorded warranty deed from July 22, 1946 describing the current configuration of the subject property (Exhibit A.3). At the time of recording of the 1946 deed referenced above, the area where the subject property is located did not have zoning regulations established (Exhibit B.2 – B.3). Therefore, the recording of the warranty deed in 1946 satisfied all applicable zoning laws at that time.

### Applicable Land Division Laws

In 1946, the process to divide a property into new units of land was to write up new legal descriptions and record a new deed or contract that utilized the new description. The property owner at that time satisfied all applicable land division laws at that time (Exhibit A.3).

*Based on the information discussed above, the creation of this parcel in 1946 satisfied all applicable zoning and land division laws at the time.*

#### **4.2 MCC 39.3080 Lot of Record – Multiple Use Agriculture -20**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 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.**

**(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 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** While the parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it is a legally created parcel under finding 4.1 of this land use decision. The subject property may be occupied by any land use permissible subject to the MUA-20 requirements provided the proposed use does not have a minimum lot size requirement larger than 0.50 acres and the use is in compliance with other requirements of the MUA-20 district.

#### **4.3 (C) Except as otherwise provided by MCC 39.4330, 39.4335, 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 subject property remains in the same configuration as described in the 1946 warranty deed (Exhibit A.3). Any structures that did not exist prior to zoning regulations would need to meet the minimum yard requirements for the MUA-20 zone as per MCC Chapter 39.

#### **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 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. *Criteria met.*

*Based upon the findings in 4.1 through 4.4, the subject property is a single 0.50 +/- 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 T2-2019-12633 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form	11.05.2019
A.2	3	Personal Representatives Deed recorded October 18, 2019 as instrument no. 2019-112997	11.05.2019
A.3	1	Warranty Deed from July 22, 1946 recorded in Book 1080, Page 88.	11.05.2019
A.4	2	Parcel Record Card for 1S4E20DB-00100	11.05.2019
‘B’	#	Staff Exhibits	Date
B.1	3	Department of Assessment, Records and Taxation (DART) Property Information for 1S4E20DB -00100	11.05.2019
B.2	1	1962 Zoning Map for 1S4E20D	11.05.2019
B.3	6	Multnomah County Interim Zoning Ordinance May 26, 1953	11.05.2019
‘C’	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	11.12.2019
C.2	3	Opportunity to comment & mailing list	11.15.2019
C.3	6	Administrative decision & mailing list	12.09.2019