

NOTICE OF DECISION



www.multco.us/landuse ▪ Email: land.use.planning@multco.us ▪ Phone: (503) 988-3043

Application for Lot of Record Verification

Case File: T2-2024-0110 **Applicant:** Jered Weissert and Catherine Weissert

Proposal: The applicant is requesting a Lot of Record Verification for the properties identified below. A Lot of Record Verification determines if the 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:	Property #1: 30821 SE Lusted Rd, Gresham	Property ID # R341920
	Map, Tax lot: 1S4E17C -00100	Alt. Acct. # R994170180
	Property #2: No Situs Address	Property ID # R123297
	Map, Tax lot: 1S4E17C -00200	Alt. Acct. # R116100580

Base Zone: Exclusive Farm Use (EFU)

Overlays: Significant Wildlife Habitats (SEC-h), Significant Water Resources (SEC-wr)

Determination:

1. The subject properties known as 1S4E17C -00100 and 1S4E17C -00200 are not a Lot of Record in their current configuration.
2. If Property #2 is consolidated into Property #1 through the Lot Consolidation process pursuant to MCC 39.9200 to create a single parcel, the consolidated parcel would become a single Lot of Record.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, June 19, 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:

A handwritten signature in black ink, appearing to read "RITHY KHUT", written over a horizontal line.

Digitally signed by Rithy Khut
DN: cn=Rithy Khut, o=Multnomah County,
ou=Department of Community Services,
email=rithy.khut@multco.us, c=US

Rithy Khut, Senior Planner

For: Megan Gibb, Planning Director

Date: Thursday, June 5, 2025

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

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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 1S4E17C -00100 also known as 30821 SE Lusted Rd, Gresham (Property #1) and 1S4E17C -00200 (Property #2). 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 properties are in unincorporated east Multnomah County in the area known as the West of Sandy River rural area. The properties are zoned Exclusive Farm Use (EFU) and are located outside of Metro’s Urban Growth Boundary (UGB). According to Assessment and Taxation records, the Property #1 is occupied by a single-family dwelling and covered patio. Property #2 is 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.4). Staff did not receive public comments during the 14-day comment period.

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, a land division, a property line adjustment, or a building permit. *This requirement 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.

(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, a 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 21 deeds/contracts to support the Lot of Record request (Exhibit A.2 through A.22). The earliest deed provided was recorded/in recordable form in 1894, but is largely unreadable (Exhibit A.17).

For Property #1, the earliest deed was recorded in 1976 and contains a legal description matching the current configuration of the property (Exhibit A.2). In 1976, the Property #1 was zoned Suburban Residential (SR) per historical County zoning maps (Exhibit B.8). The SR zone had a minimum lot size requirement ranging from 10,000 to 40,000 square feet depending on the services in the area. It also required a minimum average lot width of 70 feet, a minimum average lot depth of 100 feet, and public road frontage or other access deemed safe and convenient (Exhibit B.9 and B.10). To establish a lot that was (a) 40,000 sq. ft. or more, (b) between 40,000 to 20,000 sq. ft., or (c) between 20,000 sq. ft. to 10,000 sq. ft., the property would need to have the following characteristics:

Lot Area	Minimum Standards
40,000 sq. ft.	Approved public or private water supply

	Approved individual sewage disposal system Approved public access
20,000 sq. ft.	Approved public water supply Approved individual sewage disposal system Approved public access
10,000 sq. ft.	Approved public water supply Approved public sewer or State approved cesspool Approved public access

The subject property is approximately 881,219 sq. ft or 20.23 acres (excluding public right-of-way), abuts SE Lusted Road (a public road), has a front lot line length of over 500 feet, has an average lot width of over 1,000 feet and average lot depth of over 500 feet (Exhibit B.3). The characteristics of the property exceed the requirements at that time. The applicant provided a current deed for Property #1 that contains a legal description that matches the recorded 1976 legal description (Exhibit A.2 and A.16).

In 1976, 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 1976 deed, the applicable land division laws were satisfied (Exhibit A.1).

Property #1 satisfied all applicable zoning laws and land division laws when it was created or reconfigured in 1976.

For Property #2, the original configuration of the property was the entirety of Lot 12 of Buena Vista Subdivision recorded in Book 561, Page 41 on June 6, 1911 (Exhibit B.7). The next deed provided was recorded/in recordable form in 1966 and contains the legal description of matching the recorded subdivision plat (Exhibit A.22).

The next documents were a series of contracts and deed that were recorded/in recordable form between 1972 and 1978 that reconfigured the original subdivision lot (Exhibit A.18 through A.20). The contracts and deed contain the legal description of matching the current configuration of Property #2 (Exhibit A.16). In 1972, the subject property was zoned Suburban Residential (SR) per historical County zoning maps (Exhibit B.8). As previously discussed above for Property #1, the SR zone had a minimum lot size depending on the services in the area, average lot width, average lot depth, and access requirements (Exhibit B.11 and B.12).

The subject property is approximately 5,358 sq. ft or 0.123 acres, abuts SE Lusted Road (a public road), and has a front lot line length of 9 feet, has an average lot width of approximately 33.42 feet and average lot depth of approximately 167.37 feet (Exhibit B.3). Based on the measurements, Property #2 did not meet the minimum lot size and minimum average lot width of 70 feet requirements.

Property #2 did not satisfy all applicable zoning laws when it was created or reconfigured.

In 1972, 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 1972 deed, the applicable land division laws were satisfied (Exhibit A.1).

Property #2 satisfied all applicable land division laws when it was created or reconfigured in 1972.

Based upon the above, Property #1 satisfied all applicable zoning laws and land division laws when it was created or reconfigured in 1976; whereas Property #2 did not satisfy all applicable zoning laws, but did satisfy all applicable land division laws when it was created or reconfigured in 1972.

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:

* * *

Staff: Based on ownership data, the subject properties were not contiguous to any other parcel or lot under the same ownership on February 20, 1990. Using taxation data from 1989 and 1990 from Multnomah County Division of Assessment, Recording, and Taxation (DART) a comparison of ownership is shown below:

Table 1 – Comparison of ownership of the Property #1 and surrounding properties

State ID	Alternative Acct. #	Size	On 05/01/1989	On 05/01/1990
1S4E17C -00100	R994170180	20.23	Johnson, Jean L	Johnson, Jean L
1S4E17C -00200	R116100580	0.10	Johnson, Jean L	Johnson, Jean L
1S4E17BD -00400	R994170080	25.95	Cox, Thelma K & Leroy E & Rose D	Cox, Thelma K & Leroy E & Rose D
1S4E17C -00300	R116100560	9.50	Vinyard, Olin L & Kimberly G	Vinyard, Olin L & Kimberly G

1S4E17C -00400	R994170190	50.26	Morgan, James W & William F & Patricia S & Helen R	Morgan, James W & William F & Patricia S & Helen R
1S4E17CB -00100	R994170170	5.79	Stapleton, Bean H & Alta M	Stapleton, Bean H & Alta M
1S4E17CB -00600	R994170270	22.62	Chiodo, Eugene A	Chiodo, Eugene A
1S4E17D -01100	R116100310	9.70	Cox, Leroy E & Rose D	Cox, Leroy E & Rose D

Table 2 – Comparison of ownership of the Property #2 and surrounding properties

State ID	Alternative Acct. #	Size	On 05/01/1989	On 05/01/1990
1S4E17C -00200	R116100580	0.10	Johnson, Jean L	Johnson, Jean L
1S4E17C -00100	R994170180	20.23	Johnson, Jean L	Johnson, Jean L
1S4E17C -00300	R116100560	9.50	Vinyard, Olin L & Kimberly G	Vinyard, Olin L & Kimberly G
1S4E17C -00400	R994170190	50.26	Morgan, James W & William F & Patricia S & Helen R	Morgan, James W & William F & Patricia S & Helen R

As part of the second requirement under MCC 39.3070(A)(2), if the continuous parcels or lots were under the same ownership on February 20, 1990 and were less than 19 acres, they would be required to be aggregated to comply with the minimum lot size of 19 acres. Based on ownership data provided by DART, Property #2 is under 19 acres in size and is continuous with Property #1; therefore, Property #2 is aggregated with Property #1. The fact that Property #2 did not satisfy all applicable zoning laws when it was reconfigured in 1972 causes an issue for the Lot of Record that will need to be corrected before the two properties can be found to be a single Lot of Record. If a Lot Consolidation application is sought and completed to consolidate Property #2 into Property #1, the consolidated lot or parcel will allow the Lot of Record issue to be corrected.

Property #1 and Property #2 are aggregated to meet the 19-acre minimum lot size requirement.

(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.

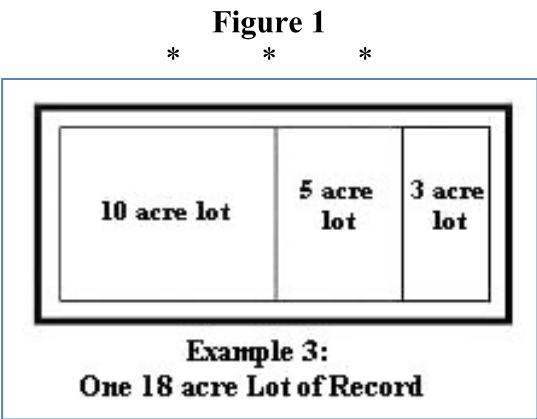
(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements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

Staff: Property #1 is approximately 20.23 acres and Property #2 is approximately 0.10 acres, which are both less than the minimum lot size for new parcels or lots in this zone and subject to (C) above. The properties may be occupied by any allowed, review, or conditional use when in compliance with the other requirements of this district provided, they are found to be a Lot of

Record, except those uses listed in ORS 215.283(1) may occur on EFU lands that do not meet the Lot of Record requirements.

- (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 Property #1 and #2 are not an area of land described as a tax lot solely for assessment and taxation purposes. Property #1 and #2 are also not an area of land created by the foreclosure of a security interest, mortgage lot, or created by court decree. *Criterion met.*



Staff: The above examples are for information purposes.

Based on the findings in 5.1 & 5.2 above, Property #1 also known as 1S4E17C -00100 and Property #2 also known as 1S4E17C -00200 are not a Lot of Record at this time. If Property #2 is consolidated into Property #1, so the properties are consolidated into a single lot or parcel pursuant to MCC 39.9200, the consolidated lot or parcel would become a single Lot of Record.

6.0 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits

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	12/31/2024
A.2	1	Warranty Deed recorded in Book 1145, Page 93 on December 13, 1976	12/31/2024
A.3	2	Statutory Warranty Deed recorded as Instrument #98-052433 on April 1, 1998	12/31/2024

A.4	2	Bargain and Sale Deed recorded as Instrument #98-093111 on June 1, 1998	12/31/2024
A.5	1	Statutory Warranty Deed recorded as Instrument #2002-221726 on December 4, 2002	12/31/2024
A.6	3	Statutory Warranty Deed recorded as Instrument #2004-129478 on July 15, 2004	12/31/2024
A.7	2	Special Warranty Deed recorded as Instrument #2007-049389 on March 21, 2007	12/31/2024
A.8	2	Bargain and Sale Deed recorded as Instrument #2012-168745 on December 28, 2012	12/31/2024
A.9	2	Bargain and Sale Deed recorded as Instrument #2012-168746 on December 28, 2012	12/31/2024
A.10	2	Bargain and Sale Deed recorded as Instrument #2012-168747 on December 28, 2012	12/31/2024
A.11	2	Bargain and Sale Deed recorded as Instrument #2012-168748 on December 28, 2012	12/31/2024
A.12	3	Statutory Warranty Deed recorded as Instrument #2013-145546 on November 4, 2013	12/31/2024
A.13	2	Statutory Warranty Deed recorded as Instrument #2014-118411 on November 25, 2014	12/31/2024
A.14	2	Statutory Warranty Deed recorded as Instrument #2015-074358 on June 19, 2015	12/31/2024
A.15	2	Statutory Warranty Deed recorded as Instrument #2015-152769 on December 4, 2015	12/31/2024
A.16	2	Statutory Warranty Deed recorded as Instrument #2020-030957 on March 13, 2020	12/31/2024
A.17	2	Deed recorded in Book 210, Page 152-153 recorded on March 23, 1894	01/27/2025
A.18	1	Contract recorded in Book 836, Page 805 on January 25, 1972	01/27/2025
A.19	1	Contract recorded in Book 1144, Page 522 on December 9, 1976	01/27/2025
A.20	1	Warranty Deed recorded in Book 1257, Page 1495 on April 21, 1978	01/29/2025
A.21	3	Deed of Personal Representative recorded as Instrument #2004-114005 on June 23, 2004	01/29/2025
A.22	1	Warranty Deed recorded in Book 488, Page 555 on April 21, 1966	01/29/2025
'B'	#	Staff Exhibits	Date
B.1	3	Assessment and Taxation Property Information for 1S4E17C - 00100 (Alt Acct #R994170180 / Property ID #R341920)	12/31/2024

B.2	3	Assessment and Taxation Property Information for 1S4E17C - 00200 (Alt Acct #R116100580 / Property ID #R123297)	12/31/2024
B.3	1	Current Tax Map for 1S4E17C	12/31/2024
B.4	1	Survey 58823 recorded on December 1, 2003	12/31/2024
B.5	3	Assessment and Taxation Parcel Record - Cartographic Unit Card for 1S4E17C -00100 (Alt Acct #R994170180 / Property ID #R341920)	01/27/2025
B.6	3	Assessment and Taxation Parcel Record - Cartographic Unit Card for 1S4E17C -00200 (Alt Acct #R116100580 / Property ID #R123297)	01/27/2025
B.7	1	Buena Vista Subdivision Plat recorded in Book 561, Page 41 on June 6, 1911	05/16/2025
B.8	1	Map showing Zoning prior to October 5, 1977	05/16/2025
B.9	2	Zoning Code section 2.00 Districts on and after May 17, 1974	05/16/2025
B.10	41	Zoning Code section 3.00 Residential Districts on and after May 17, 1974	05/16/2025
B.11	2	Zoning Code section 2.00 Districts on and after May 21, 1968	05/16/2025
B.12	49	Zoning Code section 3.00 Residential Districts on and after May 21, 1968	05/16/2025
‘C’	#	Administration & Procedures	Date
C.1	4	Incomplete letter	01/21/2025
C.2	1	Applicant’s acceptance of 180-day clock	01/27/2025
C.3	2	Complete letter (day 1)	02/18/2025
C.4	4	Opportunity to Comment	04/28/2025
C.5	3	“Short” Decision	06/05/2025
C.6	11	Decision	06/05/2025