

## NOTICE OF DECISION

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**Case File:** T2-2020-13568  
**Permit:** Lot of Record Verification  
**Applicant:** Hannah Webb **Owners:** Brinda & Marc Sundberg  
**Location:** 29415 SE Powell Valley Road, Gresham  
Tax Lot 200, Section 19AB, Township 1 South, Range 4 East, W.M.  
Alternate Account #R994191830 Property ID #R342271  
**Base Zone:** Exclusive Farm Use (EFU)  
**Overlays:** Significant Environmental Concern –Water Resources (SEC-wr)  
**Proposal Summary:** Lot of Record Verification to determine if the subject property (1S4E19AB - 00200) satisfied all applicable zoning and land division laws at the time of its creation/reconfiguration. SEC permit is not required, as the application does not propose any development.

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**Determination:** The subject property 1S4E19AB – 00200 identified as 29415 SE Powell Valley Rd. 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 Thursday, November 19, 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 are available for review. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or via email at [chris.liu@multco.us](mailto: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.

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**Issued by:** \_\_\_\_\_

**By:** Chris Liu, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Thursday, November 5, 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 39.3070 Lot of Record – Exclusive Farm Use

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 29415 SE Powell Valley Road (the “subject property”). The subject property is in unincorporated east Multnomah County and is zoned Exclusive Farm Use (EFU). The subject property is outside of the Metro urban growth boundary. A single-family dwelling is 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. In the EFU zone, the County also considers ownership on February 20, 1990. If the parcel, lot or unit of land met all the applicable zoning and land division laws in effect at the time and does not aggregate with an adjacent unit of land, 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 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:**

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**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**

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**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 1978 that contains a legal description matching the current configuration of the subject property (Exhibit A.3). In 1978, the subject property was zoned ‘MUA-20’ per County Zoning Maps (Exhibit B.2). The MUA-20 zone had a minimum lot size requirement of 20 acres, a minimum front lot line length of 50 feet, and a requirement of public road frontage or other access deemed safe and convenient (Exhibit B.3). The subject property is 19.9 acres, abuts SE Powell Valley Road (a public road), and has a front line length greater than 50 feet (Exhibit B.4).

In 1978, when calculating the area of a lot in the MUA-20 zone, the portion of a street which would accrue to an adjacent lot when calculating the size of the unit of land pursuant to MCC

3.134(a)(1) (1978 Zoning Code). Hence, by including the portion of SE Powell Valley Road that is adjacent to the subject property, the 20 acres minimum lot size requirement was met (Exhibit B.4) as the actual lot size would have been considered to be above 20 acres. The applicant provided a current deed for the subject property (Exhibit A.5) that contains a legal description that matches the recorded 1978 legal description (Exhibit A.3). The unit of land has not changed configuration since its creation in 1978.

*The subject property complied with all zoning minimum lot size, dimensional standards, and access requirements of the MUA-20 zone in 1978 when it was created/reconfigured.*

In August of 1978, 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 August of 1978 (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 1978.*

#### **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 owners for the subject property on February 20, 1990 were William and Christina Richards. The Applicant provided a warranty deed recorded in 1985 that supports the tax record information (Exhibit A.10). Staff reviewed County tax records from 1989-1990. The 1989-1990 County tax records did not list William and Christina Richards as owners on any of the contiguous parcels on February 20, 1990. The subject unit of land was not aggregated with any adjacent parcels of land. *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;**

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**(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 1978 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. The subject property is described in a deed with a legal description for its current configuration. *Criteria met.*

*Based upon the above findings, the subject property known as 1S4E19AB -00200 is a Lot of Record in its current configuration.*

**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 T2-2020-13568.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form	07.23.2020
A.2	1	Bargain and Sale Deed recorded June 16, 1978 in Book 1272, Page 842	07.23.2020
A.3	2	Corrected Bargain and Sale Deed recorded August 1, 1978	07.23.2020
A.4	3	Bargain and Sale Deed recorded March 27, 2013 as instrument no. 2013-041655	07.23.2020

A.5	2	Warranty Deed recorded February 10, 2014 as instrument no 2014-012071	07.23.2020
A.6	4	Trustee's Deed recorded November 08, 2012 as instrument no. 2012-144589	07.23.2020
A.7	1	Quitclaim Deed recorded June 20, 2005 as instrument no. 2005-111800	07.23.2020
A.8	2	Bargain and Sale Deed recorded February 06, 1998 as instrument no. 98-018167	07.23.2020
A.9	1	Bargain and Sale Deed recorded February 14, 1995 as instrument no. 95-17973	07.23.2020
A.10	1	Bargain and Sale Deed recorded June 19, 1985 in Book 1831, Page 897	07.23.2020
A.11	1	Quitclaim Deed recorded May 19, 1981 in Book 1524, Page 1559	07.23.2020
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for <State ID> (Alt Acct#)	07.23.2020
B.2	1	October 6, 1977 Historic Tax Map for 1S4E19	08.06.2020
B.3	8	MUA-20 Zoning Regulations from Ordinance 148 adopted September 6, 1977	08.06.2020
B.4	1	Survey Record 42185	08.06.2020
B.5	3	Parcel Card for 1S4E19AB -00200	08.06.2020
B.6	3	Parcel Card for 1S4E19AB -00100	08.06.2020
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	1	Complete Letter	08.06.2020
C.2	2	Opportunity to Comment	08.12.2020
C.3	7	Administrative Decision	11.05.2020