
NOTICE OF DECISION

Case File: T2-2020-12865
Permit: Lot of Record Verification
Applicants: Kathryn Strebin Collins **Owners:** Mildred Strebin
Location: 29101 SE Lusted Road, Gresham and adjacent Tax Lot to the north.
Tax Lot 300 & 400, Section 18BA, Township 1 South, Range 4 East, W.M.
Tax Account #R994180080 & R994181160 Property ID #R341995 & R342088
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Overlays: Significant Environmental Concern – wildlife habitat (SEC-h), Geologic Hazards (GH)
Proposal Summary: The applicant requests a determination that the two tax lots noted above form a Lot of Record when consolidated into a single lot. The application does not propose any development; therefore, SEC-h and GH permits are not necessary at this time.

Determination: When consolidated into a single parcel, tax lots 1S4E18BA -00300 and 1S4E18BA -00400 combined will be a single Lot of Record.

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



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 - Zoning Code**

Conditions and Restrictions

The conditions listed are necessary to ensure that approval criteria are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. The property owners shall submit a Lot Consolidation Application to County Land Use Planning to consolidate the units of land contained in the two tax lots identified as 1S4E18BA - 00300 and 1S4E18BA - 00400 into a single parcel. Upon approval of the Lot Consolidation, the property owner shall complete any steps noted to complete the Lot Consolidation process.

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 determination that the two units of land contained in two tax lots noted (subject tax lots) above form a Lot of Record when consolidated into a single parcel. The application does not propose any development; therefore, SEC-h and GH permits are not necessary 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 tax lots are located in rural East Unincorporated Multnomah County in the Multiple Use Agriculture – 20 zone. The subject tax lots are outside of the Metro urban growth boundary in the West of Sandy River rural area. Tax records indicate a single-family dwelling and an outbuilding exist on Tax Lot 300.

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 subject tax lots were zoned Suburban Residential ‘S-R’ in 1970 per County Zoning Maps (Exhibit B.3). The S-R zone had tiered minimum lot size requirements based on available services [including water supply, sewage disposal, and public access], a minimum lot width of 70 feet, and a minimum lot depth of 100 feet (Exhibit B.4). The applicant provided a deed recorded in 1970 that describes the unit of land contained in Tax Lot 300 (Tax Lot 300) in its current configuration (Exhibit A.6). Tax Lot 300 had an approved septic system (Exhibit B.5), access from the public street known as SE Lusted Road, and within the Lusted Water District. Based on these features, the minimum lot size in 1970 was 20,000 square feet (Exhibit B.4). Tax Lot 300 is 0.91 +/- acres (~39,639 square feet), has a lot width of 110 feet, and a lot depth of 405 feet. Therefore, *Tax Lot 300 satisfied the applicable zoning laws of the S-R zone in 1970; it is a Lot of Record.*

The applicant provided a deed recorded in 1970 that describes the unit of land contained in Tax Lot 400 (Tax Lot 400) in its current configuration (Exhibit A.8). Tax lot 400 is 2.26 +/- acres, has a lot width of 110 feet, a lot depth of approximately 898 feet, but does not have a public access. While the unit of land met the minimum lot size, width, and depth for the S-R zone, it failed to meet the access requirement. Therefore, *Tax Lot 400 did not satisfy the applicable zoning laws of the S-R zone in 1970.*

Although Tax Lot 400 did not meet the applicable zoning laws, it may be consolidated with Tax Lot 300 through the County’s Lot Consolidation process as Tax Lot 300 is a legal parcel and a Lot of Record. *When Tax Lot 300 and Tax Lot 400 are consolidated into a single parcel, the consolidated parcel is a Lot of Record.*

In 1970, the process to divide a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the two warranty deeds recorded in 1970 (Exhibit A.6 and A.8), the applicable land division laws were satisfied. *The subject property satisfied all applicable land division laws in 1970.*

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 consolidated 3.17 +/- acre parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it will be a legally created parcel as discussed above. The subject consolidated parcel 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 3.17 +/- 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: 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. This remains true following the consolidation of Tax Lot 300 and 400 into a single parcel.

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 lots were not created by the foreclosure of a security interest or a court decree. The single parcel (once Tax Lot 300 and 400 are consolidated) would not be an area of land described solely for assessment and taxation purposes. *Criteria met.*

Based upon the findings in 4.1 through 4.4, Tax Lot 300 is a Lot of Record. When Tax Lot 300 and Tax Lot 400 are consolidated into a single parcel through the County's Lot Consolidation process, the single consolidated parcel 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 T2-2020-12865 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	01.08.2020
A.2	1	T1-2020-12861 Case Withdraw Letter	01.08.2020
A.3	2	Trust Transfer Deed recorded on 01.08.2020 as instrument no. 2020-002241	01.08.2020
A.4	2	Trust Transfer Deed recorded on 01.08.2020 as instrument no. 2020-002242	01.08.2020
A.5	4	Title Report for 29101 SE Lusted Road.	01.08.2020
A.6	1	Warranty Deed recorded on June 29, 1970 in Book 740, Page 37	01.08.2020
A.7	3	Title Report for 1S4E18BA -00400	01.08.2020
A.8	1	Warranty Deed recorded on September 15, 1970 in Book 751, Page 608	01.08.2020
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E18BA -00300	01.08.2020
B.2	1	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E18BA -00400	01.08.2020
B.3	1	1962 Zoning Map for 1S4E18	01.14.2020
B.4	6	SR zoning code from Zoning Ordinance 100 adopted May 21, 1968	01.14.2020

B.5	2	Report of Subsurface Sewage Systems	01.14.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	01.14.2020
C.2	2	Opportunity to comment & mailing list	01.22.2020
C.3	7	Administrative decision & mailing list	02.14.2020