



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, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agricultural- 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**

***Note to Property Owners:** Lot A and Lot B have a common boundary line intersecting the current single-family dwelling. The property owners wish to add an addition to the existing single-family dwelling. In order to allow the addition, the property owners will need to complete one of the following options:*

***Option 1:** Apply for and complete a Lot Consolidation application to combine Lot A & Lot B into a single unit of land and one Lot of Record.*

***Option 2:** Apply for a Lot Consolidation application to combine Lots 2, 3 & 4 into a legal unit of land (Lot B) and then apply for a property line adjustment to move the existing property line between Lot A & B so it meets the minimum yard requirements of MCC 39.4325(C).*

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 1S4E21BC-01900 and is known as 32410 SE Proctor St. (the “subject property”). The subject property is located in east unincorporated Multnomah County approximately 1.5 miles from the City of Gresham urban growth boundary and zoned Multiple Use Agricultural-20 (MUA-20). Tax records indicate one single-family dwelling on 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 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.3. Staff did not receive any public comments during the 14-day comment period.

3.0 Administrative Procedures Criteria:

3.1 § 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.

Staff: As noted in 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.*

4.0 Lot of Record 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 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 Section 4.2 of this decision. The findings below analyzed whether the Lot of Record provisions in Section (B) have been met.

The subject property is part of Block 10, Proctor Addition Plat, throughout time the subject property has changed configuration from its original platted subdivision lots. The applicant provided multiple deeds from present to dating back to 1953.

The subject property’s current configuration as described in the 2020 Statutory Warranty Deed (**Exhibit A.3**) describes the subject property as *“The East 150 ft. of Lot 2 and Lot 3, except the easterly 50 feet thereof, Block 10, Proctor.”*

Earlier deeds described four units of land in tax lot 1S4E21BC-01900 at various times. We will refer to these units of land (Lot) as Lots 1, 2, 3, & 4 in the findings below though they are not complete subdivision lots. Graphic One shows each of these units of land.



Lot 1

In 1971, Lot 1 was created or reconfigured into its current size of 15,000 sq. ft. (Exhibit A.11). The zoning at the time was R-7. The R-7 zoning in 1971 required a 7,000 sq. ft. minimum lot size, a minimum average lot width of sixty (60) feet, and the minimum lot width at the building line to be sixty (60) feet. Additionally a minimum average lot depth of eighty (80) feet (**Exhibit B.3**). Lot 1 is 150 ft. wide, has a 100 ft. depth and meets exceeds the minimum average lot depth as it is rectangular shaped.

In 1971, the process to divide or reconfigure a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be recordable form or recorded with the County recorder prior to October 19, 1978. As evidenced by the Warranty Deed (Exhibit A.11) the applicable land division laws were satisfied.

Lot 1 met the applicable zoning and land division laws at the time of its creation or reconfiguration.

Lot 2

In 1971, Lot 2 was divided off from Lot 1 (Exhibit A.11). Lot 2 was only 5,000 sq. ft. in size and had a minimum average lot width of 50 feet. The zoning at the time was R-7. The R-7 zoning in 1971 required a 7,000 sq. ft. minimum lot size, a minimum average lot width of sixty (60) feet, and the minimum lot width at the building line to be sixty (60) feet. Additionally a minimum average lot depth of eighty (80) feet (**Exhibit B.3**). Lot 2 is 50 ft. wide, has a 100 ft. depth and fails to meet the minimum average lot depth as it is only 50 ft. wide and rectangular shaped.

In 1971, the process to divide or reconfigure a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be recordable

form or recorded with the County recorder prior to October 19, 1978. As evidenced by the Warranty Deed (Exhibit A.11) the applicable land division laws were satisfied.

Lot 2 did not meet the applicable zoning laws at the time of its creation.

Lot 3

On or before 1972, Lot 3 was created, existed or was reconfigured in its legal size of 10,000 sq. ft. (Exhibit A.12). The zoning at the time was R-7. The R-7 zoning in 1971 required a 7,000 sq. ft. minimum lot size, a minimum average lot width of sixty (60) feet, and the minimum lot width at the building line to be sixty (60) feet. Additionally a minimum average lot depth of eighty (80) feet (**Exhibit B.3**). Lot 3 is 100 ft. wide, has a 100 ft. depth and meets exceeds the minimum average lot depth as it is rectangular shaped.

In 1972, the process to divide or reconfigure a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be recordable form or recorded with the County recorder prior to October 19, 1978. As evidenced by the Contract (Exhibit A.12) the applicable land division laws were satisfied.

Lot 4

On or before 1953, Lot 4 was created, existed or was reconfigured into its legal size of 10,000 sq. ft. (Exhibit A.5) The County did not commence zoning until 1955. As there was no minimum lot size or other requirements, Lot 4 met the rules in place in 1953.

In 1994, the property owner wanted to construct a single-family dwelling on Lots 1, 2, 3, & 4. Since Lot 2 failed to meet zoning at the time of its creation, the County required the property owners to combine the four lots into one tax lot (Tax Account 1S4E21BC-01900).

The current property owners purchased the property in August 2020 (Exhibit A.3 & B.1). The warranty deed transferring the four lots to them altered the legal descriptions to encompass Lot 1 (shown as Lot A) as a separate unit of land and Lot 2, 3, & 4 combined (shown as Lot B) (see graphic below).



The property owners at the time did not request and gain approval a Lot Consolidation application as required by MCC 39.9200 to alter legal descriptions or combine the lots 2, 3 &

4 into Lot B. This issue can be resolved by the property owners' requesting a Lot Consolidation approval to consolidate of lots 2, 3, & 4 into Lot B. Once the Lot Consolidation process is completed, the tax lot known as 1S4E21BC-01900 would have two legal units of land within it.

4.2 MCC 39.3080 Lot of Record – Multiple Use Agricultural -20 (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;**
- (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: Section (A) is for information purposes. Lot A and Lot B, once legalized by the lot consolidation application, has less than the minimum lot size for new parcels or lots and is subject to (B) above. *Criteria met.*

(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: As noted above Lot A and Lot B (once legalized) are two separate Lot of Records. No conveyance is proposed at this time. *Criterion met.*

(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: Tax lot 1S4E21BC-01900 is a tax lot solely for assessment and taxation purposes. Lots A & B (once legalized) are contained within the single tax lot, but will constitute two legal units of land. The subject lots are not an area of land created by the foreclosure of security interest or created by court decree. *Criteria met.*

Lot A is one single Lot of Record on its own and Lot B (once legalized) will also one single Lot of Record.

Note to Property Owners: *Lot A and Lot B have a common boundary line intersecting the current single-family dwelling. The property owners wish to add an addition to the existing single-family dwelling. In order to allow the addition, the property owners will need to complete one of the following options:*

Option 1: *Apply for and complete a Lot Consolidation application to combine Lot A & Lot B into a single unit of land and one Lot of Record.*

Option 2: *Apply for a Lot Consolidation application to combine Lots 2, 3 & 4 into a legal unit of land (Lot B) and then apply for a property line adjustment to move the existing property line between Lot A & B so it meets the minimum yard requirements of MCC 39.4325(C).*

6.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

All exhibits are available for review in Case File T2-2021-14576 by contacting the case planner.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application form	04.23.2021
A.2	2	Statutory Warranty Deed recorded September 16, 1994, instrument #94-138660	04.23.2021
A.3	3	Statutory Warranty Deed recorded August 28, 2020, instrument #2020-109690	04.23.2021
A.4	2	Warranty Deed recorded April 23, 1953 in Book 1597, Pages 40 - 41	06.01.2021
A.5	2	Warranty Deed recorded April 23, 1953 in Book 1597, Page 45	06.01.2021
A.6	1	Warranty Deed recorded July 20, 1953 in Book 1612, Page 69	06.01.2021
A.7	2	Warranty Deed recorded July 20, 1953 in Book 1612, Pages 70 - 71	06.01.2021
A.8	1	Warranty Deed recorded April 16, 1956 in Book 1779, Page 139	06.01.2021
A.9	1	Warranty Deed recorded June 15, 1956 in Book 1789, Page 465	06.01.2021
A.10	1	Warranty Deed recorded September 19, 1960 in Book 2028, Page 670	06.01.2021

A.11	1	Warranty Deed recorded March 17, 1971 in Book 838, Page 473	06.01.2021
A.12	4	Contract recorded February 4, 1972 in Book 838, Pages 474 - 477	06.01.2021
A.13	2	Vendee-Buyer's Assignment of Contract recorded August 13, 1975 in Book 1056, Page 567 and recorded October 3, 1975 in Book 1065, Page 93	06.01.2021
A.14	1	Warranty Deed recorded February 24, 1981 in Book 1505, Page 88	06.01.2021
A.15	1	Bargain and Sale Deed recorded December 18, 1981 in Book 1568, Page 1331	06.01.2021
A.16	2	Real Estate Contract recorded October 28, 1982 in Book 1625, Pages 1256 - 1257	06.01.2021
A.17	2	Statutory Special Warranty Deed recorded October 6, 1986 in Book 1944, Pages 880 - 881	06.01.2021
A.18	1	Bargain and Sale Deed recorded August 3, 1987 in Book 2029, Page 2327	06.01.2021
A.19	1	Bargain and Sale Deed recorded January 31, 1991 in Book 2382, Page 1940	06.01.2021
A.20	1	Bargain and Sale Deed recorded January 9, 1992 in Book 2495, Page 1023	06.01.2021
A.21	1	Statutory Warranty Deed recorded September 11, 1992 in Book 2586, Page 2032	06.01.2021
A.22	1	Warranty Deed recorded December 16, 1992 in Book 2625, Page 1952	06.01.2021
A.23	1	Quitclaim Deed recorded May 14, 1993 in Book 2690, Page 2212	06.01.2021
A.24	1	Statutory Warranty Deed recorded May 14, 1993 in Book 2690, Page 2213	06.01.2021
A.25	1	Bargain and Sale Deed recorded July 26, 1994, instrument #94-113333	06.01.2021
A.26	1	Bargain and Sale Deed recorded February 7, 1995, instrument #95-15311	06.01.2021
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1S4E21BC-01900 (Alt Acct#R677810170)	04.23.2021

B.2	1	1962 Historic Zoning Map deem to show 1955-58 zoning for 1S4E21BC-01900	10.01.2021
B.3	4	R-7 Zoning Regulations from Zoning Ordinance as adopted April 19, 1955	10.01.2021
B.4	1	1966 Historic Zoning Map for 1S4E21BC-01900	10.01.2021
B.5	4	R-7 Zoning Regulations from Zoning Ordinance 100 amended as adopted May 21, 1968	10.01.2021
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	05.20.2021
C.2	1	Complete letter (day 1)	07.14.2021
C.3	3	Opportunity to Comment and mailing list	07.29.2021
C.4	10	Administrative decision and mailing list	11.15.2021