

NOTICE OF DECISION

Case File: T2-2020-13484 **Permit:** Lot of Record Verification

Applicants: Matthew McCune **Owners:** Gabriel Andeen and Nicole Andeen

Location: 2933 NW 53rd Drive, Portland
Tax Lot 2300, Section 25A, Township 1 North, Range 1 West, W.M.
Tax Account #R961250650 Property ID #R324480
- and -
No situs address, adjacent and west of 2933 NW 53rd Drive, Portland
Tax Lot 2200, Section 25A, Township 1 North, Range 1 West, W.M.
Tax Account #R961250710 Property ID #R324486
- and -
No situs address, adjacent and east of 2933 NW 53rd Drive, Portland
Tax Lot 2600, Section 30B, Township 1 North, Range 1 East, W.M.
Tax Account #R941300490 Property ID #R316569

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlays: Significant Environmental Concern for Wildlife Habitat (SEC-h)
Significant Environmental Concern for Streams (SEC-s)

Proposal Summary: The applicant requests a determination that tax lots 1N1W25A -02300, 1N1W25A -02200, and 1N1E30B -02600 are one Lot of Record. The applicant does not propose any development; therefore, Significant Environmental Concern permits are not necessary at this time.

Determination: Tax lots 1N1W25A -02300 and 1N1E30B -02600 are one unit of land. Tax lot 1N1W25A -02200 is a separate unit of land. The two units of land are aggregated together so that tax lots; 1N1W25A -02300, 1N1E30B -02600, and 1N1W25A -02200 are one Lot of Record.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, February 1, 2021 at 4:00 pm.

Issued by:

By: _____
Rithy Khut, Planner

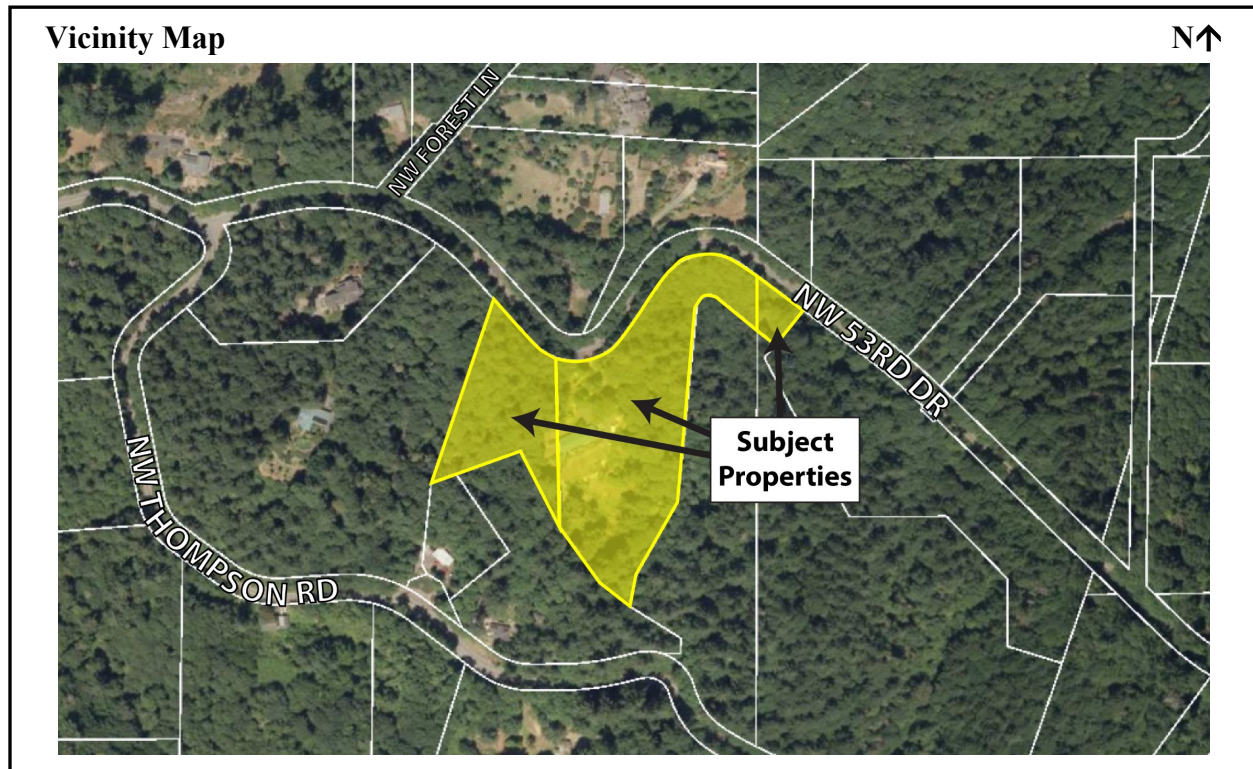
For: Carol Johnson, AICP
Planning Director

Date: Monday, January 18, 2021

Instrument Number for Recording
Purposes: #2018-30888

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 at the Land Use Planning office. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Rithy Khut, Staff Planner at 503-988-0176 or at rithy.khut@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.



Applicable Approval Criteria:

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

Multnomah County Code (MCC): Violations, Enforcement and Fines: MCC 39.1515 Code Compliance and Applications

Definitions: MCC 39.2000 Definitions

Lot of Record: General Provisions: MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Lot of Record – Commercial Forest Use-2 (CFU-2)

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

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in [brackets]. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.

1. The property owners or their representative shall:
 - a. Record pages 1 through 3 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]

Note: Once this decision is final, the applicant or property owners shall complete the following steps:

1. Read your land use decision and the conditions of approval. Be ready to demonstrate compliance with the conditions.
2. Contact Rithy Khut, Planner, at 503-988-0176 or rithy.khut@multco.us, **for an appointment** for review of the conditions of approval. Please ensure that any items required above are ready for land use planning review.

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.
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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 “subject properties,” identified as 1N1W25A -02300 (2933 NW 53rd Drive, Portland), 1N1W25A -02200, and 1N1E30B -02600. No development is being proposed as part of this application.

2.0 Property Description & History:

Staff: This application is for 1N1W25A -02300 (2933 NW 53rd Drive, Portland), 1N1W25A -02200, and 1N1E30B -02600. The subject properties are located on the south side of NW 53rd Drive. Tax lot 2300 (2933 NW 53rd Drive, Portland) and tax lot 2200 are located within the Commercial Forest Use – 2 (CFU-2) zoning district in the West Hills rural area. Tax lot 2600 is located within the City of Portland. The subject properties located within unincorporated Multnomah County are heavily forested and there are two environmental overlays, a Significant Environmental Concern for Wildlife Habitat (SEC-h) and Significant Environmental Concern for Streams (SEC-s) on those subject properties.

Multnomah County Division of Assessment, Recording, and Taxation (DART) data indicates that tax lot 2300 is approximately 3.99 acres, tax lot 2200 is approximately 1.69 acres, and tax lot 2600 is 0.24 acres. All of the subject properties are owned by Gabriel Andeen and Nicole Andeen (Exhibit B.1). DART records also indicate tax lot 2300 contains a single-family dwelling with an attached garage and deck, in addition to a shed. The other tax lots are vacant. The single-family dwelling was first assessed in 1963. Aerial photo review from 2019 confirms the presence of the single-family dwelling with attach garage; however the shed cannot be seen (Exhibit B.3).

The past permit and code compliance history of the subject property is limited. A permit was found that authorized the establishment of the single-family dwelling. Permit #27089 was approved on June 20, 1962. There have been no code compliance issues in the past.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 as exhibited in Exhibit C.4 and C.6. Staff did not receive any public comments during either 14-day comment period.

4.0 Code Compliance and Applications Criteria:

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.

(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.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, this application is for 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 criterion is not applicable at this time. *This criterion is not applicable.*

5.0 Lot of Record Criteria:

5.1 § 39.3005- LOT OF RECORD – GENERALLY.

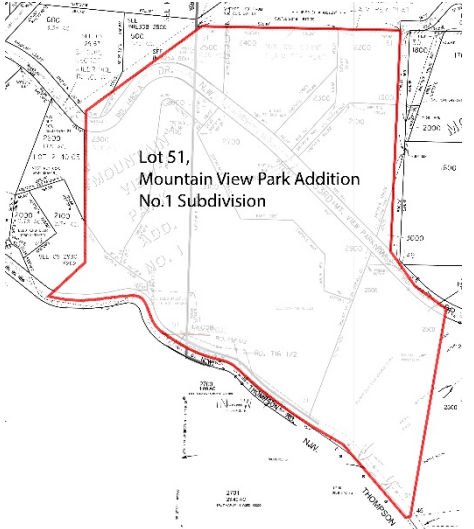
(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

Staff: For an area of land to be a “Lot of Record”, the subject property must meet the subsequent standards below and the standards within the Commercial Forest Use – 2 zoning district, which is discussed in Section 5.2.

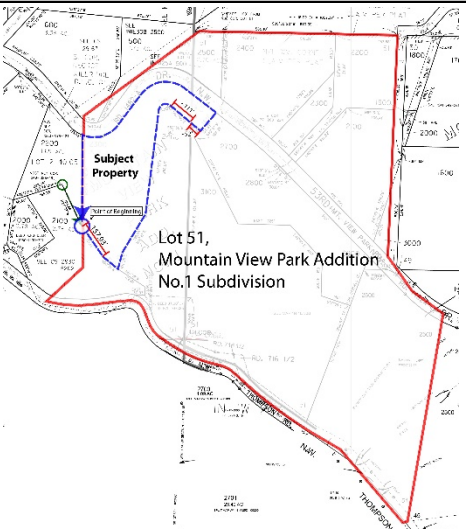
(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include 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.

Staff: To qualify as a Lot of Record, the subject properties must have satisfied all applicable zoning laws, when each of the subject properties were created or reconfigured. The applicant has provided a number of deeds to verify that the subject properties satisfied all applicable zoning laws. The discussion below outlines the deed history chronologically and illustrates the property configuration of each deed provided by the applicant.

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
B.3	Lot 51 of Addition No. 1 to Mountain View Park Subdivision Zoning: N/A	Illegible	Illegible	1882	

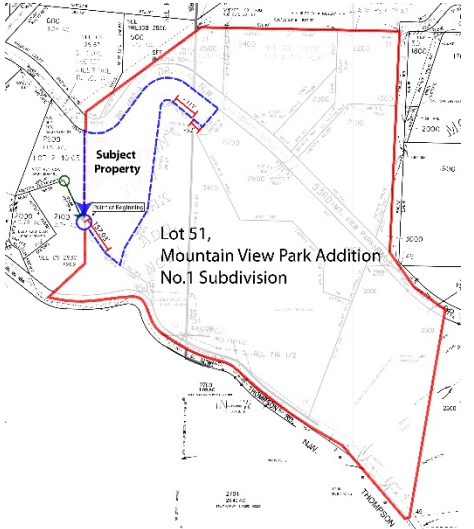
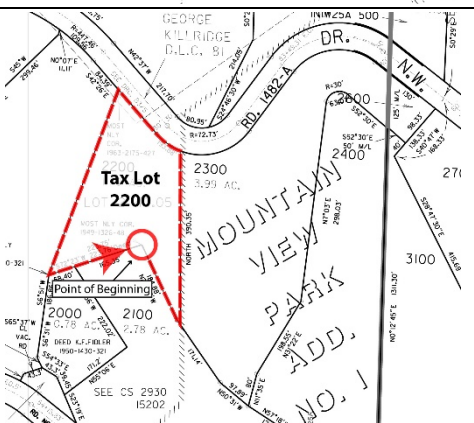
Portions of the 1N1W25A -02300 and 1N1E30B -02600 were originally platted as Lot 51 of Addition No. 1 to Mountain View Park Subdivision. The Lot 51 was platted in 1882 (Exhibit B.3). At that time in 1882, the County did not have zoning requirements. The County had not yet enacted zoning laws. The first interim zoning ordinance was adopted on May 26, 1953.

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
B.8	Book 2057, Page 655-656 Zoning: R-20	Arthur D. Howard and Helen A. Howard	Donn Oliver Morton and JoAnne Louise Morton	April 18, 1961	

The earliest legible deed was a Warranty Deed recorded in Book 2057, Page 655-656 on April 18, 1961 (Exhibit A.9). As described in the deed, tax lot 2300 and the adjacent tax lot to the east, tax lot 2600, Section 30B, 1 North, 1 East, W.M. are described as one unit of land. At that time in 1961, the unit of land was zoned Single Family Residential (R-20). The R-20 zoning was in effect from 1958 to October 5, 1977 (Exhibit B.10). The R-20 zoning district had various restrictions including a minimum lot size 20,000 square feet, a minimum average lot width of 80 feet, and a minimum average lot depth of 120 feet (Exhibit B.11). The lot was also required to abut a street or have approval by the Planning Commission for “other access.”

As described, the tax lot 2300 and tax lot 2600 together as a unit of land was approximately 4.23 acres in size, abutted NW 53rd Road, had an average lot width of approximately 280 feet, and average lot depth of approximately 603 feet. Therefore, as described in 1961, the property satisfied all applicable zoning laws at that time.

As described in 1961, 1N1W25A -02300 and the adjacent property to the east, 1N1E30B - 02600 are described as one unit of land and together they satisfied all applicable zoning laws.

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
A.9	Book 905, Page 1149 Zoning: R-20	Lylis Milton Goodman	Luis Garcia- Bunuel and Virginia M. Garcia- Burnel	January 19, 1973	
A.9	Book 905, Page 1149 Zoning: R-20	Lylis Milton Goodman	Luis Garcia- Bunuel and Virginia M. Garcia- Burnel	January 19, 1973	

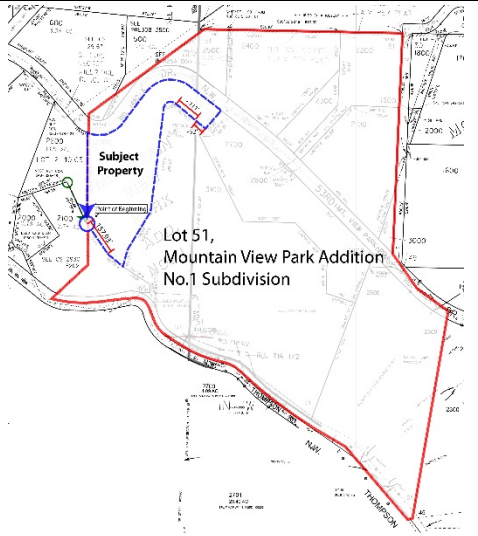
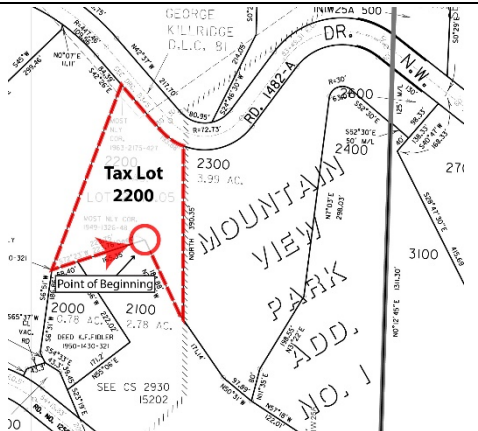
The earliest deed provided by the applicant was Warranty Deed recorded in Book 905, Page 1149 on January 19, 1973 (Exhibit A.9). As described in the deed, two separate parcels were described. For the description of “Parcel 1,” tax lot 2300 and tax lot 2600 were described as they were described in Book 2057, Page 655-656, which was previously discussed as one unit of land. The zoning for the unit of land did not change, therefore the unit of land continued to satisfied all applicable zoning laws at that time.

As described in 1973, 1N1W25A -02300 and the adjacent property to the east, 1N1E30B -02600 are described as one unit of land and together they continued to satisfy all applicable zoning laws.

The second description in the Warranty Deed was for “Parcel 2.” As described in the deed, tax lot 2200 was described as a unit of land. At that time in 1973, the unit of land was zoned Single Family Residential (R-20). The R-20 zoning was in effect from 1958 to October 5, 1977 (Exhibit B.6). The R-20 zoning district had various restrictions including a minimum lot size 20,000 square feet, a minimum average lot width of 80 feet, and a minimum average lot depth of 120 feet (Exhibit B.7). The lot was also required to abut a street or have approval by the Planning Commission for “other access.” As described, the tax lot 2200 was approximately 1.69 acres in size, abutted NW 53rd Road, had an average lot width of more than 170 feet, and

average lot depth of more than 225 feet. Therefore, as described in 1973, the property satisfied all applicable zoning laws at that time.

As described in 1973, 1N1W25A -02200 is described as a unit of land and satisfied all applicable zoning laws.

Exhibit	Instrument	Grantor	Grantee	Recording Date	Staff Graphic
A.7	Instrument #2018-130888 Zoning: CFU-2	Paul Michael Zimmerman and Cheryl Ann Thoen	Gabriel Kristian Andeen and Nicole Andeen	December 21, 2018	
A.7	Instrument #2018-130888 Zoning: CFU-2	Paul Michael Zimmerman and Cheryl Ann Thoen	Gabriel Kristian Andeen and Nicole Andeen	December 21, 2018	

The most recent deed conveyed the subject property to the current owners Gabriel Kristian Andeen and Nicole Andeen. The Statutory Warranty Deed recorded as Instrument #2018-130888 on December 21, 2018 matches the description as described in the Warranty Deed located in Book 905, Page 1149 (Exhibit A.7). As the properties have not changed configuration since that time, the subject properties continue to satisfy applicable zoning laws.

As described, 1N1W25A -02300 and 1N1E30B -02600 are described as one unit of land and together they satisfied all applicable zoning laws. Additionally, as described, 1N1W25A -02200 is also an individual unit of land and it satisfied all applicable zoning laws. This criterion is met.

(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.)**

Staff: To qualify as a Lot of Record, the subject property must have satisfied all applicable land division laws, when the subject property was created or reconfigured. The applicant has provided a deed to demonstrate that the subject properties satisfied all applicable land division laws. As discussed previously, the earliest deed found was a Warranty Deed recorded in Book 2057, Page 655-656 on April 18, 1961 (Exhibit B.8). The Warranty Deed described 1N1W25A -02300 and 1N1E30B -02600 as one unit of land. At that time in 1961, the County zoning code did not contain provisions for land divisions outside of the requirements for a subdivision (i.e., the division of land into 4 or more lots within a calendar year). The County’s major and minor partitioning of land requirements did not come into effect until Ordinance 174 adopted on October 19, 1978. Therefore, as was typical during this time, the recording of deeds was the only mechanism to divide or reconfigure parcels or lots. Those units of land had to meet the minimum lot size and access requirements for the zone.

As the deed provided was dated and signed by the parties to the transaction and recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978, the unit of land that is comprised of 1N1W25A -02300 and 1N1E30B -02600 did satisfy all applicable land division laws in effect at that time. Additionally, as described in subsequent deeds, the subject property has not had subsequent boundary reconfiguration completed on or after December 28, 1993.

As described, 1N1W25A -02300 and 1N1E30B -02600 are described as one unit of land and together they satisfied all applicable land division laws.

The earliest deed that described 1N1W25A -02200 was a Warranty Deed recorded in Book 905, Page 1149 on January 19, 1973 (Exhibit A.9). As previously stated, at that time in 1973, the County did not contain provisions for land divisions outside of the requirements for a subdivision. As the deed provided was dated and signed by the parties to the transaction and recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978, the unit of land that is comprised of 1N1W25A -02200 did satisfy all applicable land division laws in effect at that time. Additionally, as described in subsequent

deeds, the subject property has not had subsequent boundary reconfiguration completed on or after December 28, 1993.

As described, IN1W25A -02200 satisfied all applicable land division laws. This criterion is met.

(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: The properties subject to this land use application are not congruent with an “acknowledged unincorporated community” boundary, which intersects a Lot of Record. Additionally, the applicant is not requesting a partitioning of the Lot of Record along the boundary; therefore, this criterion is not applicable. This criterion is not applicable.

5.2 § 39.3030 LOT OF RECORD – COMMERCIAL FOREST USE-2 (CFU-2).

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 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

Staff: The assessor’s maps and deeds supplied by the applicant indicate that the subject properties are contiguous and were under the same ownership on February 20, 1990. As such, the subject property is will be required to meet the requirements of MCC 39.3030(A)(2) below.

(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.**

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

Staff: As discussed previously, the deeds supplied by the applicant indicate that a group of contiguous parcels or lots was under the same ownership on February 20, 1990. In comparing ownership data from the surrounding tax lots using taxation data from Multnomah County Department of Assessment, Recording, and Taxation (DART), no additional properties were in the same ownership on February 20, 1990 with the subject properties. The table below shows the ownership of each of the surrounding properties before and after February 20, 1990.

Alternative Account #	Pre-1990 Tax Roll Property Owner	Post-1990 Tax Roll Property Owner
R96125-0650	Zimmerman, Paul M & Thoen, Cheryl A.	Zimmerman, Paul M & Thoen, Cheryl A.
R96125-0710	Zimmerman, Paul M & Thoen, Cheryl A.	Zimmerman, Paul M & Thoen, Cheryl A.
R94130-0490	Zimmerman, Paul M & Thoen, Cheryl A.	Zimmerman, Paul M & Thoen, Cheryl A.
Adjacent Property to the Subject Properties		
R59030-4010	City of Portland	City of Portland
R59030-4014	City of Portland	City of Portland
R59030-4300	no record	no record
R96125-0250	Hockensmith, Maxine F	Hockensmith, Maxine F
R96125-0490	Myatt, Lewis E & Myrna	Myatt, Lewis E & Myrna
R96125-0480	Ortez, Armond A & Deborah K	Ortez, Armond A & Deborah K
R96125-0840	Holmstrom, Robert A & Mary D	Holmstrom, Robert A & Mary D.
R96125-0880	Tsongas, Joyce E	Tsongas, Joyce E.
R94130-0500	Tsongas, Joyce E	Tsongas, Joyce E.

As indicated on the pre-1990 tax rolls, the subject properties 1N1W25A -02300 (R96125-0650), 1N1W25A -02200 (R96125-0710), and 1N1E30B -02600 (R94130-0490) were all owned by Paul M. Zimmerman and Cheryl A. Thoen on February 20, 1990.

As part of the second requirement under MCC 39.3030(A)(2), if the continuous parcels or lots were under the same ownership on February 20, 1990 and were less than 19 acres, they would be required to be aggregated to comply with the minimum lot size of 19 acres. Based on DART property information, 1N1W25A -02300 is approximately 3.99 acres. Tax lot 1N1E30B -02600 is 0.24 acres and 1N1W25A -02200 is approximately 1.69 acres. In total, the three tax lots are 5.92 acres, which is smaller than 19 acres. Therefore, each of the tax lots are required to be

aggregated to comply with a minimum lot size of 19 acres. Additionally, as the three tax lots together are less than 19 acres and are all in the same ownership grouping, the entire grouping shall be one Lot of Record.

Tax lots 1N1W25A -02300 and 1N1E30B -02600 were found to be one separate unit of land and together with tax lot 1N1W25A -02200 they shall all be aggregated in order to comply with the minimum lot size of 19 acres. Together, tax lots 1N1W25A -02300, 1N1E30B -02600, and 1N1W25A -02200 are considered one Lot of Record.

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Staff: The parcel was not created by partition or subdivision plat after February 20, 1990; therefore, this criterion is not applicable. *This criterion is not applicable.*

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

Staff: On February 20, 1990, only one of the parcels were developed with a lawfully established habitable dwelling; therefore this criterion is not applicable as there are not lawfully established habitable dwellings on any of the other parcels or lots. *This criterion is not applicable.*

(b) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: The subject parcel was not created through a Lot of Exception application, therefore this criterion does not apply. *This criterion is not applicable.*

(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 CFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**
- (5) February 20, 1990, lot of record definition amended, Ord. 643;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) August 8, 1998, CFU-2 zone applied, Ord. 916 (reenacted by Ord. 997);**
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;**

Staff: The code section above does not affect the determination of this case as the significant dates and ordinances are for informational purposes. *This criterion is not applicable.*

(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.

Staff: The Lot of Record is approximately 5.92 acres. The minimum lot size to create a new parcel in the CFU-2 zone is 80 acres. The CFU-2 zone has a required 50-foot Front Lot Line length for the creation of new parcels or lots. The front lot line of the subject property fronts a public right-of-way known as NW 53rd Drive. The frontage length of NW 53rd Drive is more than 900 feet in length (Exhibit B.2 and B.5). As the Lot of Record is less than the minimum lot size for new parcels or lots, but was found to be a Lot of Record in findings 5.1 and 5.2, it may be occupied by any allowed, review or conditional use provided the Lot of Record is in compliance with the other requirements of the CFU-2 district. *This criterion is met.*

(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: As discussed above, tax lots 1N1W25A -02300 and 1N1E30B -02600 are described as one unit of land and 1N1W25A -02200 is described as a separate unit of land. Together, the two units of land are considered one Lot of Record. Individually, each area of land is described as a tax lot solely for assessment and taxation purposes. However, as the two tax lots 1N1W25A -02300 and 1N1E30B -02600 are described as one unit of land and 1N1W25A -02200 is described as a separate unit of land. As such, those descriptions are not an area of land described as a tax lot solely for assessment and taxation purposes.

Further, the subject property and adjacent tax lots are not an area of land created by foreclosure of a security interest, a Mortgage Lot, or an area of land created by court decree. *These criteria are met.*

6.0 Conclusion

Based on the findings and other information provided above, the tax lots 1N1W25A -02300 and 1N1E30B -02600 are one unit of land. Tax lot 1N1W25A -02200 is a separate unit of land. The two units of land are aggregated together so that tax lots; 1N1W25A -02300, 1N1E30B -02600, and 1N1W25A -02200 are one Lot of Record in the Commercial Forest Use – 2 (CFU-2) zone.

7.0 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 T2-2020-13484 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	07/01/2020
A.2	12	Fidelity National Title Preliminary Report	07/01/2020
A.3	1	Bargain and Sale Deed recorded in Book 507, Page 245 on August 2, 1939	07/01/2020
A.4	4	Bargain and Sale Deed recorded in Book 2685, Page 921 on May 3, 1993	07/01/2020
A.5	2	Division of Assessment, Recording, and Taxation (DART): Map with 1N1W25A -02200, 1N1W25A -02300, and 1N1E30B -02600	07/01/2020
A.6	3	Fidelity National Title Report	08/13/2020
A.7	4	Statutory Warranty Deed recorded as Instrument #2018-130888 on December 21, 2018	08/13/2020
A.8	7	Warranty Deed recorded in Book 1728, Page 655-660 on February 23, 1984	08/13/2020
A.9	3	Warranty Deed recorded in Book 905, Page 1149-1151 on January 19, 1973	08/13/2020
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W25A -02300 (Alt Acct #R961250650)	08/13/2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map with 1N1W25A -02300 (Alt Acct #R961250650) and 1N1W25A -0220 (R961250710) highlighted	08/13/2020
B.3	1	Mountain View Park Subdivision Plat (PL0001-101) recorded in Book 1, Page 101	12/14/2020
B.4	1	Aerial Photo 2019 Summer	12/14/2020

B.5	1	Division of Assessment, Recording, and Taxation (DART): Map with 1N1E30B -02600 (Alt Acct #R941300490) highlighted	12/14/2020
B.6	1	Zoning Map showing zoning prior between 1962 and October 5, 1977	12/14/2020
B.7	4	Single Family Residential District (R-20) Zoning Code in effect between May 21, 1968 and May 17, 1974	12/14/2020
B.8	2	Warranty Deed recorded in Book 2057, Page 655-656 on April 18, 1961	01/12/2020
B.9	1	City of Portland Annexation Map	01/12/2020
B.10	1	Zoning Map showing zoning prior between 1955 and November 11, 1962	01/12/2020
B.11	4	Single Family Residential District (R-20) Zoning Code in effect on December 12, 1960	01/12/2020
B.12	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W25A -02200 (Alt Acct #R961250710)	01/12/2020
B.13	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1E30B -02600 (Alt Acct #R941300490)	01/12/2020
‘C’	#	Administration & Procedures	Date
C.1	3	Incomplete letter and Applicant’s Response	07/30/2020
C.2	1	Applicant’s acceptance of 180 day clock	08/05/2020
C.3	1	Complete letter (day 1)	08/15/2020
C.4	4	Opportunity to Comment and mailing list	10/09/2020
C.5	1	Extension Request	12/08/2020
C.6	4	Resent Opportunity to Comment and mailing list	12/30/2020
C.7	18	Full Administrative Decision and mailing list	01/18/2020
C.8	6	“Short” Administrative Decision and mailing list	01/18/2020