

NOTICE OF DECISION


Case File: T2-2020-13684
Permit: Lot of Record Verification
Applicants: Baylee Dunn **Owners:** Christine & David Scott
Location: 32153 SE Bluff Rd., Gresham, Oregon 97080
Tax Lot 200, Section 20DD, Township 1S, Range 4E, W.M.
Tax Account # R994201660 Property ID #R342420
Base Zone: MUA-20
Overlays: -
Proposal Summary: Lot of Record Verification

Decision: The subject property (1S4E20DD -00200) 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 January 6, 2021 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 at the Land Use Planning office. 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

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:  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: December 23, 2020



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

Lot of Record Requirements Specific to Each Zone: MCC 39.3080 Lot of Record – Multiple Use Agriculture-20 (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

and building plans are needed for building permit sign off. At the time of building permit review, Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.

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:

- 1.1 Staff:** The applicant requests a Lot of Record Verification for tax lot 200, Section 20, Township 1S, Range 4E, W.M. (the “subject property”). The subject property is located between to 32037 SE Bluff Rd. the West and 82443 SE 322nd Pl. to the East.

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:

- 2.1 Staff:** The subject property is located in rural East Multnomah County in the Multiple Use Agriculture-20 zoning district in the West of the Sandy Plan Area. The subject property is a trapezoid form with two unequal sides.

Multnomah County Department of Assessment, Records, and Taxation (DART) indicates Christine Scott & David Scott own the subject property. According to DART records, the subject property contains a single-family dwelling with an attached garage, a detached garage and 329 sq.ft. shed.

3.0 Code Compliance and Application Criteria:

- 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.

(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*

4.0 Base Zone 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**
- 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 from March 1968 describing the subject property in its current configuration. In 1968, the zoning for the subject property was Suburban Residential (SR), which had a minimum lot size of 40,000 sq. ft., required frontage on a public road and minimum average width of 70 ft. and a minimum lot depth of 100 ft. (Exhibit B.3). The subject property is approximately 1.32 acres (57,499.2 sq. ft.); hence, the property met the minimum lot size requirements of the SR zone. It fronts SE Bluff Rd., which is a public road. The property is approximately 231.56 ft. wide and 243.12 ft. long at its shortness depth. The applicant provided a copy of statutory warranty deed from 1998 (Exhibit A.6) when they purchased the property. The current legal description reference points and measurements are the same as describe in 1968 warranty deed (Exhibit A.4). The creation of this parcel in 1968 satisfied all applicable zoning laws and land division laws at the time. *Criteria Met.*

4.2 MC 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;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) 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 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The current zoning for the property is Multiple Use Agriculture-20 (MUA), which has twenty-acre minimum lot size, requirement of public or private street frontage and minimum front lot line length of 50 ft. The subject property is only 1.32 acres, fronts SE Bluff Rd., a public road. The front lot line length is 231.56 ft. While the parcel has less than the minimum lot size for a new parcel in the MUA-20 zone, it is a legally created parcel under the finding 4.1 of this land use decision. The subject property may be occupied by any land use permissible subject to the MUA-20 requirements provided the proposed use does not have a minimum lot size requirement larger than 1.32 acres and the use is in compliance with the other requirements of the MUA-20 zone. *Criteria met*

4.3 (C) 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: The subject property remains in the same configuration as described in the 1968 warranty deed (Exhibit A.4). Any structures that did not exist prior to zoning regulation would need to meet the minimum yard requirement of the MUA zone as per MCC Chapter 39.

4.4 (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: The legal configuration of the subject property was not created by the foreclosure of a security interest or a court decree. The legal configuration of the subject property is not an area of land described solely for assessment and taxation purposes. *Criteria met.*

5.0 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 T2-2020-13684 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	8.25.2020
A.2	1	Digital Signature Certificate	8.25.2020
A.3	2	Fidelity National Title Parcel Information	8.25.2020
A.4	1	1968 Warranty Deed – Recorded as Book 610 Page #1371	8.25.2020
A.5	2	1993 Quitclaim Deed – Recorded as Book 2759 Page #1182	8.25.2020
A.6	2	1998 Warranty Deed – Record instrument #98236428	8.25.2020
A.7	33	Authorization letter and Solar Plan plans	8.25.2020

'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R342420 (Alt Acct#R99420660)	8.25.2020
B.2	5	June 18, 1964 Table of Contents Zoning - Ordinance #100	11.12.2020
B.3	49	1964 Residential Districts Zoning Code	11.12.2020
B.4	1	1S4E20D62 1962 Residential Districts Zoning Map	11.12.2020
B.5	1	1S4E20D62 Assessment Map	11.12.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	9.21.2020
C.2	2	Opportunity to Comment and Mailing List	11.12.2020
C.3		Administrative decision	