
NOTICE OF DECISION

Case File: T2-2019-12684

Permit: Lot of Record Verification

Applicant: Rick Searls **Owners:** Rick & Julie Searls

Location: 7137 SE 322nd Ave., Gresham
Tax Lot 200, Section 20AD, Township 1 South, Range 4 East, W.M.
Alternate Account #R677802030 Property ID #R250448

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

Overlays: Significant Environmental Concern – water resources (SEC-wr)

Proposal Summary: Applicant requests a Lot of Record Verification for the subject property. The subject property is within the SEC-wr overlay; however, a SEC-wr permit is not required as there is no development proposed at this time.

Determination: The subject property 1S4E20AD -00200 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 28, 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, February 14, 2020

Vicinity Map

N↑



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 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**

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:

Staff: The applicant requests a Lot of Record Verification for the property identified as 1S4E20AD -00200 (the “subject property”). 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 Multiple Use Agriculture – 20 (MUA-20) zone. The approximately 0.31 +/- acres (13,504 square feet) property is outside of the Metro urban growth boundary. The subject property is vacant.

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 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

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 July 18, 1963 in Book 2177, Page 633 (Exhibit A.4) that matches the current legal description for the subject property (Exhibit A.2). Per the 1962 zoning map included as Exhibit B.2, the subject property was zoned 'R-10' in 1963. In 1963, the R-10 zone had a minimum lot size requirement of 10,000 square feet, a minimum average lot depth requirement of 70 feet, and a minimum average lot depth of 100 feet, and the lot must abut a street (Exhibit B.3). The subject property is 13,504 +/- square feet, approximately 100 feet wide, 137 feet deep, and abuts SE 322nd Avenue. The subject property has not changed configuration since 1963 (Exhibit A.3). *Therefore, the subject property satisfied all applicable zoning laws in place at the time.*

In 1963, 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 1963 recorded warranty deed included as Exhibit A.4, this requirement was satisfied. *Therefore, the subject property satisfied all applicable land division laws in place 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 0.31 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 is vacant; therefore, MCC 39.3080(C) is not applicable.

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. The property was created by the recordation of a deed. *Criteria met.*

Based upon the findings in 4.1 through 4.4, the subject property is a single 0.31 +/- 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 T2-2019-12684 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	11.21.2019

A.2	2	Bargain and Sale Deed recorded October 30, 2002 as instrument no. 2002-196829	11.21.2019
A.3	1	Warranty Deed recorded November 23, 1999 as instrument no. 99-213288	11.21.2019
A.4	1	Warranty Deed recorded July 18, 1963 in Book 2177, Page 633	11.21.2019
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E20AD - 00200	11.21.2019
B.2	1	1962 Sectional Zoning Map for 1S4E20A	11.21.2019
B.3	4	R-10 Zoning Code from Zoning Ordinance 100 adopted November 15, 1962	11.21.2019
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	12.20.2019
C.2	2	Opportunity to comment & mailing list	12.30.2019
C.3	6	Administrative decision & mailing list	02.14.2020