

## NOTICE OF DECISION

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**Case File:** T2-2022-15483

**Permit:** Lot of Record Verification

**Applicants:** Maggie Ludden, TML International      **Owners:** Betty & Les Barkley  
LLC

**Location:**      **Address:** 19240 NW Gillihan Rd, Portland      **Map, Tax Lot:** 2N1W14A-00200  
**Tax Account #**R971140140      **Property ID #**R324924

**Base Zone:** Multiple Use Agriculture-20 (MUA-20)

**Overlays:** Flood Hazard (FH)

**Proposal Summary:** The applicant is requesting a Lot of Record Verification for the above property. A Lot of Record Verification determines 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.

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**Determination:** The subject property known as 2N1W14A-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 Thursday, May 19, 2022 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 by contacting the case planner. Copies of all documents are available at the rate of \$0.40/per page. For further information, contact case planner, Lisa Estrin at 503-988-0167 or via email at [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@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.

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**Issued by:** \_\_\_\_\_

**By:** Lisa Estrin, Senior Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Thursday, May 5, 2022



**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

*Lot of Record:* MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – 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**

**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 2N1W14A-00200 (subject property). The application does not propose any new development at this time.

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 reconfiguration 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.

### **2.0 Property Description:**

**Staff:** The subject property is located in unincorporated west Multnomah County in the area known as Sauvie Island. The property is zoned Multiple Use Agriculture – 20 (MUA-20) and is located outside of Metro’s Urban Growth Boundary (UGB). According to County tax records, a single family dwelling with an attached garage and covered patio occupies the subject property.

### **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.3). 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.**

\* \* \*

**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**

**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 MCC 39.3005(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 applicant provided 13 deed(s) (Exhibit A.8 through A.21) to support the Lot of Record request. A Contract recorded on October 8, 1973 contains the earliest legal description, which matches the current configuration of the subject property (Exhibit A.21). In 1973, the subject property was zoned F-2 per historical County zoning maps (Exhibit B.2 & B.3).

The F-2 zone had a minimum lot size of 2 acres (Exhibit B.9). There was no requirement for road frontage or minimum front lot line length or lot width.

The subject property was 3.35 acres when it was created or reconfigured in 1973 and is accessed by easement from NW Gillihan Road (Exhibit B.8). The current County tax map (Exhibit B.7) has the acreage for the parcel at 2.41. Unlike a significant number of parcels adjacent to a navigable river, the property owners own to ordinary low water mark instead of

the ordinary high water (Exhibit A.19) based on the Quitclaim Deed recorded by the State clarifying ownership. The current tax map does not appear to consider this area. As the legal description has remained the same from 1973 to the present (Exhibits A.12, A.19 & A.21), the subject property in its current configuration met the F-2 zoning at the time of its creation or reconfiguration.

*The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration.*

In 1973, the process to create or divide a parcel 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 1973 Contract (Exhibit A.12), the applicable land division laws were satisfied.

*Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1973.*

## **5.2 MCC 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-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;**

\* \* \*

**(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 has less than the minimum lot size for new parcels or lots in the MUA-20 zone and is subject to (B) above. The subject property 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.*

**(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:** Subsection (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot 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:** As discussed above under section 5.1, 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 findings in 5.1 & 5.2, the subject property is a single Lot of Record.*

**6.0 Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

All exhibits are available for review in Case File T2-2022-15483 by contacting the case planner, Lisa Estrin at 503.988.0167 or via email at [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us) at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	3	General Application Form & Letter of Authorization from Betty Barkley	1/26/2022
A.2	2	Warranty Deed recorded on February 24, 1998 at Instrument #98027950	1/26/2022
A.3	2	Exhibit A & B from a Title Report (no date found)	1/26/2022
A.4	1	Revised General Application Form	3/03/2022
A.5	2	Property Detail Report dated February 22, 2022 for 19240 NW Gillihan Rd (R324924)	3/03/2022
A.6	1	Stewart Title Map with Property Identified with X	3/03/2022
A.7	1	Multnomah County Tax Map 2N1W14A	3/03/2022
A.8	2	Warranty Deed recorded December 26, 1961 in Book 2095, Pages 667 & 668	3/07/2022
A.9	1	Warranty Deed recorded December 26, 1961 in Book 2095, Pages 669	3/07/2022
A.10	1	Warranty Deed recorded December 26, 1961 in Book 2095, Pages 670	3/07/2022
A.11	2	Contract recorded on August 25, 1971 in Book 809, Page 1342 & 1343	3/07/2022
A.12	3	Contract recorded on October 8, 1973 in Book 952, Pages 2039 - 2041	3/07/2022
A.13	1	Paper referencing Missing Deed recorded on November 14, 1980 in Book 1483, Page 2054	3/07/2022

A.14	1	Bargain & Sale Deed recorded January 5, 1984 in Book 1717, Page 1619	3/07/2022
A.15	1	Document recorded January 20, 1984 in Book 1721, Page 1135	3/07/2022
A.16	3	Warranty Deed recorded October 2, 1990 in Book 2348, Page 1798 & 1799	3/07/2022
A.17	3	Quit Claim Deed recorded October 2, 1990 in Book 2348, Page 1800 & 1801	3/07/2022
A.18	3	Quit Claim Deed recorded December 23, 1991 in Book 2489, Page 2696 – 2698	3/07/2022
A.19	2	Quitclaim Deed recorded January 2, 1992 in Book 2493, Page 717-718	3/07/2022
A.20	2	Warranty Deed recorded November 24, 1993 in Book 2789, Page 2841 & 2842	3/07/2022
A.21	3	Warranty Deed recorded February 24, 1998 at #98027950	3/07/2022
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Assessment and Taxation Property Information for 2N1W14A-00200 (R971140140 / R324924)	1/26/2022
B.2	1	1962 Zoning Map for 2N1W14	4/26/2022
B.3	1	12-9-1975 Zoning Map for 2N1W14	4/26/2022
B.4	1	10-5-1977 Zoning Map for 2N1W14	4/26/2022
B.5	1	10-6-1977 Zoning Map for 2N1W14	4/26/2022
B.6	1	1978 Tax Map for 2N1W14	4/26/2022
B.7	1	Current Tax Map for 2N1W14A	4/26/2022
B.8	3	Parcel Record Card for 2N1W14A-00200	4/26/2022
B.9	2	Lot Sizes from 1968 Zoning Ordinance	4/26/2022
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter	2/24/2022
C.2	1	Complete letter (day 1)	3/07/2022
C.3	3	Opportunity to Comment	3/09/2022
C.4	7	Decision	05/05/2022