
NOTICE OF DECISION

Case File: T2-2021-14325
Permit: Lot of Record Verification
Applicant: Jason Smith **Owner:** United States of America
Subject: Adjacent to NW St. Helen’s Rd., Portland
Property: Map # 2N1W17 -700; 2N1W -2200; 2N1W17 -800; 2N1W20 -100; 2N1W20 -200
Alt. Acct. # R971170060; R971200020; R971170070; R971200010; R971200040
Property ID # R324969; R325132; R324970; R325131; R325133
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Overlays: Willamette River Greenway (WRG); Flood Hazard (FD); Protected Aggregate and Mineral – Impact Area (PAM-IA)
Proposal Summary: Lot of Record Verification to determine if the combined tax lots, identified above as the subject property, form a single Lot of Record. A Lot of Record is a unit of land that satisfied all applicable zoning and land division laws at the time of its creation / reconfiguration. WRG, FH, and PAM-IA permits are not required at this time, as this review does not consider any development request.

Determination: The subject property consisting of the tax lots identified above is a single Lot of Record.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, May 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 digital review. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Chris Liu, Staff Planner via email at chris.liu@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 (503) 988-3043. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: _____

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, April 22, 2021

Vicinity Map

N↑



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 39.3080 Lot of Record – MUA-20

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at <http://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 to determine if the combined tax lots, identified above as the subject property, form a single Lot of Record. A Lot of Record is a unit of land that satisfied all applicable zoning and land division laws at the time of its creation / reconfiguration. WRG, FH, and PAM-IA permits are not required at this time, as this review does not consider any development request.

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:

Staff: The subject property is located adjacent to NW St. Helens Road, is outside of the Metro urban growth boundary, and is zoned MUA-20. The subject property is comprised of five (5) tax lots. There are no buildings located on the subject property and the primary use of the property is for natural resource conservation.

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 C.2). Staff did not receive any public comments during the 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: 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 at this time.*

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 MUA-20 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 standards set forth in the MUA-20 district establish additional requirements unique to the district, which are evaluated in Sections 5.2-5.4 of this decision. The finding below analyzes whether the Lot of Record provisions in Section (B) have been met.

The Applicant provided a deed from 1991 describing the subject property in its current configuration (Exhibit A.4). In 1991 the subject property was zoned MUA-20 per the historic zoning maps included as Exhibit B.2 – B.4. The MUA-20 zone required a minimum lot size of 20.0 acres, a minimum front lot line length of 50 ft., and appropriate access (Exhibit B.5). The subject property is approximately 417.16 acres, has a front lot line length greater than 50 ft., and appropriate access from NW St. Helens Road (Exhibit B.1).

Based on the above, the subject property met all relevant zoning regulations when reconfigured in 1991.

In 1991, the process to combine individual units of land involved the recording of a deed (Exhibit A.4). MCC 11.45 [as adopted January 1981] regulated land divisions and the action taken is not listed as a Type I, II, or III land division (Exhibit B.6). No sections of the Land Division ordinance cover the combining of units of land into a single parcel. In addition, the property owner is the Federal Government. The Federal Government is not required to comply with the laws of the State of Oregon for their land reconfiguration activities.

Based on the above, the subject property met all relevant land division laws when reconfigured in 1991.

5.2 MCC 39.3080 Lot of Record – (MUA-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;**

* * *

(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: Section (A) is for information purposes. The subject property is a Lot of Record that meets the minimum lot size for the MUA-20 zone. *Criteria met.*

5.3 (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 meets all dimensional requirements of the MUA-20 zone. *Criterion met.*

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: The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the information described above, the subject property is a single 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 T2-2021-14325

| Exhibit # | # of Pages | Description of Exhibit | Date Received / Submitted |
|-----------|------------|--|---------------------------|
| A.1 | 1 | General Application Form | 02.25.2021 |
| A.2 | 3 | Parcel Record Card for 2N1W17 -00700 | 02.25.2021 |
| A.3 | 4 | Parcel Record Card for 2N1W -02200 | 02.25.2021 |
| A.4 | 5 | Special Warranty Deed recorded November 18, 1991 in Book 2478, Pages 695-699 | 02.25.2021 |
| A.5 | 14 | Preliminary Title Report for 2N1W -02200 | 02.25.2021 |
| A.6 | 3 | Parcel Record Card for 2N1W17 -00800 | 02.25.2021 |
| A.7 | 14 | Preliminary Title Report for 2N1W -00800 | 02.25.2021 |

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|------------|----------|--|-------------|
| A.8 | 3 | Parcel Record Card for 2N1W20 -00100 | 02.25.2021 |
| A.9 | 14 | Preliminary Title Report for 2N1W20 -00100 | 02.25.2021 |
| A.10 | 3 | Parcel Record Card for 2N1W20 -00200 | 02.25.2021 |
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| 'B' | # | Staff Exhibits | Date |
| B.1 | 1 | Division of Assessment, Recording, and Taxation (DART): Map for 2N1W20 | 02.25.2021 |
| B.2 | 1 | 1977 Historic Zoning Map 2N1W20 | 02.25.2021 |
| B.3 | 1 | 1990 Historic Zoning Map 2N1W17 | 02.25.2021 |
| B.4 | 1 | 1983 Historic Zoning Map 2N1W18 | 02.25.2021 |
| B.5 | 4 | MUA-20 Zoning Regulations from MCC 11.15 as adopted February 20, 1990 | 02.25.2021 |
| B.6 | 44 | MCC 11.45 Land Division Regulations as adopted January 1981 | 02.25.2021 |
| | | | |
| 'C' | # | Administration & Procedures | Date |
| C.1 | 1 | Complete letter (day 1) | 02.23.2021 |
| C.2 | 2 | Opportunity to Comment | 03.18.2021 |
| C.3 | 7 | Administrative Decision | 04.20.2021 |