



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

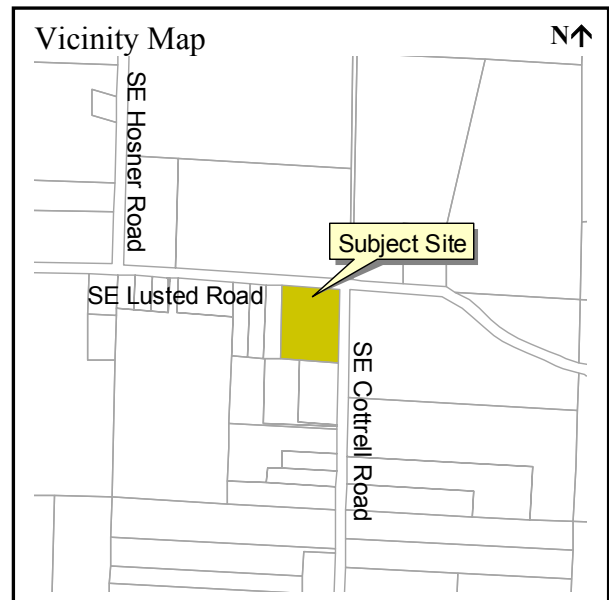
Case File: T2-04-022

Permit: Temporary Health Hardship

Location: 34630 SE Lusted Road
TL 100, Sec 22, T1S, R4E, W.M.
Tax Account #R99422-0060

Applicant: Laurie Blankenship
34630 SE Lusted Road
Gresham, OR 97080

Owner: Richard and Laurie Blankenship
34630 SE Lusted Road
Gresham, OR 97080



Summary: Health Hardship request to place a manufactured home on the subject lot.

Decision: Approved with Conditions

Unless appealed, this decision is effective Thursday, June 10, 2004, at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Thursday, May 27, 2004

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Don Kienholz, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, June 10, 2004 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 36.2825; MCC 36.2855; MCC 36.2870; and MCC 36.0515

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.co.multnomah.or.us/dbcs/LUT/land_use.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **Prior to building permit sign-off, the owner/applicant shall sign and record a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 as provided by Multnomah County Land Use Planning [MCC 36.2855(H)].**
2. **Prior building permit sign-off, the applicant/owner shall post a \$1000 bond with the Land Use Planning program to ensure the removal of the Temporary Health Hardship after the hardship is no longer present [MCC 36.0515(A)(5)].**

- 3. If the hardship continues to exist, every two years from the approval date the applicant shall submit a dated physician's statement verifying that the situation still exists (written at least six (6) months prior to the health hardship permit expiring) and a letter from the care provider describing the continuing assistance being given. Failure to submit the required information will result in the expiration of the Health Hardship permit [MCC 36.0515(A)(6)].**

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

Staff: The applicant is requesting approval of a temporary health hardship permit in order to locate her mother onto the property and to provide necessary assistance in daily activities. The structure will be a single story manufactured home utilizing the same access and parking area as the existing dwelling.

2. **Site Characteristics and Vicinity**

Staff: The property is located in an area consisting of Exclusive Farm Use (EFU), Commercial Forest Use (CFU) and Multiple Use Agriculture-20 (MUA-20) zoning districts. The lots in the general area consist of smaller lots in the MUA-20 district and medium sized lots of 5-10 acres in the EFU and CFU zones. As seen on a County air photo, the properties to the south and west are highly residential while those to the northwest, north, and east are mainly farm and forest. The subject property is almost entirely flat and is in the middle of a flat plateau that is the top of the ridgeline of the incline from the Sandy River to the east. The subject property consists of open pasture land and a few large trees up near the existing dwelling and outbuildings.

3. **Public Comment**

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: An Opportunity to Comment was mailed to property owners within 750-feet of the property lines on April 30, 2004. No comments were received.

Criterion met.

4. **Proof of Ownership**

37.0550 Initiation Of Action.

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation lists Laurie Blankenship as the property owner. Laurie Blankenship signed the General Application Form initiating an action on her property.

Criterion met.

5. **Health Hardships are Allowed in the Multiple Use Agriculture Zoning District**

MCC 36.2825 Review Uses.

Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800, or as specified for the use.

(A) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

Staff: Health Hardships are listed as a Temporary Use and are reviewed under the provisions of MCC 36.0515.

Criterion met.

6. **The Proposed Health Hardship Dwelling Meets the MUA-20 Dimensional Requirements**

MCC 36.2855 Dimensional Standards and Development Requirements.

A. **(C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Staff: As shown on the submitted site plan (Exhibit A), the proposed health hardship manufactured home would be 20-feet from the drain collection area which is roughly an additional 20-feet from the side property line. Therefore, the proposed manufactured home will be 40-feet from the side, and closest, property line. The manufactured home is a single story in height. Therefore, the structure meets all dimensional requirements.

Criterion met.

- B. **(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: Phil Crawford, the Environmental Soils Specialist who reviews septic permits, gave authorization for the health hardship to be connected to the existing septic system (Exhibit B). He also indicated that there may need to be an upgrade to the existing system.

Craig Christensen, an Oregon Registered Professional Engineer, noted that the proposed drainage system will be adequate to handle a 10-year, 24-hour storm event on site for the new impervious surfaces.

Criteria met.

- C. **(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.**

Staff: The applicant has indicated that the site is flat and the only site preparation for the manufactured home will be removing the top layer of grass. No cutting or filling is required. The proposed location is adjacent to a parking area and has direct access to the existing driveway.

Criterion met.

- D. **(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land by:**

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

Staff: The property to the north is zoned EFU and appears to be actively farmed. As such, the covenant shall be required as a condition of approval.

Criterion met with Condition of Approval.

7. **The Application Meets the Temporary Health Hardship Criteria**

MCC 36.0515 Temporary Health Hardship Permit

(A) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a mobile home on a lot with a single family residence based on the following findings:

- A. (1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.**
- (a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.**
- (b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.**
- (c) For the purposes of this section, a relative is defined as a grandparent, parent, child, brother or sister, either by blood or legal relationship.**

Staff: The applicant has stated in their application that the person receiving care is the mother of Laurie Blankenship, an owner of the property. Douglas R. Grossnickle, a medical doctor, has determined that a resident of the property (Laurie Blankenship) is fully capable of providing the necessary assistance to the individual the health hardship is for.

Criterion met.

- B. (2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment based upon a statement from a licensed physician describing the nature of the impairment and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance.**

Staff: Douglass R. Grossnickle, MD, CMD, has determined that the person for which the health hardship is for has severe enough limitations that assistance is necessary for the “instrumental activities of daily living.” The doctor has also determined Laurie Blankenship is able to provide the necessary assistance.

Criterion met.

- C. (3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence.**

Staff: The area that consists of the notice area is made up of single-family homes and farms that are resident owned. There are no known facilities or rental alternatives in that noticing area. The existing home is a 1911 dwelling with a total of 1560 square-feet of

living space on two floors. The dwelling is small and does not contain enough extra space to accommodate an additional resident that needs assistance.

Criterion met.

D. **(4) The following locational criteria are satisfied:**

1. **(a) The proposed siting of the mobile home will satisfy the applicable setback and lot coverage standards of the zoning district without variance.**

Staff: The proposed location is over 30-feet from the side property line and over 50-feet from the front and rear property line. There are no lot coverage standards.

Criterion met.

2. **(b) The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan.**

Staff: The subject property is only 3.41-acres in size and therefore not dividable. As such, this criterion is not applicable.

3. **(c) The mobile home will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence.**

Staff: The Sanitarian has indicated on the On-Site Sewage Disposal form that the proposed health hardship can be connected to the existing septic system. However, the septic system may need improvements. The property has an existing connection to the Pleasant Home Water District and as indicated by the manager of the district, Cynthia Zinsec, no improvements are necessary, including new connections.

Criterion met.

4. **(d) The mobile home will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the health care needs of the proposed occupant.**

Staff: No other structures are a part of this proposal.

Criterion met.

E. **(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.**

Staff: The \$1000 penal bond will be a condition of approval.

Criterion met with Condition of Approval.

F. **(6) As a condition of approval, every two years from the approval date the applicant shall submit:**

(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and

(b) A letter from the care provider describing the continuing assistance being given.

Staff: This criterion shall be met with a condition of approval.

Criterion met.

Conclusion:

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the criteria for a Temporary Health Hardship in the Multiple Agricultural-20 zoning district and the Temporary Permit section have been met.

Exhibits

- A. Site Plan
- B. On-Site Sewage Disposal Certification Form

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.