

August 31, 2022

To: County Hearings Officer, Alan Rappleyea

From: Land Use Planning Division

RE: T2-2022- 15537 Appeal

Scope of Appeal:

The request before the Hearings Officer is an Appeal of a Lot of Record Verification (Exhibit A.1). However, the appellant is seeking an Interpretation from the Hearings Officer on whether an Agricultural building approval requires verification of a Lot of Record. A request for an Interpretation is a Type II land use decision, but is not before the Hearings Officer at this time. No application for an interpretation request has formally been submitted to the Land Use Planning Division, nor has the Planning Director issued a decision. A land use decision must first be issued by the Planning Director in order to establish the basis for an appeal.

Multnomah County Code (MCC) 39.1110(B) Assignment of Decision Makers assigns the initial decision on all Type II permit applications to the Planning Director. If a Type II application is appealed, then the Hearings Officer makes the County's final decision. Pursuant to MCC 39.1105, a request for an Agricultural "Farm" Building (Exhibit H.1) is a Type I decision. The only application before the Hearings Officer at this time is a Type II Lot of Record Verification.

**MCC 39.1225 INTERPRETATIONS AND REQUESTS FOR LOT OF RECORD
VERIFICATION.**

(A) The Planning Director has the authority to decide all questions of interpretation or applicability to specific properties of any provision of the comprehensive plan, or other land use code. Any interpretation of a provision of the comprehensive plan, or other land use code shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance adopting the particular code section in question.

The applicant has not submitted an Agricultural building application as of August 30, 2022. In addition, an appeal of a Type I permit, which has not been applied for at the same time as a Type II or Type III, would not be heard by the County's Hearing Officer. An Agricultural "Farm" Building application is a Type I decision and is not a "land use decision." Therefore, the Planning Director has the sole authority to decide this issue for the County.

MCC 39.1125 APPLICATION REQUIREMENTS FOR TYPE I – IV APPLICATIONS.

All permit applications must be submitted at the Land Use Planning Division office on the most current form provided by the county, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria.

MCC 39.1110 ASSIGNMENT OF DECISION MAKERS.

The following county entity or official shall decide the following types of applications:

- (A) Type I Decisions. The Planning Director shall render all Type I decisions. The Planning Director's decision is the county's final decision on a Type I application.**

Aggregation:

The County's Lot of Record provisions for the EFU zone require properties that were held under the same ownership on February 20, 1990 to remain aggregated. While the current code references the 1990 date, aggregation requirements for properties in this zone have existed since October, 1977. The appellant has provided no evidence that the subject property and the adjacent property to the east were not held by the Vetschs. The February 15, 1990 deed (Exhibit D.3) clearly shows that Richard W. Vesch and Evelyn S. Vetsch were husband and wife. On February 20, 1990, Richard W. Vetsch owned the property to the east (Exhibit B.4, Property #2). Evelyn S. Vetsch owned the subject property (Exhibit B.4, Property #1). Pursuant to MCC 39.4210 Definitions, Same Ownership, property held by spouses are held under the same ownership.

Land Use Planning requests that the Hearings Officer uphold our determination that the subject property is not a Lot of Record.