

## NOTICE OF DECISION

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**Case File:** T2-2020-14024

**Permit:** Lot of Record Verification

**Applicant:** Don Wallace **Owner:** Erik L. Ingebrigtsen

**Location:** 21500 NW Gilkison Rd., Scappoose  
Map, Tax Lot: 3N2W26A – 02000  
Alternate Account #R982260220 Property ID #R326240

**Base Zone:** Rural Residential (RR)

**Overlays:** Geological Hazard (GH), Significant Environmental Concern – Wildlife Habitat (SEC-h)

**Proposal Summary:** The applicant requests a Lot of Record Verification for the property identified as 21500 NW Gilkison Rd., Scappoose (3N2W26A-02000). A Lot of Record Verification determines that a property was lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration and the County's aggregation requirements. There is no development proposed at this time.

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**Determination:** The subject property known as 3N2W26A -02000 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 June 21, 2021 at 4:00 pm.**

**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:** Digitally signed by Aldo Rodriguez DN: cn=Aldo Rodriguez  
o=Multnomah County cu=Land Use Planning Division  
email=aldo.rodriguez@multco.us c=US

**By:** Aldo Rodriguez, Planner

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

**Date:** June 7, 2021

### Vicinity Map

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### **Applicable Approval Criteria:**

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

**Multnomah County Code (MCC):** MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions

**Lot of Record:** MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – Rural Residential

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**

**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 by contacting the case planner. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Aldo Rodriguez, Staff Planner at 503-988-4159 or at [aldo.rodriguez@multco.us](mailto:aldo.rodriguez@multco.us)

### **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 3N2W26A-02000 (the “subject property”). The application does not propose any new development as part of this application.

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 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 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 & History:**

**Staff:** The subject property is located in rural West Multnomah County in the Rural Residential zoning district in the West Hills Plan Area. The subject property is a trapezoid form with two unequal sides.

Multnomah County Department of Assessment, Records, and Taxation (DART) indicates Erik L Ingebrigtsen owns the subject property. According to DART records, the subject property contains a single-family dwelling with an attached garage and an outbuilding.

### **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 as Exhibited in C.4. Staff did not receive any public comments during the 14-day comment period.

### **4.0 Administrative Procedures 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:** 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
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, when created or reconfigured, must have (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

The applicant submitted a recorded warranty deed from October 1965 in Book 393, Page 323 (Exhibit A.15) that matches the current legal description for the subject property (Exhibit A.5). Per the 1962 zoning map included in Exhibit B.2, the subject property was zoned ‘F-2’ in 1965. In 1965, the F-2 zone had minimum lot size requirement of 2 acres. The subject property is 3.93 +/- acres and has not change configuration since 1965 (Exhibit A.15). The F-2 zone did not have other dimension standards or access requirements.

In 1965, the process to divide a single property required a deed or sales contract be recorded with the County Records office. As evidenced by the 1962 recorded warranty deed included as Exhibit A.15, the requirement was satisfied.

## **5.2 MCC 39.3090: Lot of Record – Rural Residential**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the RC 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, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary; (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

**(B) 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 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** Section (A) is for informational purposes. The minimum lot size in the Rural Residential (RR) zone is 5 acres. The subject property at 3.93+/- acres has less than the minimum lot size for new parcels or lots in the RR zone and is subject to (B) above. It may

be occupied by any allowed, review or conditional use when in compliance with the other requirements of the RR district provided it remains a Lot of Record. *Criteria met.*

- 5.3 (C) Except as otherwise provided by MCC 39.4380, 39.4385, 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 (C) is for informational purposes. The property owner is not proposing to convey any portion of the parcel at this time.

- 5.4 (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:** As discussed above under Section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is a legally described parcel created by the recording of a deed and is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

*Based upon the findings in 5.1 through 5.4, the subject property is a single 3.93 +/- acre 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 T2-2020-14024 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form 2x Copies	11.18.2020
A.2	1	Letter of Representation	11.18.2020
A.3	1	Assessment Map	11.18.2020
A.4	2	July 26, 1979 – Contract Deed	11.18.2020
A.5	2	Title Company Parcel Info and October 6, 1998 – Statutory Special Warranty Deed	11.18.2020
A.6	1	December 8, 1994 Warranty Deed	11.18.2020
A.7	2	Email regarding Lot of Record materials	11.18.2020
A.8	1	2 <sup>nd</sup> copy of October 6, 1998 – Statutory Special Warranty Deed	11.18.2020
A.9	1	Pre-file Meeting form	11.18.2020
A.10	1	Survey 1962	11.18.2020
A.11	1	Survey 1996	11.18.2020
A.12	1	Survey 1985	11.18.2020
A.13	1	MultCo Identify Aerial Property Information	11.18.2020
A.14	1	3 <sup>rd</sup> Copy of October 6, 1998 – Statutory Special Warranty Deed	11.18.2020
A.15	1	October 5, 1965 Warranty Deed in Book 393, Page 323	11.18.2020
A.16	1	September 2, 1955 Warranty Deed	11.18.2020
A.17	1	April 23, 1962 Warranty Deed	11.18.2020
A.18	1	Updated Signed General Application Form	1.20.2021

<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 < R326240> (Alt Acct# R982260220)	11.18.2020
B.2	1	Historic Zoning Map for zoning of 3N2W26A	3.15.2021
B.3	49	F-2 zoning regulations form Zoning Ordinance #100, Adopted June 18,1964	3.15.2021
B.4	1	Current Zoning Map	
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter	12.9.2020
C.2	4	Applicant’s acceptance of 180 day clock	12.22.2020
C.3	1	Incomplete Letter Email	12.17.2020
C.4	1	Complete letter (day 1)	2.19.2021
C.5	2	Opportunity to Comment and mailing	3.15.2021
C.6		Administrative decision and mailing list	