

NOTICE OF DECISION

Case File: T2-2020-13104
Permit: Lot of Record Verification
Applicant: Kathryn Pettit **Owner:** Kathryn Pettit
Location: 7234 SE 282nd Avenue, Gresham
Tax Lot 1300, Section 19BC, Township 1 South, Range 4 East, W.M.
Alternate Account #R994191860 Property ID #R342274
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Proposal Summary: The applicant is requesting a Lot of Record Verification for the property known as 7234 SE 282nd Avenue. Staff will determine if the current configuration of the subject property satisfies the relevant Lot of Record approval criteria listed below.

Determination: The subject property known as 7234 SE 282nd Avenue (1S4E19BC – 01300) 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 Wednesday, August 5, 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 by contacting the Staff Planner. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Lisa Estrin, Staff Planner at 503-988-0167 or via email at lisa.m.estrin@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: Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: Wednesday, July 22, 2020

Vicinity Map

N↑



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet applicable approval criteria below:

Multnomah County Code (MCC): MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, and 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**

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 the property known as 7234 SE 282nd Avenue, Gresham and identified as 1S4E19BC – 01300 (“subject property”). The subject property is 2 acres in size and is located in the Multiple Use Agriculture – 20 (MUA-20) zoning district. No development is being proposed as part of this application.

Through the Lot of Record Verification process, the County reviews the creations or reconfiguration of each parcel, lot or unit of land involved in the request. The County then verifies that the creation or reconfiguration of the parcel, lot or 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 parcel, lot or unit of land met all 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 & History:

Staff: The subject property, zoned Multiple Use Agriculture-20 (MUA-20), is located in the West of Sandy River rural area in unincorporated Multnomah County. The subject property is outside of Metro’s urban growth boundary (UGB) but within Multnomah County’s urban reserves designation. County Assessment and Taxation property records indicate that the property is occupied by a single family dwelling with a 306 sq. ft. covered deck and 256 sq. ft. enclosed porch. In addition, the property contains a 1,296 sq. ft. agricultural building.

3.0 Code Compliance:

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.

(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: 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 Approval 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.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

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 Lot of Record standards set forth in the MUA-20 district establish additional requirements unique to the district, which are evaluated in Sections 4.2 - 4.5 of this decision. The finding below analyzes whether the Lot of Record provisions in Section (B) have been met.

The applicant has provided a warranty deed that was in recordable form on March 22, 1972 (Exhibit A.2) with a legal description that matches the current legal description for the subject property. This warranty deed was recorded on February 15, 1979. The subject property is 2 acres in size. In 1972, the subject property was zoned Suburban Residential (SR). The SR zone had a variable minimum lot size ranging from 10,000 sq. ft. to 40,000 sq. ft. depending on services in the area. The subject property was roughly 87,120 square feet (2-acres) when created which is greater than 40,000 square feet. At a 40,000 sq. ft. or greater lot size, the SR zone required public or private water supply, individual sewage disposal system and public road access. The property is served by the Lusted Water District. It contains an existing single family dwelling that is served by an on-site sewage disposal system. The property fronts onto SE 282nd Avenue, which is a public street. *The subject property met all applicable zoning laws at the time it was created in 1972 by warranty deed.*

In 1972, the process to divide a property required a deed or a sales contract dated and signed by the parties to the transaction and had a new legal description describing the parcel to be created. The applicant has provided a copy of the deed with a legal description describing the subject property that was prepared and signed by the grantor to the grantees and was signed and witnessed by a notary public (Exhibit A.2). This deed (Exhibit A.2) was in recordable form on March 22, 1972. MCC 39.3005(B)(b). states “Satisfied all applicable land division laws” shall mean the parcel or lot was created: ...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; ...” *Based upon the evidence in the record as Exhibit A.2, the subject property satisfied all applicable land division laws in 1972.*

The subject property is currently zoned Multiple Use Agriculture – 20 (MUA-20) in its entirety. It is not bisected by either the Orient Rural Center Residential (OR) zone or the Orient Commercial Industrial (OCI) zone. *MCC 39.3005(B)(c) is not applicable.*

The subject property meets the General Lot of Record provisions of MCC 39.3005.

4.2 MCC 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-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.

Staff: Section (A) is for informational purposes.

4.3 (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: The subject property met all applicable zoning and land division laws at the time of its creation. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record.

4.4 (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: Section (C) is for informational purposes.

4.5 (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 contains the entirety of the legal parcel and is not described as a tax lot solely for assessment and taxation purposes. The legal parcel was not created by the foreclosure of a security interest nor by court decree.

Conclusion

Based on the findings and other information provided above in Sections 4.1 through 4.5, the 2 acres subject property is a Lot of Record in its current configuration.

5.0 Public Comments:

Planning staff mailed an Opportunity to Comment as required by MCC 39.1105 Summary of Decision Making Processes (Exhibit C.2). No comments were received on the subject application.

6.0 Exhibits:

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

All exhibits are available for review. Please contact Staff Planner, Lisa Estrin if you would like to review them.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	3/19/2020
A.2	1	Warranty Deed recorded in Book 1331, Page 664 on February 15, 1979 [Deed was in recordable form on March 22, 1972]	3/19/2020
A.3	2	Special Warranty Deed recorded in Book 2785, Pages 371 & 372 on November 17, 1993	3/19/2020
A.4	2	Statutory Special Warranty Deed recorded at Instrument #98134749 on July 30, 1998	3/19/2020
A.5	2	Statutory Bargain and Sale Deed recorded at Instrument #99093197 on May 7, 1999	3/19/2020
A.6	2	Statutory Warranty Deed recorded at Instrument 2004-222176 on December 8, 2004	3/19/2020
A.7	3	Statutory Warranty Deed recorded at Instrument 2005-152145 on August 12, 2005	3/19/2020
A.8	4	Trustee's Deed recorded at Instrument 2009-100396 on July 14, 2009	3/19/2020
A.9	5	Special Warranty Deed recorded at Instrument 2010-076827 on June 22, 2010	3/19/2020
'B'	#	Staff Exhibits	Date
B.1	1	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E19BC - 01300 (Alt Acct#R994191360)	3/19/2020
B.2	1	1962 Zoning Map for 1S4E19B	7/02/2020
B.3	1	October 5, 1977 Zoning Map for 1S4E19B	7/02/2020
B.4	1	October 6, 1977 Zoning Map for 1S4E19B	7/02/2020
B.5	5	1974 Version of SR Zone	7/02/2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	4/15/2020
C.2	2	Opportunity to Comment	4/28/2020
C.3	7	Administrative decision	7/22/2020