

NOTICE OF DECISION



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Application for Lot of Record Verification

Case File:	T2-2024-0106	Applicant:	Dale Burkholder
Proposal:	The applicant is requesting a Lot of Record Verification for the properties identified below. A Lot of Record Verification determines if properties were lawfully established in compliance with zoning and land division laws at the time of its creation or reconfiguration and the County's aggregation requirements. No development is proposed at this time.		
Location:	4046 SE 302nd Ave, Troutdale	Property ID #	R598116, R266582, R606726, R606727, R598114, R266579
	Map, Tax lot: 1S4E08CC -00301, 1S4E08CC -00100, 1S4E08CC -00101, 1S4E08CC -00102, 1S4E08CC -00302, 1S4E08CC -00300	Alt. Acct. #	R751700590, R751701340, R751701440, R751701540, R751700560, R751700570
Base Zone:	Exclusive Farm Use (EFU)		
Overlays:	Significant Wildlife Habitat (SEC-h), Geologic Hazards (GH)		

Determination: The subject properties known as 1S4E08CC -00301, 1S4E08CC -00100, 1S4E08CC -00101, 1S4E08CC -00102, 1S4E08CC -00302, and 1S4E08CC -00300 are a single Lot of Record in their current configuration.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is June 16, 2025 at 4:00 pm.

Opportunity to Review the Record: The complete case file and all evidence associated with this application is available for review by contacting LUP-comments@multco.us. Paper copies of all documents are available at the rate of \$0.46/page.

Opportunity to Appeal: The appeal form is available at www.multco.us/landuse/application-materials-and-forms. Email the completed appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted

Issued by:

Anna Shank-Root, Planner

For: Megan Gibb,
Planning Director

Date: June 2, 2025

Vicinity Map



Applicable Approval Criteria [Multnomah County Code (MCC)]:

General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3070 Lot of Record – Exclusive Farm Use (EFU)

Copies of the referenced Multnomah County Code sections can be obtained by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link **Chapter 39 – Zoning Code** or by contacting our office at (503) 988-3043.

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 properties identified as 1S4E08CC -00301, 1S4E08CC -00100, 1S4E08CC -00101, 1S4E08CC -00102, 1S4E08CC -00302, and 1S4E08CC -00300 (subject properties). The application does not propose any new development currently.

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. In the EFU zone, the County also considers adjacent ownership on February 20, 1990 in determining whether a parcel, lot, or unit of land is a Lot of Record on its own. If the parcel, lot, or unit of land met all applicable zoning laws, applicable land division laws and meets the aggregation requirements, it may be determined to be a Lot of Record.

2.0 Property Description:

Staff: The subject property is in unincorporated east Multnomah County in the area known as the West of Sandy River rural area. The property is zoned for Exclusive Farm Use (EFU) and is located outside of Metro’s Urban Growth Boundary (UGB). According to Assessment and Taxation records, 1S4E08CC -00300 is occupied by a 2008 single-family dwelling with an attached garage and two detached accessory structures and 1S4E08CC -00302 contains a 1978 manufactured home. The remaining four tax lots are vacant.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.5). Staff received one public comment during the 14-day comment period.

3.1 If there are comments, the should be formatted as follows: **Bud Egger, Property owner at 4046 SE 302nd Ave, provided written comments via email on March 30, 2025 (Exhibit D.1)**

Staff: Bud Egger’s comments indicated opposition to any new construction and development on the properties that are subject to this application. As indicated by the Opportunity to Comment notice and this decision, no new development is proposed by this application.

4.0 Code Compliance and Applications Criteria:

4.1 MCC 39.1250 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 or zoning review approval of development or any other approvals authorized by this code 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:

* * *

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, including land divisions and property line adjustments, or issue a building permit or zoning review approval. *These criteria are 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.

(1) “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.

(2) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

(a) By a subdivision plat under the applicable subdivision requirements in effect at the time; or

(b) 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

(c) 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 MCC 39.3005(B) of this section and meet the Lot of Record standards set forth in the EFU 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 EFU district establish additional requirements unique to the district, which are evaluated in Sections 5.2 of this decision. The findings below analyze whether the Lot of Record provisions in section (B) have been met.

The applicant provided a 1966 deed, a 1967 deed, and several Circuit Court Orders, Decrees and Certificates to support the Lot of Record request (Exhibits A.1-A.7).

The original configuration of the subject properties was the entirety of Lot 5, 6, 7, 10, 11, and 12 of Section Line Road Fruit Tracts Subdivision recorded in Book 515, Page 9-10 on October 18, 1909 (Exhibit B.6). Three of the tax lots, 1S4E08CC -00100, 1S4E08CC -00101, and 1S4E08CC -00102 have not changed their configuration since the recording of the Subdivision in 1909.

1S4E08CC -00100, 1S4E08CC -00101, and 1S4E08CC -00102 all complied with all applicable zoning and land division laws when they were created in 1909.

The next deed provided was a 1966 deed that described the Lot 5, 6, 11, and 12 in addition to the north half of Lot 7 and 10 (Exhibit A.7). In 1966, Lot 7 also known now as 1S4E08CC -00301 and Lot 10 also known now as 1S4E08CC -00100 were zoned F2 per historical County zoning maps (Exhibits A.3 and B.4).

The F2 zone had a minimum lot size of 2 acres. There was no requirement for road frontage or minimum front lot line length or lot width requirements (Exhibit B.3). Both 1S4E08CC -00301 and 1S4E08CC -00100 are each approximately 2.40 acres (Exhibit B.2).

In 1966, 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 1966 deed, the applicable land division laws were satisfied (Exhibit A.7).

1S4E08CC -00301 and 1S4E08CC -00100 both complied with all applicable zoning and land division laws when it was created and subsequently reconfigured in 1966.

The next deed provided was a 1967 deed. The deed provided contains a legal description matching the current configuration of the subject property, as it reconfigured Lot 5 also known as 1S4E08CC -00302, was recorded in 1967 (Exhibit A.2). In 1967, the subject property was zoned F2 per historical County zoning maps (Exhibits A.3 and B.4).

The F2 zone had a minimum lot size of 2 acres. There was no requirement for road frontage or minimum front lot line length or lot width requirements (Exhibit B.3). 1S4E08CC -00302 is approximately 2.40 acres (Exhibit B.2).

In 1967, 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 1967 deed, the applicable land division laws were satisfied (Exhibit A.2).

1S4E08CC -00302 complied with all applicable zoning and land division laws when it was created and subsequently reconfigured in 1967.

Based upon the above, each of the subject properties satisfied all applicable zoning and land division laws when they were created 1909 and subsequently reconfigured between 1966 and 1967.

5.2 MCC 39.3070 LOT OF RECORD – EXCLUSIVE FARM USE (EFU).

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
- (2) A group of contiguous parcels or lots:**
 - (a) Which were held under the same ownership on February 20, 1990; and**

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19-acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in Figure 1 below with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g., MUA-20, RR, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: According to Assessment and Taxation records, in 1989 and 1990 the subject properties were configured as two tax lots: R751701340, which was 12.1 acres and consisted of the north ½ of Lot 10 with Lots 11 and 12 of the Section Line Road Fruit Tract Subdivision and R751700570, which was 9.45 acres and consisted of the portions of Lot 5 described in Exhibit A.2, Lot 6, the north ½ of Lot 7 of the Section Line Road Fruit Tract Subdivision. The two properties as described in 1989-1990 are contiguous and zoned EFU. Additionally, both properties were under the same ownership of Stafford, Jack A on February 20, 1990. The combined acreage of all tax lots in the tract is 21.55 acres, which collectively meets the 19-acre minimum required, but no property is of sufficient size to segregate the property into a separate Lot of Record per MCC 39.3070(A)(2)(b)1. above. There were no other contiguous units of land under the same ownership on February 20, 1990. As such, the aggregated configuration of 1S4E08CC -00301, 1S4E08CC -00100, 1S4E08CC -00101, 1S4E08CC -00102, 1S4E08CC -00302, 1S4E08CC -00300 constitutes a single Lot of Record. *Criteria met.*

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

* * *

Staff: Section (B) is for information purposes.

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Each of subject properties do not meet the minimum lot size for new parcels or lots in the EFU zone, and is subject to (C) above. It 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. *Criterion met.*

(D) The following shall not be deemed 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) A Mortgage Lot.**
- (4) An area of land created by court decree.**

Staff: As discussed above under section 5.1, the each of the subject properties are not an area of land described as a tax lot solely for assessment and taxation purposes. The subject properties are not an area of land created by the foreclosure of a security interest, mortgage lot, or created by court decree. *Criterion met.*

Based on the findings in 5.1 & 5.2 above, the properties known as 1S4E08CC -00301, 1S4E08CC -00100, 1S4E08CC -00101, 1S4E08CC -00102, 1S4E08CC -00302, and 1S4E08CC -00300 are a single Lot of Record.

6.0 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

All exhibits are available for digital review by sending a request to LUP-comments@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	Application Form	12.11.2025
A.2	2	1967 Quitclaim Deed Book 585 Page 20	12.11.2025
A.3	1	1966 Zoning Map	12.11.2025
A.4	16	1981 Decree of Distribution	12.11.2025
A.5	4	2024 Circuit Court Certification	12.11.2025
A.6	N/A	Full Case File	12.11.2025
A.7	1	1966 Warranty Deed Book 524 Page 1084	12.11.2025
‘B’	#	Staff Exhibits	Date

B.1	18	Assessment and Taxation Property Information for 1S4E08CC -00301, -00100, -00101, -00102, -00302, and -00300	12.11.2025
B.2	1	Current Tax Map for 1S4E08CC	01.07.2025
B.3	3	1964-1968 F2 Zoning Code	05.08.2025
B.4	1	1966 Zoning Map	05.09.2025
B.5	1	1989 and 1990 Property Ownership Information	05.08.2025
B.6	1	Section Line Road Fruit Tracts subdivision recorded in Book 515, Page 9-10 on October 18, 1909	05.22.2025
‘C’	#	Administration & Procedures	Date
C.1	3	Incomplete letter	01.07.2025
C.2	1	Applicant’s acceptance of 180-day clock	01.08.2025
C.3	1	Secondary Incomplete Letter	02.18.2025
C.4	1	Complete letter (day 1)	03.03.2025
C.5	3	Opportunity to Comment	04.17.2025
C.6	7	Decision	06.02.2025
‘D’	#	Comments	Date
D.1	1	Bud Egger Comments	03.30.2025