



Mailing Date:
Friday, January 24, 2025

COMMUNITY DEVELOPMENT

FINDINGS AND DECISION

FILE NUMBER(S): 247-24-000346-LR

**SUBJECT PROPERTY/
OWNER:** Mailing Name: BARBERA HANNA TRUST
Map and Taxlot: 2209000001702
Account: 144140
Situs Address: 50630 MASTEN RD, LA PINE, OR 97739

APPLICANT: Barbera Hanna

REQUEST: Lot of Record Verification

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code
Title 18, Deschutes County Zoning Ordinance:
Chapter 18.04, Title, Purpose and Definitions
Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.04, Introduction and Definitions
Chapter 22.40, Declaratory Ruling
Oregon Revised Statutes
ORS 92, Subdivisions and Partition

II. BASIC FINDINGS

LOT OF RECORD: As described herein, the subject property contains one legal lot(s) of record.

SITE DESCRIPTION: The identified legal lot of record is +/- 24.79 acres in size.

REVIEW PERIOD: Under DCC 22.20.040(D)(3), this Lot of Record verification is exempt from the 150-day time limit established by DCC 22.20.040.

III. FINDINGS & CONCLUSIONS

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.04, Introduction and Definitions

Section 22.04.040 Verifying Lots of Record.

- D. Findings; Declaratory Ruling ... If an applicant is applying for a permit listed in subsection (B)(1) that does not require public notice, or prior to applying for any permit, an applicant may request a declaratory ruling pursuant to DCC Chapter 22.40. If the lot or parcel meets the "lot of record" definition in 18.04.030, the County shall issue the declaratory ruling determining that the lot or parcel qualifies for all permits listed in subsection (B)(1). If the lot or parcel does not meet the "lot of record" definition in 18.04.030, the County shall not issue the declaratory ruling and instead shall provide the applicant information on permit options that do not require verification and information on verification exceptions that may apply pursuant to subsections (B)(2).**

FINDING: The applicant has requested a declaratory ruling pursuant to DCC Chapter 22.40 to confirm the subject property meets the "lot of record" definition in DCC 18.04.030.

Chapter 22.40, Declaratory Ruling

Section 22.40.010, Availability of Declaratory Ruling.

- A. Subject to the other provisions of DCC 22.40.010, there shall be available for the County's comprehensive plans, zoning ordinances, the subdivision and partition ordinance and DCC Title 22 a process for:**
- ...
- 6. Verifying that a lot of parcel meets the "lot of record" definition in 18.040.030 pursuant to DCC 22.04.040(D).**

FINDING: The applicant has requested a declaratory ruling pursuant to DCC Chapter 22.40 to confirm that the subject property meets the "lot of record" definition in DCC 18.04.030.

Title 18, Deschutes County Zoning Ordinance

Chapter 18.04, Title, Purpose and Definitions

Section 18.04.030, Definitions.

"Lot of Record" means:

- A. *A lot or parcel at least 5,000 square feet in area and at least 50 feet wide, which conformed to all zoning and subdivision or partition requirements, if any, in effect on the date the lot or parcel was created, and which was created by any of the following means:***

FINDING: Any lot(s) of record identified in this decision are at least 5,000 square feet in area and at least 50 feet wide. Major historical changes in the County's subdivision, partition, zoning, and building permit requirements are outlined below.

PL-2 – Subdivision Ordinance – September 9, 1970

Required the approval of and recording of a subdivision plat to "Subdivide land", which was defined to mean "to partition a parcel of land into four or more parcels, any one of which, is less than ten (10) acres each for the purpose of transfer of ownership or building development, whether immediate or future, pursuant to O.R.S. 92.010."

PL-5 – Deschutes County Zoning – November 11, 1972

Provided zoning and minimum lot sizes for parcels created by subdivision. Because no zoning maps were adopted contemporaneously with PL-5's "approval", zoning became effective in a piecemeal fashion in the County, as maps were adopted for various geographic regions of the County.

PL-7¹ – Uniform Building Code (UBC) – September 1, 1973

Established the first Deschutes County building permitting requirements. All structures constructed on or after September 1, 1973 required County review and structures started prior to that date were required to be completed by December 30, 1973.

ZM-1 – Zoning Map – November 15, 1972

Applied A-1 countywide agricultural zoning outside the urban areas of Redmond and Sisters, the Bend UGB, the rural service centers of Terrebonne and Tumalo, but not including certain land to the west of Bend, as well as applying PD zoning to Sunriver and Black Butte.

ZM-2 through ZM-11 – Zoning Maps – November 15, 1972 – June 30, 1973

Various zoning maps were adopted for specific areas throughout the County.

¹ Ordinance no. PL-7 was first assigned to the County's adoption of the Uniform Building and Plumbing Codes in Deschutes County (ref. Commissioner Journals Book 17, Page 122).

PL-7 - Deschutes County Land Partition Ordinance No. PL-7 – April 5, 1977

Required that “no person shall partition an area or tract of land without compliance with the provisions of this ordinance”.

PL-14 Deschutes County Subdivision/Partition Ordinance–November 1, 1979

All land division regulated.

PL-15 – Deschutes County Zoning Ordinance of 1979 – November 1, 1979

Updated zoning throughout the County.

Any lot(s) of record identified in this decision conformed to all zoning and subdivision or partition requirements, if any, in effect on the date the lot or parcel was created.

1. *By partitioning land as defined in ORS 92;*

FINDING: The subject property was not created by partitioning land as defined in ORS 92.

2. *By a subdivision plat, as defined in ORS 92, filed with the Deschutes County Surveyor and recorded with the Deschutes County Clerk;*

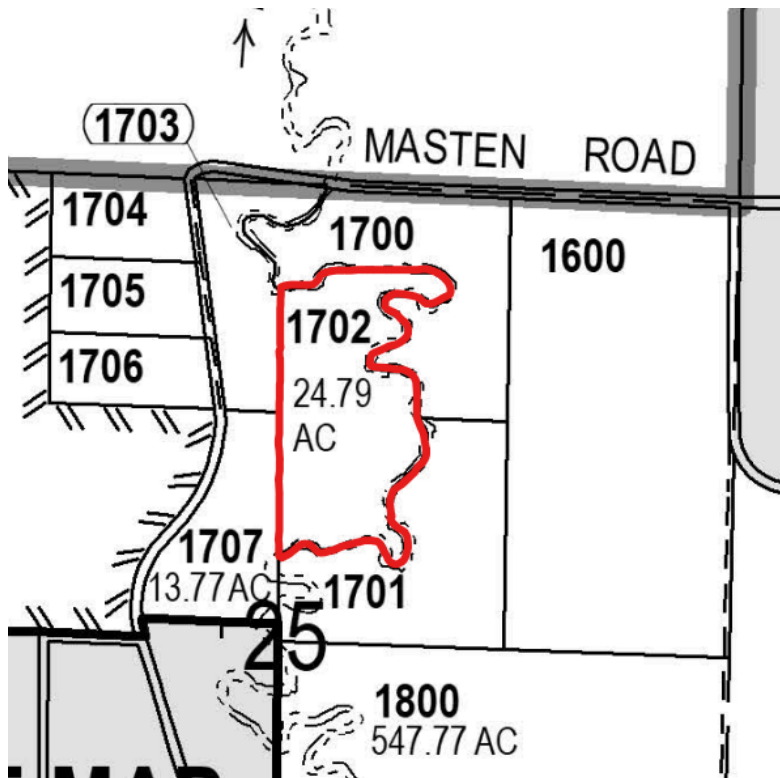
FINDING: The subject property was not created by a subdivision plat, as defined in ORS 92, filed with the Deschutes County Surveyor and recorded with the Deschutes County Clerk.

3. *By deed or contract, dated and signed by the parties to the transaction, containing a separate legal description of the lot or parcel, and recorded in Deschutes County if recording of the instrument was required on the date of the conveyance. If such instrument contains more than one legal description, only one lot of record shall be recognized unless the legal descriptions describe lots subject to a recorded subdivision or town plat;*

FINDING: The subject lot(s) of record were created by deed or contract in accordance with this criterion and conformed to all zoning and subdivision or partition requirements, if any, in effect on the date the lot or parcel was created.

The subject property was created by a Warranty Deed dated October 14, 1971, recorded in Volume 200, Page 699, Deschutes County Book of Records. This lot of record is shown in the figure below.

Figure 1: Legal Lot of Record Consisting of Tax Lot 1702



At this time, Deschutes County Subdivision Ordinance PL-2 regulated “partition[ing]” a parcel of land into four or more parcels that resulted in a parcel(s) less than 10 acres in size, as outlined in the findings above. Staff finds the conveyance of this property was not part of a land division that created four or more parcels and, for this reason, the conveyance conformed to all applicable requirements. Therefore, the subject property is recognized as one (1) legal lot of record under DCC 18.04.030 Lot of Record (A)(3).

Staff notes the subject property was combined with Tax Lot 1707 on Assessor’s Map 22-09-00 through a Roll Change dated January 13, 1977. However, this Roll Change appears to have been purely for tax assessment purposes and available records do not include a corresponding land use application reviewed by the Planning Division. The Land Use Board of Appeals (LUBA) addressed a similar issue in *Central Oregon LandWatch v. Deschutes County and Tumalo Irrigation District*, LUBA No 2016-056, and made the following findings:

...The Board of County Commissioners found that under the DCC, consolidation of discrete lots or parcels can be accomplished only by means of a county process that requires county land use approval.

In the above-cited case, LUBA found that conveyance of multiple parcels through a single deed did not consolidate the parcels into a single legal lot of record. Staff finds this applicable to the subject application since Tax Lots 1702 and 1707 were combined for tax purposes but never went through

a formal property line consolidation. For these reasons, staff finds the 1977 Roll Change does not alter the legal lot of record status for the subject parcel.

In addition, staff finds the identified lot of record is a “parcel”, as defined in ORS 215.010(1).

- 4. *By a town plat filed with the Deschutes County Clerk and recorded in the Deschutes County Record of Plats; or***

FINDING: The subject property was not created by a town plat filed with the Deschutes County Clerk and recorded in the Deschutes County Record of Plats.

- 5. *By the subdividing or partitioning of adjacent or surrounding land, leaving a remainder lot or parcel.***

FINDING: The subject property was not created by the subdividing or partitioning of adjacent or surrounding land, leaving a remainder lot or parcel.

- B. *Notwithstanding subsection (A), a lot or parcel validated pursuant to ORS 92.176 shall be recognized as a lot of record.***

FINDING: The subject property has not been validated pursuant to ORS 92.176.

- C. *The following shall not be deemed to be a lot of record:***
 - 1. *A lot or parcel created solely by a tax lot segregation because of an assessor's roll change or for the convenience of the assessor.***
 - 2. *A lot or parcel created by an intervening section or township line or right of way.***
 - 3. *A lot or parcel created by an unrecorded subdivision, unless the lot or parcel was conveyed pursuant to subsection (A)(3) above.***
 - 4. *A parcel created by the foreclosure of a security interest.***

FINDING: The subject property does not include a lot of record created by any of these means.

IV. CONCLUSION

Based on the foregoing findings, staff concludes the subject property consists of the lot(s) of record identified herein, if any.

Other permits may be required for development of the property. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Onsite Wastewater Division as well as any required local, state, and federal permits.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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.

DESCHUTES COUNTY PLANNING DIVISION

A handwritten signature in black ink that reads "Audrey Stuart". The script is cursive and fluid, with a prominent underline for the first name.

Written by: Audrey Stuart, Associate Planner

A handwritten signature in black ink that reads "Anthony Raguine". The script is cursive, with a large, stylized 'A' and a long, sweeping tail on the 'e'.

Reviewed by: Anthony Raguine, Principal Planner