

NOTICE OF DECISION

Case File: T2-2019-12803

Permit: Lot of Record Verification

Applicants: Haley Polk **Owners:** Martha & Gary Hufton

Location: 40801 SE Loudon Road, Corbett
Tax Lot 800, Section 06C, Township 1 South, Range 5 East, W.M.
Tax Account #R995060150 Property ID #R342773

Base Zone: Commercial Forest Use – 4 (CFU-4)

Overlays: Geologic Hazards (GH)

Proposal Summary: The applicant requests a Lot of Record Verification for the subject property. Staff will verify that the subject property met all applicable zoning and land division laws when it was created or reconfigured. The property is partially within the Geologic Hazards (GH) overlay. A GH permit is not required; no development proposed at this time.

Determination: The subject property 1S5E06C -00800 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 Friday, February 14, 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 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:



By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, January 31, 2020

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 39.3050 Lot of Record – Commercial Forest Use - 4

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 - 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*.

1.0 PROPOSAL DESCRIPTION:

Staff: The applicant requests a Lot of Record Verification for the subject property. Staff will verify that the subject property met all applicable zoning and land division laws when it was created or reconfigured.

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 Unincorporated Multnomah County in the Commercial Forest Use – 4 zone. The approximately 15.89 +/- acres property is outside of the Columbia River Gorge National Scenic Area. Assessment and Taxation records indicate that the property contains an existing single-family dwelling and a number of outbuildings. Currently a tenant farmer farms 11 acres and 3.89 acres is being grown/used as a woodlot.

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.

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.

4.0 LOT OF RECORD:

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**

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.

The applicant provided a warranty deed recorded November 11, 1974 in Book 1017, Page 1487 (Exhibit A.5) that matches the current legal description for the subject property (Exhibit A.2). Per the 1962 and October 5, 1977 zoning maps included as Exhibit B.2 and B.4, the subject property was zoned ‘F-2’ in 1974. The F-2 zone had a minimum lot size requirement of 2.0 acres (Exhibit B.3) at the time. The subject property is approximately 15.89 +/- acres and has not changed configuration since 1974. The F-2 zone did not have other dimensional standards or access requirements. Therefore, the subject property satisfied all applicable zoning laws in place at the time.

In 1974, the process to divide a single property required a deed or sales contract be recorded with the County Records office describing the newly created unit of land. As evidenced by the 1974 recorded warranty deed included as Exhibit A.5, this requirement was satisfied. Therefore, the subject property satisfied all applicable land division laws in place at the time.

4.2 MCC 39.3050 Lot of Record – CFU-4

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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.

Staff: County Tax Records from 1989 – 1990 listed Steven and Linda Wilson as the property owners for the subject property. County Tax Records did not list them as property owners for any contiguous parcels. The applicant provided a 1978 warranty deed (Exhibit A.4) transferring ownership of the subject property to Steven and Linda Wilson. The applicant also provided a 2010 warranty deed (Exhibit A.3) transferring ownership of the subject property from Steven and Linda Wilson to the current property owners [The Huftons]. The aforementioned deeds support the County Tax Record information. Therefore, the subject property was not held with an adjacent property on February 20, 1990 and qualifies as a single 15.89 +/- 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 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district**

Staff: The CFU-4 zone has a minimum lot size to create a new parcel of 80 acres, a requirement for a minimum 50-ft front lot line and road frontage. The subject parcel has a front lot line in excess of 50-ft and is adjacent to SE Loudon Road, so it also meets the access requirement. The subject 15.89 +/- acre parcel is substandard to the CFU-4 minimum lot size, but as allowed in (C) above it may be occupied by any allowed use, review use or condition use subject to other requirements.

- 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: Based on the deed information provided by the applicant, the subject property is not an area of land created by the foreclosure of a security interest; an area of land described as a tax lot solely for assessment and taxation purposes; an area of land created by a court decree; nor is it a mortgage lot. It is a lawfully created parcel or unit of land.

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 T2-2019-12803 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application form	12.27.2019
A.2	4	Warranty Deed recorded on February 14, 2018 as Instrument No. 2018-017215	12.27.2019
A.3	3	Warranty Deed recorded on October 12, 2010 as Instrument No. 2010-128083	12.27.2019
A.4	5	Warranty Deed recorded on October 20, 1978 in Book 1303, Page 1750-1754	12.27.2019
A.5	1	Warranty Deed recorded on November 11, 1974 in Book 1017, Page 1487	12.27.2019
A.6	1	Warranty Deed recorded on July 7, 1970 in Book 741, Page 896	12.27.2019
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for	12.27.2019
B.2	1	1962 Zoning Map for 1S5E06	01.09.2020
B.3	1	F2 zoning code from Zoning Ordinance 100 as amended May 17, 1974	01.09.2020
B.4	1	October 5, 1977 Zoning Map for 1S5E06	01.09.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (Day 1)	01.09.2020
C.2	2	Opportunity to comment & mailing list	01.14.2020
C.3	6	Administrative decision & mailing list	01.31.2020