

NOTICE OF DECISION

Case File: T2-2020-13687
Permit: Lot of Record Verification
Applicants: Ralph Turnbaugh **Owner:** Pearl Lewis
Location: 31827 SE Grace Street, Gresham
Tax Lot 1300, Section 20AA, Township 1 South, Range 4 East, W.M.
Tax Account #R677804080 Property ID #R250464
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Overlays: None
Proposal Summary: Lot of Record Verification to determine if the subject property (1S4E20AA - 01300) satisfied all applicable zoning and land division laws at the time of its creation/reconfiguration. The application does not propose any development.

Determination: The subject property identified as 1N4E20AA -01300 (31827 SE Grace Street) 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 is 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 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 503-988-3043. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: _____

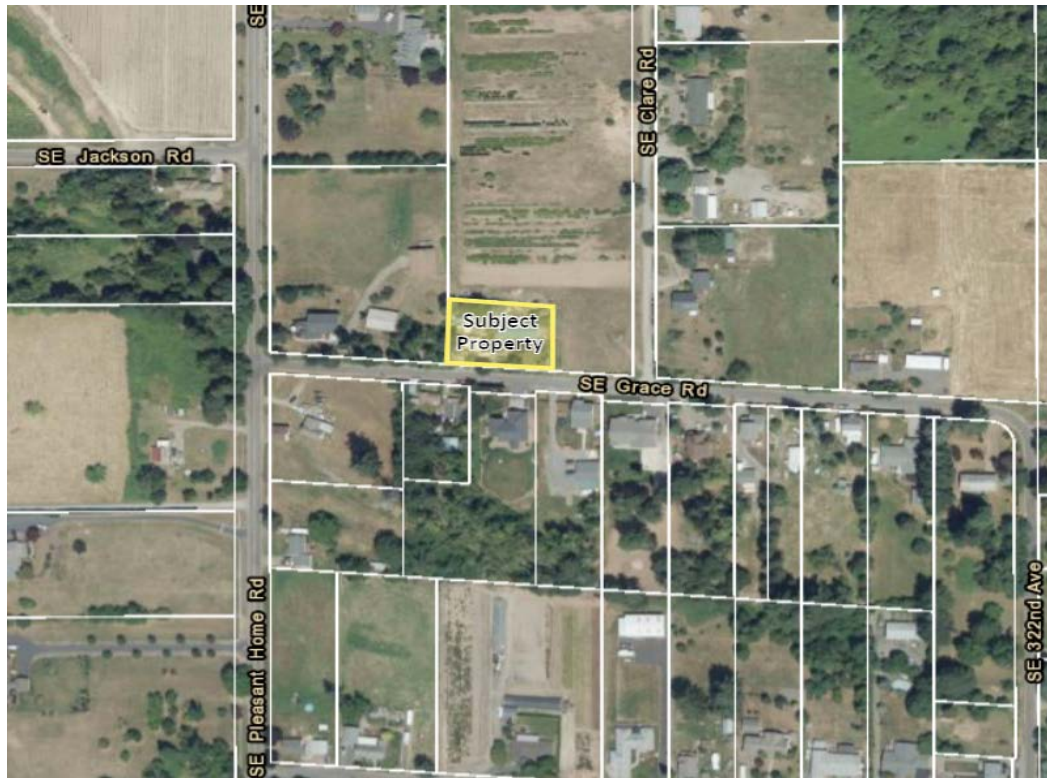
By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, November 5, 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 – MUA-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 PROPOSAL:

Staff: The applicant requests a Lot of Record Verification for the property identified as 31827 SE Grace Street (the “subject property”). The subject property is in unincorporated east Multnomah County and is zoned Multiple Use Agriculture – 20. The subject property is outside of Metro’s urban growth boundary. County tax records list a single-family dwelling and garage as the improvements located on the subject property. County 2019 aerial photos do not appear to show the garage, so it is unclear if the garage still exists. 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 on 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.

* * *

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 MUA-20 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 MUA-20 district establish additional requirements unique to the district, which are evaluated in Sections 4.2-4.3 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 1962 that contains a legal description matching the current configuration of the subject property (Exhibit A.4). In 1962, the subject property was zoned ‘R-10’ per County Zoning Maps (Exhibit B.3). The R-10 zone had a minimum lot size requirement of 10,000 square feet, a minimum average lot width of 70 feet, a minimum average lot depth of 100 feet, and a requirement of public road frontage or other access deemed safe and convenient (Exhibit B.5). The subject property is 0.50 acres (21,780 +/- square feet), abuts SE Grace St. (a public road), the average lot width is 174.24 feet and average lot depth is 125+/- feet (Exhibit B.2). The applicant provided a current deed for the subject property (Exhibit A.6) that contains a legal description that matches the recorded 1962 legal description (Exhibit A.4).

The subject property complied with all zoning minimum lot size, dimensional standards, and access requirements of the R-10 zone in 1962 when it was created/reconfigured.

In 1962, the process to divide a single property from another 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 1962 (Exhibit A.4), the applicable land division laws were satisfied.

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1962. The subject property is a Lot of Record in its current configuration.

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;**

* * *

(A) 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.

(B) 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: Subsection (A) is for information purposes. The subject property is a Lot of Record and is subject to (B) 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 1962 warranty deed (Exhibit A.4).

4.3 (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 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, or an area of land created by court decree. The subject property is a legal parcel created by deed with a separate legal description as discussed in Section 4.1 above. *Criteria met.*

5.0 EXHIBITS:

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

All Exhibits, except those identified as confidential record(s), are available for review in Case File T2-2020-13687.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	08.26.2020
A.2	2	*CONFIDENTIAL RECORD* Copy of Certificate of Death for Jack Lewis	08.26.2020
A.3	7	Title Report from Lawyers Title	08.26.2020
A.4	1	Warranty Deed recorded November 27, 1962 in Book 2145, Page 22	08.26.2020
A.5	1	Warranty Deed recorded May 13, 1970 in Book 732, Page 1262	08.26.2020
A.6	1	Warranty Deed recorded June 22, 1992 in Book 2556, Page 3112	08.26.2020
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for (Alt Acct# R677804080)	08.26.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 1S4E20AA	08.26.2020
B.3	1	1962 Historic Zoning Map for 1S4E20	09.08.2020
B.4	5	Table of Contents for Zoning Ordinance 100 as adopted November 15, 1962	09.08.2020
B.5	4	R-10 Zoning Regulations from Zoning Ordinance 100 as adopted November 15, 1962	09.08.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	09.09.2020
C.2	2	Opportunity to Comment	09.11.2020
C.3	6	Administrative Decision	11.05.2020