



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 39.3070 Lot of Record – EFU

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 & PROPERTY DESCRIPTION:

Staff: The applicant requests a Lot of Record Verification for the property identified as 33109 SE Oxbow Drive (the “subject property”). The subject property is in unincorporated east Multnomah County and is zoned Exclusive Farm Use. The subject property is outside of the metro urban growth boundary. A single-family dwelling and two outbuildings are located on the subject property. This application does not propose any new development.

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 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 the applicable zoning and land division laws in effect at the time, it may be determined to be a Lot of Record.

2.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment for the proposed application to the required parties per MCC 39.1105 (Exhibit C.2). Staff did not receive any public comments during the 14-day comment period.

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.

(A) A permit or other approval, including building permit applications, may be authorized if:

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 meet (B) of this Section and meet the Lot of Record standards set forth in the EFU zoning district. More specifically, Section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The Lot of Record standards set forth in the EFU district establish additional requirements unique to the district, which are evaluated in Sections 4.2-4.4 of this decision. The finding below analyzes whether the Lot of Record provisions in Section (B) have been met.

The applicant provided a deed recorded in 1949 that contains a legal description matching the current configuration of the subject property (Exhibit A.3). In 1949, the County had not yet adopted zoning regulations for the area where the subject property is located. The 1962 historic zoning map, included as Exhibit B.3, depicts the first zoning for the subject property effective in 1958. As there were no zoning laws in effect in 1949, the subject property complied with all applicable zoning laws at the time of creation / reconfiguration. The applicant provided a current deed for the subject property (Exhibit A.7) that contains a legal description that matches the recorded 1949 legal description (Exhibit A.3).

The subject property complied with all applicable zoning minimum lot size, dimensional standards, and access requirements in 1949 when it was created/reconfigured.

In 1949, 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 warranty deed recorded in 1949 (Exhibit A.3), the applicable land division laws were satisfied.

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1949. The subject property is a Lot of Record in its current configuration.

4.2 MCC 39.3070 Lot of Record – Exclusive Farm Use

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU 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: According to County tax records, the listed property owner for the subject property on February 20, 1990 was the Shriver Family. A 1981 warranty deed recorded in 1981 and attached to the parcel record card included as Exhibit B.4 supports the tax record information. County tax records did not list the Shriver Family as owners of contiguous parcels on February 20, 1990. *Criteria met.*

4.3 (B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUA-20 and EFU38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, zone change from EFU-38 to EFU-76 for some properties. Ord. 236 & 238;**
- (5) February 20, 1990, lot of record definition amended, Ord. 643;**

(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 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Subsection (B) is for information purposes. The subject property is a Lot of Record and is subject to (C) above. 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. The subject property is in the same configuration as described in the 1949 warranty deed (Exhibit A.3).

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: The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes, an area of land created by the foreclosure of a security interest, a mortgage lot, or an area of land created by court decree. *Criteria met.*

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. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2020-13582 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	07.27.2020
A.2	1	Coversheet	07.27.2020
A.3	2	Deed recorded November 15, 1949 in Book 1370, Page 484-485	07.27.2020
A.4	1	Deed recorded November 21, 1949 in Book 1372, Page 30	07.27.2020
A.5	2	Deed recorded September 12, 1977 in Book 1206, Page 1268	07.27.2020
A.6	2	Deed recorded May 07, 2004 as instrument no. 2004-079816	07.27.2020
A.7	2	Warranty Deed recorded May 21, 2018 as instrument no. 2018-053883	07.27.2020
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1S4E16B -00100 (Alt Acct# R994160040)	07.27.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 1S4E16B	07.27.2020

B.3	1	1962 Historic Zoning Map for 1S4E16B	07.27.2020
B.4	3	Parcel Record Card for 1S4E16B -00100	10.09.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	08.26.2020
C.2	2	Opportunity to Comment and Mailing List	10.01.2020
C.3	7	Administrative Decision	10.26.2020