

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: T2-2026-0021

Applicant: Robert Burk

Proposal: The applicant is requesting a Lot of Record Verification for the property 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: 33625 SE Lusted Rd, Gresham

Property ID # R341893

Map, Tax lot: 1S4E16DC-00400

Alt. Acct. # R994160550

Base Zone: Exclusive Farm Use (EFU)

Overlays: Significant Water Resources (SEC-wr)

Determination: The subject property known as 1S4E16DC-00400 is a Lot of Record in its current configuration.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, June 22, 2026 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 \$0.71/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 8, 2026

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 39.3070 Lot of Record – EFU

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 a Lot of Record Verification for the property identified as 1S4E16DC-00400 (subject property). 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 Exclusive Farm Use (EFU) and is located outside of Metro’s Urban Growth Boundary (UGB). According to Assessment and Taxation records, the subject property is occupied by single-family dwelling with attached garage and two outbuildings.

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.2). 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 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 four deed(s) to support the Lot of Record request (Exhibit A.2 through A.5). Planning staff added two Contract of Sale documents (Exhibit B.7 & B.8) to support the Lot of Record Verification. The Contract of Sales document (Exhibit B.8) recorded in 1968 describes the subject property (1S4E16DC-00400) independently for the first time. In 1968, the subject property was zoned Suburban Residential (SR) per historical County zoning maps (Exhibit B.4 & B.5).

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.11). To establish a lot that was 40,000 sq. ft. or more, 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

The subject property is 10.37 acres (including ½ of the public right-of-way), abuts SE Lusted Road (a public road), has a front lot line length of 544.25 feet, an average lot width of 545 feet and average lot depth of 800 feet (Exhibit B.2). The applicant provided the most recent deed for the subject property that contains a legal description that matches the recorded 1968 legal description (Exhibit A.5 and B.8).

The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration.

In 1968, 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 1968 Contract of Sale (Exhibit B.8), the applicable land division laws were satisfied.

Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1968.

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: The subject property is 10.37 acres. Planning staff reviewed contiguous EFU zoned properties for their ownership on February 20, 1990 (Exhibit B.12).

Adjacent EFU Zoned Properties		
Property	1989 Ownership	1990 Ownership
R994160550 (Subject Property)	Fisher, Ronald & Mardy	Fisher, Ronald & Mardy
R994160540	Kinen, Norbert & Kathleen	Kinen, Norbert & Kathleen
R99416056	Sroufe, Charles & Betty	Sroufe, Charles & Betty

The subject property was owned by the Fishers on February 20, 1990. They did not own any contiguous properties in the EFU zone. As such, the subject property meets MCC 39.3070(A)(1) and is not aggregated with any adjacent tax lot.

(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: The subject 10.37-acre property has less than the 80-acre 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 subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is 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 subject property is 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	4/24/2026
A.2	1	Warranty Deed recorded July 17, 1967 B. 571, P. 802 [Describes TL 39 on the 1962 Zoning Map]	4/24/2026
A.3	1	Warranty Deed recorded February 3, 1972 B. 838, P. 317 [Describes TL 300 & 400. Transfers Contract Interest from Exhibit B.7 & B.8 to Seller]	4/24/2026
A.4	1	Warranty Deed recorded June 19, 1981 B.1532, P.483 [Describes TL 400]	4/24/2026
A.5	3	Warranty Deed recorded May 10, 2018 Instrument #2018-049829 [Describes TL 400]	4/24/2026
‘B’	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1S4E16DC-00400 (Alt Acct# R994160550/ Property ID# R341893)	4/24/2026
B.2	1	Current Tax Map for 1S4E16DC	4/24/2026
B.3	1	Survey 36059 filed 6/13/1973	5/15/2026
B.4	1	1962 Zoning Map – 1S4E16D	5/15/2026
B.5	1	October 5, 1977 Zoning Map – 1S4E16D	5/15/2026
B.6	1	October 6, 1977 Zoning Map – 1S4E16	5/15/2026
B.7	2	Contract recorded March 27, 1968 B. 611, P. 231 [Describes TL 300]	5/15/2026
B.8	3	Contract of Sale recorded June 10, 1968 B. 623, P. 1027 [Describes TL 400]	5/15/2026
B.9	3	Parcel Record Card – R994160550 (1S4E16DC-00400)	5/15/2026
B.10	2	Zoning Districts circa 1964-6-18	5/19/2026
B.11	6	Suburban Residential Zoning Regulations 1964-6-18	5/19/2026
‘C’	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	5/13/2026
C.2	2	Opportunity to Comment	5/18/2026
C.3	7	Decision	6/08/2026