

NOTICE OF DECISION



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Application for Lot of Record Verifications

Case File: T2-2025-0018

Applicant: Dave Spitzer

Proposal: The applicant is requesting two Lot of Record Verifications for the properties identified below. A Lot of Record Verification determines if 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. No development is proposed at this time.

Location:

Property #1: 34626 SE Homan Rd, Gresham
Map, Tax lot: 1S4E15B-01200

Property ID # R341841
Alt. Acct. # R994150320

Property #2: Property West of 34626 SE Homan Rd, Gresham
Map, Tax lot: 1S4E15B-01100

Property ID # R341818
Alt. Acct. # R994150080

Base Zone: Commercial Forest Use (CFU)

Overlays: Significant Wildlife Habitats (SEC-h), Geologic Hazards (GH)

Determination: The parcels known as 1S4E15B-01100 and 1S4E15B-01200 are aggregated as a single Lot of Record. The two parcels must remain under the same ownership to remain as a Lot of Record pursuant to MCC 39.3010(A)(2)(b).

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal Monday, July 7, 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:

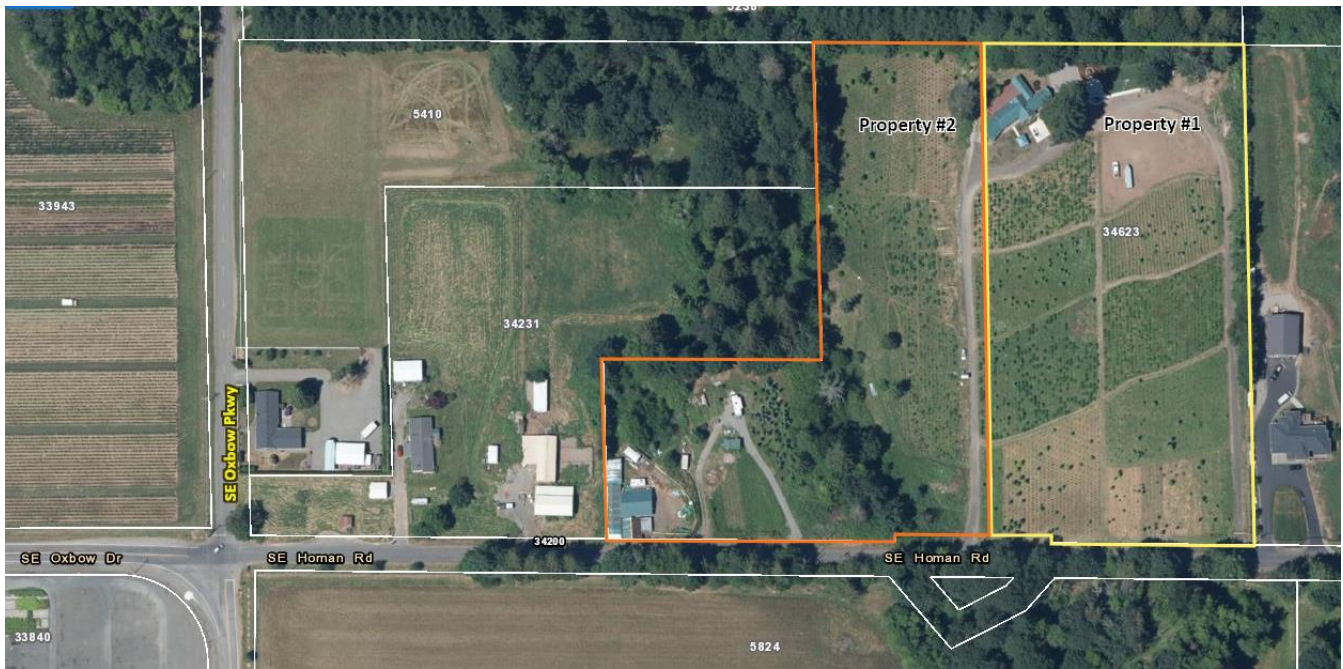
Lisa Estrin

Lisa Estrin, Senior Planner

For: Megan Gibb,
Planning Director

Date: Monday, June 23, 2025

Vicinity Map



Applicable Approval Criteria:

Multnomah County Code (MCC): MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3010 Lot of Record – CFU zone.

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.

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 two Lot of Record Verifications for the properties identified as 1S4E15B-01200 (Property #1) and 1S4E15B-01100 (Property #2). The application does not propose any new development currently. The applicant does want to know if a house can be built on tax lot 1S4E15B-01100 (Exhibit A.2). A Lot of Record Verification is the first step in pursuing a house in the CFU zone. A separate application will be needed in the future for a new forest dwelling.

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 CFU 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: Property #1 and Property #2 are located in unincorporated east Multnomah County in the area known as the West of Sandy River rural area. The properties are zoned Commercial Forest Use (CFU) and are located outside of Metro’s Urban Growth Boundary (UGB). According to Assessment and Taxation records (A&T records), Property #1 is occupied by a single-family dwelling with covered patio, covered deck, carport and a detached outbuilding. A&T records indicate that Property #2 is occupied by a farm building. Planning staff has not found permits for some of the structures located on the properties.

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). No public comments were received 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, 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 properties, when created or reconfigured, must meet MCC 39.3005(B) of this section and MCC 39.3010 Lot of Record – CFU as set forth for each zone 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 CFU 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 two property research reports (Exhibit A.4 & A.5) which each include the latest deed recorded for the properties. County staff supplemented the record with deeds available through County records (Exhibits B.9 through B.13) and the Assessment & Taxation’s parcel record cards for the two tax lots (Exhibits B.7 & B.8) to support the Lot of Record requests.

Based on information contained in the parcel record cards (Exhibit B.7 & B.8) for both tax lots, the two units of land were created from the parent parcel in June, 1973 when a contract was recorded dividing tax lot 1S4E15B-01200 (Property #1) from the parent parcel and leaving tax lot 1S4E15B-01100 (Property #2) as a remainder piece (Exhibit B.9). In 1973, the subject properties were zoned F-2 (Agricultural District) per historical County zoning maps (Exhibit B.4 & B.5).

The F-2 zone had a minimum lot size of 2 acres (Exhibit B.14). There was no requirement for road frontage or minimum front lot line length or lot width requirements (Exhibit B.15).

Property #1 is approximately 5.31 acres (including ½ of the public right-of-way), abuts SE Homan Road (a public road), and has a front lot line of 339.57 ft (Exhibit B.3). Property #2 is approximately 4.88 acres (including ½ of the public right-of-way), abuts SE Homan Road (a public road), and has a front lot line length of 500 ft.

The applicant provided a deed from 2023 that describes in its legal description Property #2 which was a remainder piece in 1973 (Exhibit A.5.a). Planning staff provided a 2021 deed (Exhibit B.13) that described in its legal description Property #1 which matches the 1973 legal description (Exhibit B.9).

Both Property #1 and Property #2 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 b.9), the applicable land division laws were satisfied.

Based upon the above, Property #1 and Property #2 satisfied all applicable zoning and land division laws when it was created or reconfigured in 1973.

5.2 § 39.3010- LOT OF RECORD – COMMERCIAL FOREST USE (CFU).

(A) In addition to the standards in MCC 39.3005, for purposes of the CFU 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 MCC 39.3070 Figure 1 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, 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) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) 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: Neither Property #1 or Property #2 were created by a partition or subdivision plat after February 20, 1990. They were both created in 1973 by division by metes and bounds description. Property #1 contains a single-family dwelling. Property #2 contains farm building(s) only. No dwelling, so the exception under MCC 39.3010(A)(4)(a) does not apply. No Lot of Exception was approved for the creation of either of properties. No conditional use permit was found to grant approval of either lot/parcel through a public hearing process. The exception process under MCC 39.3010(A)(4)(b) is not applicable to the situation.

Both Property #1 (5.31+/- acres) and Property #2 (4.88 acres) are under 19 acres in size individually. Planning staff reviewed Assessment & Taxation records to see if Property #1 and Property #2 were held under the same ownership on February 20, 1990. Taxation records indicate that both properties were held by James R. Wambaugh from 1980 until September 2021 (Exhibits B.16, B.1 & B.2). As both Property #1 and Property #2 were held by James R. Wambaugh on February 20, 1990 and both properties individually are under 19 acres in size, they aggregated into a single Lot of Record pursuant to MCC 39.3010(A)(2)(b).

Property #1 (1S4E15B-01200) is owned by Pedro Garcia Diaz and Estefani Huijon (Exhibit A.5.a.). The 2024 deed transferring a portion of ownership to Pedro Garcia Diaz does not limit it to less than 10% ownership. Property #2 (1S4E15B-01100) is owned by Pedro Garcia Diaz (Exhibit A.4.a.). The term of “**Same Ownership**” is defined as “**Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control....**” (MCC 39.4060 Definitions.). Based upon the deed evidence in the record, Property #1 and Property #2 are in the same ownership as of the date of this decision. To maintain the aggregation requirement of MCC 39.3010(A)(2)(b), the two properties must maintain joint ownership as defined by MCC 39.4060 Definitions, Same Ownership.

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

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**
- (5) February 20, 1990, Lot of Record definition amended, Ord. 643;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982.**

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 39.4135, 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 and Property #2 have less than the minimum lot size for new parcels in the CFU zone. Provided the two properties remain in the same ownership they are subject to (C). The two aggregated properties may be occupied by any allowed, review or conditional use when the Lot of Record is in compliance with the other requirements of the code. *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, Property #1 and Property #2 are not areas of land described as tax lots solely for assessment and taxation purposes. Both properties are parcels. The subject properties are not areas 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, Property #1 and Property #2 are aggregated into a single Lot of Record and must remain in same ownership as defined in MCC 39.4060 Definitions.

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	4/22/2025
A.2	1	Code Narrative	4/22/2025
A.3	1	Site Plan	4/22/2025
A.4	9	Property Research Report for 1S4E15B-01100 a. Warranty Deed recorded on June 22, 2023 Instrument # 2023-038853 [Wambaugh to Pedro Garcia Diaz] (Describes TL 1100)	4/22/2025
A.5	6	Property Research Report for 1S4E15B-01200 a. Bargain and Sale Deed recorded December 23, 2024 Instrument # 2024-077037 [Estefani Huijon to Pedro Garcia Diaz & Estefani Huijon] (Describes TL 1200)	4/22/2025
A.6	1	Letter of Authorization	5/13/2025

‘B’	#	Staff Exhibits	Date
B.1	1	Assessment and Taxation Property Information for 1S4E15B-01100 (Alt Acct# R994150080 / Property ID# R341818)	5/02/2025
B.2	1	Assessment and Taxation Property Information for 1S4E15B-01200 (Alt Acct# R994150320 / Property ID# R341841)	5/02/2025
B.3	1	Current Tax Map for 1S4E15B	5/02/2025
B.4	1	1962 Zoning Map for 1S4E15	5/02/2025
B.5	1	October 5, 1977 Zoning Map for 1S4E15	5/02/2025
B.6	1	January 7, 1993 Zoning Map for 1S4E15	5/02/2025
B.7	4	Parcel Record Card for 1S4E15B-01200 – R994150320	5/07/2025
B.8	3	Parcel Record Card for 1S4E15B-01100 – R994150080	5/07/2025
B.9	3	Contract recorded June 4, 1973 B930, P604 – 606 [Dahlstrom to James R & Cheryl H Wambaugh]	5/07/2025
B.10	2	Warranty Deed recorded December 13, 1995 Instrument # 95-154288 [James R Wambaugh to J.R. Wambaugh & Lorraine McAlpine] (Describes Parcel 1: TL 1200, Parcel 2: TL 1100)	5/07/2025
B.11	1	Bargain & Sale Deed recorded January 13, 1998 Instrument # 98004879 [Lorraine McAlpine to J.R. Wambaugh] (Describes TL 1200)	5/07/2025
B.12	2	Bargain & Sale Deed recorded June 14, 2005 Instrument # 2005-107834 [J.R. Wambaugh & L. McAlpine to J.R. Wambaugh and Lorraine Wambaugh] (Describes TL 1200)	5/07/2025
B.13	3	Warranty Deed recorded September 20, 2021 Instrument # 2021-141546 [J.R. Wambaugh & L. Wambaugh to Estefani M. Avila Huijon] (Describes TL 1200)	5/07/2025
B.14	2	1968 Zoning Districts	5/13/2025
B.15	1	1968 F-2 District Regulations	5/13/2025
B.16	1	1989 & 1990 Property Ownership	5/14/2025
‘C’	#	Administration & Procedures	Date
C.1	2	Incomplete letter	5/07/2025
C.2	1	Applicant’s acceptance of 180-day clock	5/13/2025
C.3	1	Complete letter (day 1)	5/13/2025
C.4	2	Opportunity to Comment	5/16/2025
C.5	8	Decision	6/23/2025