
NOTICE OF DECISION

Case File: T2-2019-12587

Permit: Lot of Record Verification

Applicants

Owners: Glynn & Julie Allott

Location: 33341 SE Carpenter Lane
Tax Lot 800, Section 21DB, Township 1 South, Range 4 East, W.M.
Alternative Tax Account: R994210600, Property ID #R R342510

Zoning: Multiple Use Agriculture – 20 (MUA-20)

Proposal Summary: The applicant requests a Lot of Record Verification for the above referenced property. Staff will determine if the current configuration of the subject property satisfies the relevant Lot of Record approval criteria found in Multnomah County Code.

Determination: The subject property, known as 1S4E21DB – 00800, is a Lot of Record in its current configuration.

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, January 3, 2020, 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 George Plummer via email at george.a.plummer@multco.us or phone (503) 988-0202 or (503) 988-3043 for Planner on Counter Duty, office hours 8 am to 4 pm Tuesday through Friday.

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:

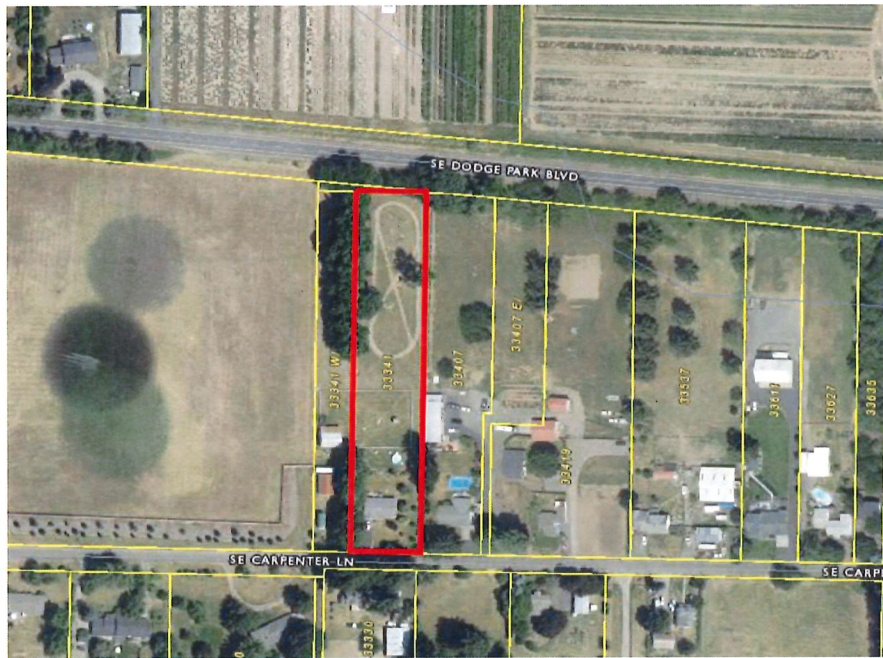


George A. Plummer, Planner

For: Adam Barber
Interim Planning Director

Date: Friday, December 19, 2019

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IS 4E 21DB

SEE MAP IS 4E 21A



IS 4E 2IDB

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) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link *Chapter 39: Multnomah County Zoning Code*.

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. PROPOSED REQUEST

Staff: The applicant requests a Lot of Record Verification for property located at 33341 SE Carpenter Lane also known as tax lot 1S4E21DB – 00800 (Exhibit A.1).

2. PROPERTY DESCRIPTION

The subject property is a 2 acre parcel in the rural unincorporated Multnomah County within the Multiple Use Agriculture (MUA-20) Zone, outside of the Urban Growth Boundary (Exhibit B.1). The property currently contains a single family dwelling constructed around 1970 with an attached garage.

3. ADMINISTRATIVE PROCEDURES CRITERIA

Code Compliance and Applications.

MCC 39.1515 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.

Staff: There are no known compliance issues on the subject property at this time. As noted in Section 1.0 above, this application is a request for a Lot of Record Verification. Therefore, the County may make a decision on this application request without making a finding that all buildings, structures or uses are in full compliance with Multnomah County Code.

4. LOT OF RECORD

Lot of Record – Generally

- 4.1. MCC 39.3005(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.

MCC 39.3005(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 application submittal included a copy of the subject property’s Multnomah County Assessment, Cartographic Unit, Parcel Record showing the first deed for the parcel as a deed recorded on July 10, 1968 in Book 626, on Page 135 (Exhibit A.2). The application submittal also included a copy of this warranty deed recorded on July 10, 1968 with County Records Management in Book 629, on Pages 135 (Exhibit A.4). It describes the subject 2 acre property in its current configuration.

Between 1958 and October 5, 1977 the property was within the Suburban Residential (SR) Zone (Exhibit B.3). The SR zone in 1968 had a minimum lot size matrix with three potential minimum lot sizes depending on available services to the parcel. The largest SR minimum lot size was 40,000 square feet. To establish a 40,000 sq. ft. lot or larger, the parcel had to have public road frontage, be served by either public water or private well, and be approved for an individual sewage disposal system. In addition, the minimum average lot width for a new property was 70 feet and a minimum lot depth of 100 feet (Exhibit B.4). The subject parcel is two acres and fronts onto the public street known as Carpenter Lane. It is occupied by a single family dwelling which is served by a septic system. The property is located within the Pleasant Home Water District. The property is rectangular with a 125 lot width and a depth of over 640 feet. (Exhibit B.4). The subject property met the SR zone lot requirements when it was created in 1968. *The subject property meet the zoning requirements when created.*

In 1968, the County’s Subdivision ordinance did not regulate the creation of 3 or less parcels. To create a parcel, a property owner needed to file a deed that met the minimum zoning requirements and contained a new legal description describing the new parcel. The 1968 warranty deed lawfully created the parcel by dividing the area from the adjacent land. *The subject property meet the land division requirements.*

The applicant provided a copy of the Personal Representative's Deed transferring the property to the Allott's in 2015 (Exhibit A.6 and B.5). The legal description matches the legal description found in the 1968 Warrant Deed that created the parcel (Exhibit A.?). The creation of this parcel in 1978 satisfied all applicable zoning laws and land division laws at the time as discussed above. *Criteria met.*

4.2. Lot of Record – Multiple Use Agriculture - 20

MCC 39.3080(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;

* * *

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

* * *

MCC 39.3080(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.

MCC 39.3080(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 current zoning for the property is Multiple Use Agriculture – 20 (MUA-20), which has a 20-acre minimum lot size, requirement of street frontage and a minimum front lot line length of 50 feet. The subject property is a two acre parcel which fronts onto Carpenter Lane, a public street. The property has a 125-ft wide front lot line adjacent to Carpenter Lane. While the parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it is legally created parcel as found under finding 3.2 above. The property can be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of Chapter 39. *Criteria met.*

4.3. MCC 39.3080(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. *Criterion met*

4.4. Lot of Record Conclusion

Staff: The subject property meets the standards to be a Lot of Record. The subject Property was created according to zoning and land division requirements when it was created. *The subject property is a Lot of Record.*

5. LETTERS OF COMMENT

Comment: Letter of comment submitted November 26 by Daniel and Penny Volker, neighbors of the applicants. The state that, “Daniel and Penny Volker have No problem with folks that own this piece of land to have a building sight available to them at a further date.” They continue to state it was on the lot maps the escrow provide them when they bought their property in 197. They support that lots should be buildable.

Staff: The tax lot maps do not indicate that a property meet the requirements when the property was created. In fact, tax lot maps state on each one that “This map was prepared for assessment purpose only.” Staff must verify Lot of Record status according to the Multnomah County Code (see findings in previous section of this decision).

4. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Lot of Record Verification to demonstrate the subject property described as Tax Lot 800 of Section 21DB of Township 1 South Range 4 East, Willamette Meridian (Alternative Tax Account: R994210600, Property ID: R342510) met the requirements when it was created. The subject property is verified as a Lot of Record.

5. EXHIBITS

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	10/17/19
A.2	1	County Assessment Parcel Card (Cartographic Unit) Tax lot 800 (1S4E21DB)	10/17/19
A.3	2	Copy of a warranty deed recorded with County Records Management on October 21, 1977 in Book 1216 on Pages 748 & 749 signed on October 20, 1977.	10/17/19
A.4	1	Copy of a warranty deed recorded with County Records Management in Book 629 on Pages 135 Recorded on July 10 th 1968 signed on July 8, 1968.	10/17/19
A.5	1	Boundary Survey by Kent W Cox dated 18 Sep. 1992 of the subject property and the adjacent property to the west Tax Lot 100 (1S4E21DB) in the same ownership.	10/17/19
A.6	1	Partial copy (page 2 of 3) File No: 7012-2443581 dated May 13, 2015 of “Personnel Representatives Deed” describing the subject property (as Parcel I that heading not on the page) and the other property adjacent to the east in same ownership as Parcel II.	10/17/19

'B'	#	Staff Exhibits	Date
B.1	1	County Assessment Property Information	NA
B.2	1	Current County Assessment Map	NA
B.3	1	1966 County Zoning Map	NA
B.4	5	Suburban Residential Zoning Code in effect on July 8, 1968	NA
B.5	3	Personal Representative's Deed recorded at 2015-078216	12/18/19
'C'	#	Public Comments	Date
C.1	1	Letter of comment submitted November 26 by Daniel and Penny Volker, 3326 SE Carpenter Lane, Gresham, OR 97080	11/26/19