

NOTICE OF DECISION

Case File: T2-2020-13621

Permit: Lot of Record Verification

Applicants: Dawood Sary Motlagh **Owners:** Dawood Sary Motlagh

Location: 37938 SE Rickert Rd, Corbett **Map** #1S4E11A - 00200 & 1S4E11A - 00201
Alternate Account #R994110320 & R994120260 **Property ID** #R341739 & R577148

Base Zone: Commercial Forest Use – 4 (CFU-4)

Overlays: Significant Environmental Concern for streams (SEC-s); Significant Environmental Concern (SEC); and Geologic Hazard (GH)

Proposal Summary: The applicant has requested a Lot of Record Verification for the above property. A Lot of Record Verification verifies that a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration and in compliance with the County's aggregation requirements.

Decision: The property identified as 1S4E11A -00200 & 00201 is a single 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, January 6, 2021 at 4:00 pm.

Opportunity to Review the Record: The complete digital case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review. Paper 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 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: _____

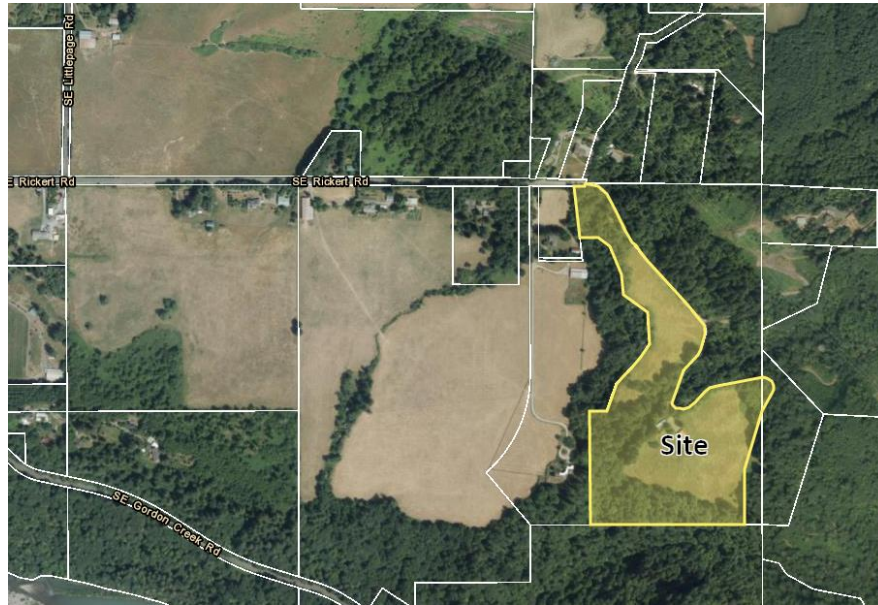
By: Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: Wednesday, December 23, 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 39.3050 Lot of Record – CFU-4

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 identified as 37938 SE Rickert Road (the “subject property”).

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 PROPERTY DESCRIPTION:

Staff: The subject property consisting of two tax lots (“TL 200” & “TL 201”) that are located in unincorporated east Multnomah County and is zoned Commercial Forest Use - 4. The subject property is outside of Metro’s urban growth boundary. County tax records list a manufactured dwelling and outbuilding as the improvements located on the subject property. This application does not propose any new development.

3.0 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.

4.0 GENERAL PROVISIONS:

4.1 § 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.

5.0 Lot of Record Criteria:

5.1 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: The applicant provided a deed recorded July 10, 1981 (Exhibit A.2) that contains a legal description matching the current legal description of the subject property (Exhibit A.3). In 1981, the subject property was zoned ‘MUF-19’ as shown on the historical zoning map included as Exhibit B.3. The MUF-19 zone had a minimum lot size requirement of 19.0 acres, required a minimum front lot line length of 50.0 ft., and required the property be adjacent to a public road (Exhibit B.4). Per the map included as Exhibit B.2, the subject property is 22.79 +/- acres, has a front lot line length of 59.54 +/- ft., and adjacent to the public road identified as SE Rickert Road. Therefore, the subject property complied with applicable zoning laws when created or reconfigured in 1981.

In 1981, MCC 11.45 outlined the County’s Land Division Regulations. MCC 11.45.110 stated that minor partitions not listed in MCC 11.45.100 (Type III Land Divisions) were exempt from the provisions of MCC 11.45 (Exhibit B.6). As the minor partition that created / reconfigured the subject property was not a Type III land division, the minor partition was exempt from the Land Division Regulations. Therefore, the applicable land division laws were satisfied.

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1981.

5.2 MCC 39.3050 Lot of Record – CFU-4

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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.**

* * *

(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, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**

* * *

(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 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(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: Frank Windust Jr. owned the subject property on February 20, 1990 (Exhibit A.2) and did not own any contiguous property at that time according to historic County tax records. As a result, the subject property is not subject to aggregation. Subsection (B) is for information purposes. The subject property has not changed configuration since 1981 (Exhibit A.3). 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.

Based on the above, the subject property qualifies as a single Lot of Record.

6.0 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 T2-2020-13621 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	08.10.2020
A.2	3	Warranty Deed recorded July 10, 1981 in Book 1536, Page 1351-1353	08.10.2020
A.3	4	Warranty Deed recorded July 31, 2018 as instrument no. 2018-080154	08.10.2020
‘B’	#	Staff Exhibits	Date
B.1	4	Division of Assessment, Recording, and Taxation (DART): Property Information for 1S4E11A - 00200 & 1S4E11A - 00201 (Alt Acct# R994110320 & R994120260)	08.10.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map with 1S4E11A	08.10.2020
B.3	1	1980 Historic Zoning Map for 1S4E11	12.16.2020
B.4	8	MUF-19 Zoning Regulations from Zoning Ordinance 100 as adopted March 6, 1979.	12.16.2020
B.5	8	Table of Contents from Zoning Ordinance 100 as adopted March 6, 1979.	12.16.2020
B.6	14	Relevant sections from MCC Ch. 11.45 (Land Division Regulations) as adopted January 1981	12.16.2020
‘C’	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	09.30.2020
C.2	2	Opportunity to Comment	10.05.2020
C.3	6	Administrative Decision	12.23.2020