

NOTICE OF DECISION

Case File: T2-2020-14003

Permit: Lot of Record Verification

Applicants: Julian Saunders Haigh

Owners: Julian Saunders Haigh

Location: 10030 NW Thompson Road
Tax Account #R961260630

Map, Tax Lot: 1N1W26BB-04100
Property ID #R324560

Base Zone: Rural Residential (RR)

Overlays: None

Proposal Summary: The applicant requests a Lot of Record Verification to determine if the subject property (1N1W26BB-04100) is a Lot of Record. A Lot of Record Verification confirms 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, if applicable.

Decision: **Approved**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, April 9, 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 Marisol Cervantes, Staff Planner at 503-988-9452 or at Marisol.Cervantes@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: Marisol Cervantes, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, March 26, 2021

Vicinity Map



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 39.3090 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

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 known as 10030 NW Thompson Rd and identified as tax lot 1N1W26BB-04100 (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 & HISTORY:

Staff: The subject property is in unincorporated West Multnomah County and is zoned Rural Residential. The subject property is outside of the Metro urban growth boundary. County tax records list a 1950 single-family dwelling with a built in garage on the subject property. The 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 in C.2). Staff did not receive any public comments during the 14-day comment period.

4.0 GENERAL PROVISIONS:

4.1 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:

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: To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet (B) of this section and meet the Lot of Record standards set forth in the Rural Residential zoning district. More specifically, Section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The Lot of Record standard set forth in the RR district establish additional requirements unique to the district, which are evaluated in Sections 5.2-5.3 of this decision. The finding below analyzed whether the Lot of Record provisions in Section (B) have been met.

The applicant provided a deed recorded from 1952 that contains a legal description matching the current configuration of the subject property (Exhibit A.3). In 1952 the County had not yet adopted zoning regulations for the area where the subject property is located. The 1962 zoning map, included as (Exhibit B.3), depicts the first zoning for the subject property effective in 1955. As Multnomah County zoning was not in effect in 1952 therefore, the subject property complied with all the applicable zoning laws at the time of creation. The applicant submitted additional deeds from 1958, 1962, 1965, 1968, 1976, 1994 and the most

current deed from 2020. These deeds match the current configuration of the subject property (Exhibit A.4 through A.12). Since the subject property was created prior to implementation of zoning, it satisfied all applicable zoning regulations at the time of its establishment.

In 1952, the process to divide a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the Warranty Deed recorded in 1952 (Exhibit A.3), the applicable land divisions laws were satisfied.

All applicable zoning and land division laws were satisfied in 1952.

5.2 MCC 39.3090 Lot of Record – RR

(A) In addition to the standards in MCC 39.3005, for the purposes of the RR district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(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.

(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: Subsections (A) & (C) are for information purposes. The subject property is a Lot of Record and is subject to (B) above. The subject property met all applicable zoning and land division laws at the time of its creation. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. *Criteria met.*

5.3 (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 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, or an area of land created by court decree. *Criteria met.*

Based upon the findings in 5.1 through 5.3, the subject property is a 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 T2-2020-14003 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	11.13.2020
A.2	7	Title Report from Lawyers Title	11.13.2020
A.3	2	Warranty Deed recorded September 29, 1952 in Book 1561, Page 369	11.13.2020
A.4	2	Warranty Deed recorded September 10, 1958 in Book 1916, Page 469	11.13.2020
A.5	1	Warranty Deed recorded December 3, 1962 in Book 2145, Page 504	11.13.2020
A.6	2	Warranty Deed recorded December 3, 1962 in Book 2145, Pages 505 and 506	11.13.2020
A.7	2	Special Warranty Deed recorded July 6, 1965 in Book 329, Pages 217 and 218	11.13.2020
A.8	2	Warranty Deed recorded February 26. 1968 in Book 606, Pages 728 and 729	11.13.2020
A.9	2	Warranty Deed recorded September 30, 1976 in Book 1130, Pages 582 and 583	11.13.2020
A.10	3	Statutory Quitclaim Deed recorded at Instrument #94-005078 on January 11, 1994	11.13.2020
A.11	3	Statutory Special Warranty Deed recorded at Instrument #94-005079 on January 11, 1994	11.13.2020
A.12	2	Statutory Warranty Deed recorded at Instrument 2020-109609 on September 28, 2020	11.13.2020
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for (Alt Acct# R677804080)	11.13.2020

B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 1N1W26BB	03.17.2021
B.3	1	1962 Zoning Map for 1N1W26BB	03.17.2021
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	12.11.2020
C.2	3	Opportunity to Comment and mailing list	12.21.2020
C.3	7	Administrative decision and mailing list	03.26.2021