



Staff Report & Decision
Looney – Legal Lot Determination (2016-015-LLD)
August 29, 2016 (amended 9/14/2016*)

- PROPOSAL:** The applicant requests a Legal Lot Determination for Assessor’s Parcel ID #258640000 and 258755000.
- LOCATION:** The site is located on NW Pacific Highway, La Center, Washington. #140 #20 Section 33 T5N R1E WM 3.20 and 2.28 Acres; Clark County Assessor Property Identification Number (PIN) 258640000 and 258755000.
- DECISION:** **APPROVED for Lot 20, or combined Lots 20 and 140**, subject to the conditions listed herein. *9/14/2016 amendment corrected LCMC references and did not substantively alter the prior decision.

I. CONTACTS

OWNER/APPLICANT	APPLICANT’S REPRESENTATIVE	LA CENTER STAFF
The Estate of William A. Looney Schmidt & Yee 18525 SW Vincent Street Aloha, OR 97078 503.642.7641 pam@schmidtandyee.com	Thomas Self Cascade Field Services 360.931.4680 CascadeFS@comcast.net	Eric Eisemann, Consulting Planner c/o City of La Center Public Works Department 305 W. Pacific Highway La Center, WA 98629 360.750.0038 e.eisemann@e2landuse.com

II. OVERVIEW

The applicant requests a Legal Lot Determination for Assessor’s Parcel ID #258640000 and 258755000. The site lies within a Low Density Residential (LDR-7.5) zoning district.

III. REVIEW

The City of La Center may determine that a lot or parcel is a legal lot for land use purposes if the City finds:

- A. The lot was created prior to August 21, 1969;
- B. The lot or parcel has not changed size significantly since 1969; and
- C. The lot meets the minimum lot size of the zoning district in which it is located.

The City processes legal lot determinations as a Type I review. La Center Municipal Code (LCMC) 18.30.090.

CRITERIA: LCMC 18.130 (Low Density Residential)

The minimum lot size in the LDR-7.5 zone is 7,500 Sq. Ft. LCMC Table 18.130.080.

Finding(s): Clark County GIS reports that Assessor's Property lots are 2.28 and 3.20 acres. The two lots are bisected by an old Pacific Highway alignment. The northern-most segment (Lot 140) is approximately 139,392 sq. ft. The southern-most segment (Lot 20) is approximately 99,317 sq. ft. Therefore, both parcels exceed the minimum lot area requirement in the LDR-7.5 zone.

CRITERIA: Lot History

The burden is on the applicant to demonstrate that the lot or parcel was created prior to August 21, 1969 and that the lot or parcel has not changed size significantly since 1969.

Finding(s): The Applicant provided a sales and deed history back to April 1969. The deed records provided are:

- 1969: Statutory Warranty Deed (G534823, 724438, April 29, 1969) from Troxel to Kallstom describes Lots 140, 20, 165, and 102, with several large parcels to the north, in one legal description.
- 1969: Statutory Warranty Deed (7710130335, May 19, 1969) from Kallstom to James describes Lots 20, 165, and 102 in one legal description. This larger parcel was in compliance with the County Rural Use (F-X) zoning district then in effect and related prior to the adoption of RCW 58.17. This parent parcel meets County Code (Title 40.520.010) for both zoning and platting criteria.
- 1985: Statutory Warranty Deed (8507240015, July 19, 1985) from James to Chambers describes Lot 20 in its current configuration (2.28 acres). Assuming this was the date of lot creation, this parcel violated the 5-acre minimum lot area of the Rural Estate (RE) zoning district then in effect. Additionally, the creation of this parcel violated the Clark County Short Plat Ordinance, which required short plat approval for the creation of lots less than 5 acres.
- 1987: Quit Claim Deed (8701200204, January 16, 1987) from Kallstom to Decade describes Lot 140, with several large parcels to the north, in one legal description.
- 1989: Carol Chambers conveys Lot 20 to Glen Chambers via Separation and Property Settlement Agreement (893009363, June 15, 1989) as a part of the 1989 divorce decree".
- 1989: Quit Claim Deed (8909250160, September 1, 1989) from Kallstom to Decade describes Lots 20, 102, 140, and 165, with several large parcels to the north, in one legal description.
- 1992: Survey (Book 31, Page 161, July 7, 1992) includes Lot 140 as part of larger parcel with several 5-acre parcels. Lot 20 noted in survey as "remaining" parcel to the south to be conveyed to adjoining property owner. Several of the 5-acre parcels north of Lot 140 have received County legal lot approval as part of a building permit process.
- 1992: Real Estate Contract (9201090027, January 6, 1992) between Decade and Chambers describes Lot 140 in its current configuration (3.20 acres). Creation of this parcel violated RE zoning regulations then in effect, as well as Clark County Short Plat Ordinance, which required short plat approval for the creation of lots less than 5 acres.
- 1992: Quit Claim Deed (9201270211, January 10, 1992) from Esther Chambers to Glen Chambers describes Lot 140. Consideration for the deed was "to separate community property", but does not appear to be part of a divorce decree.

- 1999: Warranty Fulfillment Deed (3150819, October 16, 1998) from Decade to Chambers describes Lot 140 in its current configuration (3.20 acres).
- 2006: Statutory Warranty Deed (4225169D, September 20, 2006) from Glen and Esther Chambers to Kingdom Development describes Lots 140 and 20.
- 2006: Lots 20 and 140 were annexed to the City of La Center as part of the Highlands Annexation.
- 2009: Trustee's Deed (4578895D, May 22, 2009) from Kingdom Development to Looney describes Lots 140 and 20 in their current configuration.
- 2014: Trustee's Deed (5131435D, December 23, 2014) from Kingdom Development to Looney is rerecorded due to incorrect filing number. Describes Lots 140 and 20 in their current configuration.

Based on the history, the City concludes that Lots 140 and 20 were not created prior to August 1, 1969. It appears that the separation of Lot 20 began in 1989, in association with the Chambers divorce decree. The separation of Lot 140 appears to have begun in 1992 as a part of the Real Estate Contract between Decade and Chambers. While both lots have retained their shape from the described point of separation to present day, the creation of both lots violated zoning regulations then in effect, as well as Clark County Short Plat Ordinance, which required short plat approval for the creation of lots less than 5 acres.

LCMC 18.40.010 defines a lot of record as:

"a lot as shown on the records of the county assessor or county auditor at the time of the passage of this title; provided, however, this shall not include lots that may appear on the records of the county assessor which were created contrary to the provisions of laws and regulations in effect prior to the passage of this title. Any lots created after the adoption of this title shall comply with the standards contained within."

As noted above, creation of both Lots 20 and 140 would have been in violation the provisions of laws and regulations in effect at that time. The criteria for a legal lot are outlined in LCMC 18.225.010(5)(a).

However, LCMC 18.200.040(5) and 18.225.010(5)(a)(ii)(VI) provide the following exceptions:

LCMC 18.200.040(5): Divisions of land made by court order; provided, the divisions shall comply with all the provisions of this title to the extent possible.

LCMC 18.225.010(5)(a)(ii)(VI): The parcel was created through a court order, will and testament, or other process listed as exempt from platting requirements by RCW 58.17.035 or 58.17.040 or through an exemption from platting regulations provided by law at the time of creation of the parcel;

Pursuant to these exemptions, Lot 20 was lawfully created via court order (divorce decree) in 1989. Additionally, the 1969 Statutory Warrantee Deed and 1992 survey separate Lot 20 from Lot 140 and parcels to the north. Staff therefore finds that Lot 20 (Assessor's parcel #258640000) is a legal lot based on the court ordered, divorce decree. The minimum lot size in the LDR-7.5 zone is 7,500 Sq. Ft. Lot 20 meets this standard. One potential point of confusion is the conveyance of Lot 20 (along with 102, 140, and 165, with several large parcels to the north) from Kallstom to Decade via the 1989 Quit Claim Deed. This Quick Claim Deed is dated after the conveyance of the 1987 Quit Claim Deed from Kallstom to Decade, which includes Lot 140 with several large parcels to the north, but does not include Lots 20, 165, and 102. Additionally, this is dated after the 1989 divorce decree conveying Lot 20 to Glen Chambers. However, staff find that 1969 Statutory Warrantee Deed conveying Lot 20 (and Lots 165 and 102) from Kallstom to James overrides and concludes that Kallstom did not own Lot 20 in the following Quit Claim Deed conveyances to Decade.

While Lot 140 would meet current zoning standards, staff finds that Lot 140 (Assessor's parcel #258755000) separately is not a legal lot as it does not meet the approval criteria outlined in LCMC 18.225.010(5)(a)(ii). However, based on the sales history, Chambers can be found to own both Lots 20 and 140 beginning in 1992, through separate conveyances. Those two lots continue to remain together through the 2014 deed history.

Together, Lots 20 and 140 met the zoning regulations and Clark County Short Plat Ordinance then in effect as well as current zoning standards.

As Lot 140 is not a legal lot separately, staff find that together Lots 20 and 140 form a single, legal lot. However, LCMC 18.225.010(5)(b)(ii) provides a Public Interest Exception, allowing the City to determine that parcels are lots of record if they meet the following criteria:

- (A) *Date of Creation. The lot was created before January 1, 1995;*
- (B) *Zoning. The parcel meets minimum zoning dimensional requirements currently in effect, including lot size, dimensions and frontage width; and*
- (C) *Platting.*
 - I. *The responsible official determines that improvements or conditions of approval which would have been imposed if the parcel had been established through platting are already present and completed; or*
 - II. *The property owner completes conditions of approval which the responsible official determines would otherwise be imposed if the parcel had been established through platting under current standards. Preliminary and final submittal plans shall be required where applicable.*

Both Lots 20 and 140 were created prior to 1995 and meet the current minimum zoning dimensional and lot size requirements. With completion of conditions of approval that would be imposed based on current standards, staff find that individually, Lots 20 and 140 may be recognized as individual legal lots of record.

IV. CONCLUSIONS & DECISION

The review authority finds the applicant has sustained the burden of proving:

- A. the existence of one legal lot, Lots 20 and 40 combined; and
- B. the combined legal Lot 20 and 140 meet the current LDR-7.5 minimum lot size and dimensions standards.

Therefore, the subject application is hereby APPROVED for the combined Lot 20 and 140 subject to the following conditions:

- 1. The combined Lot 20 and 140 are constrained by known critical areas, regulated by LCMC 18.300. Approval of the legal lot status does not expressly or impliedly warrant that of the lot is buildable.
- 2. Future development of the property shall be subject to compliance with the applicable regulations of the underlying zone and the La Center Municipal code including but not limited to LCMC 18.130, Low Density Residential District, and LCMC 18.300, Critical Areas.

The combined Lots 20 and 140 can be legally divided subject to compliance with LCMC 18.205.

Additionally, pursuant to LCMC 18.225.010(5)(b)(ii), Lots 20 and 140 shall be recognized as individual legal lots if the following conditions of approval are met:

- 1. Approval of a Critical Area Report in accordance with LCMC 18.300
- 2. Recording of an agreed to conservation covenant for protection of the onsite critical areas
- 3. Completion of a binding site plan process in accordance with LCMC 18.215

If the above conditions of approval are met, the boundary between the two lots can also be adjusted subject to compliance with LCMC 18.220.

V. APPEALS

Pursuant to LCMC 18.30.130, a final decision regarding a Type I application may be appealed only by the applicant or applicant's representative. An appeal together with the requisite fee and information must be received by the city clerk within 14 calendar days of the date of the decision being appealed. Within seven calendar days after a timely, complete appeal is filed regarding a decision subject to a Type II process, the city

clerk shall send to the hearings examiner a copy of the appeal and the case file together with any new evidence submitted with the appeal. The hearings examiner shall conduct a de novo review. Within 21 calendar days after a timely, complete appeal is filed, the hearings officer shall send to the city clerk a final decision for distribution to the applicant and applicant's representative.



Donette Miranda for,
Eric Eisemann,
Consulting La Center Planner
August 29, 2016

Attachment

Location map