

**MULTNOMAH COUNTY****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.

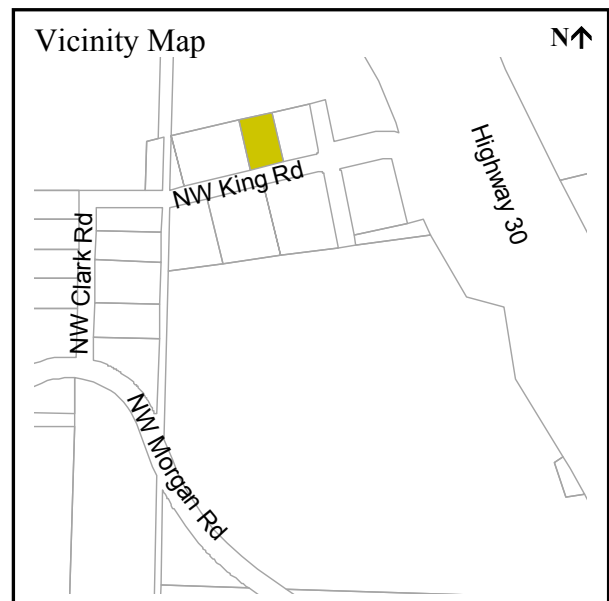
Case File: T2-04-059

Permit: Significant Environmental Concern
Permit

Location: 18923 NW King Road
TL 300, Sec 12, T2N, R2W, W.M.
Tax Account #R26660-0200

Applicant: Mel White
Metro Homes
31175 SW Country View Lane
Wilsonville, OR 97070

Owner: Beverly Healy
2639 N Watts
Portland, OR 97217



Summary: To replace an existing 14-foot by 66-foot manufactured home with a 27-foot by 66-foot manufactured home.

Decision: Approved With Conditions

Unless appealed, this decision is effective Friday, February 4, 2005, at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Friday, January 21, 2005

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 Friday, February 4, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560; MCC 33.0005(L)(13); MCC 33.3155; MCC 33.3170; MCC 33.3185; MCC 33.4565; MCC 33.4570

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. **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. **Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision [pages 1-3 of this decision] with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense. Failure to sign and record the Notice of Decision within the above 30 day time period shall void the decision. [MCC 37.0670].**
2. **The applicant/owner shall remove and clear and maintain the development area free of the nuisance plants listed under MCC 33.4570(B)(7).**

NOTE:

Once this decision becomes final, applications for building permits may be made with the City of Portland. **When ready to have building permits signed off, call the Staff Planner, Don Kienholz, at (503)-988-3043 to schedule an appointment.** Multnomah County must review and sign off building permit applications before they are submitted to the City of Portland. Six (6) sets each of the site plan and building plans are required at the building permit sign-off.

NOTE TO FUTURE PROPERTY OWNERS:

Easements have been recorded affecting this property with regard to the on-site sewage disposal system and to the retention and maintenance responsibilities of trees on Lot 7 of the Fairland subdivision.

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: 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**

Applicant: We are proposing to replace an existing manufactured home with a new (27' X 66') manufactured home. The structure is a single story house and there is an existing well and septic system on property all ready.

Staff: The applicant is requesting to replace an existing 14-foot by 66-foot single-wide manufactured home with a new double wide manufactured home measuring 27-feet by 66-feet.

2. **Site Characteristics and Vicinity**

Applicant: The subject property is located on NW King Road, which is a gravel road. The area is primarily residential and is zoned Rural Residential (RR). The subject site is lot 5 and 7 of the Fairland Subdivision. At this time there is an existing Manufactured home on site.

Staff: The subject site is zoned Rural Residential (RR) and is part of the Fairland subdivision, platted in 1961. The subject site is off of NW King Road and .34-acres in size. The property is adjacent to another Fairland Subdivision lot in common ownership. The area slopes upward from Highway 30 on the east to a peak to the west of the subject property. However, the subject site is relatively flat. The subject lot and adjacent lot in common ownership are relatively clear of vegetation other than rows of trees along the exterior property lines of both lots. The vicinity is made up of small lots that are all zoned Rural Residential and contain single-family dwellings on small lots.

3. **Proof of Ownership**

MCC 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 records show Beverly Healey as the owner of the subject property. The General Application form (Exhibit 1) has been signed by Beverley Healey granting authorization to proceed with a land use action on the property and with Mel White of Metro Homes as the Applicant.

Criterion met.

4. **The Property Is In Full Compliance With All Applicable Codes**

MCC 37.0560 Code Compliance And Applications.

The County shall not approve any application for a permit or other approval, including building permit applications, for any property that is not in full compliance with all

applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code

Staff: No issues with compliance have been identified as a result of this permit. The property is a Lot of Record as determined in Finding #7.

Criterion met.

5. **A Single-Family Residence is an Allowed Use in the Rural Residential District**

MCC 33.3115 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.3120 through 33.3130 when found to comply with MCC 33.3155 through 33.3185.

* * *

MCC 33.3120 Allowed Uses

(C) Residential use consisting of a single family dwelling constructed on a Lot of Record;

Applicant: A manufactured home. No other structures are proposed.

Staff: A manufactured home is a single-family dwelling and thus allowed in the zone.

Criterion met.

6. **The Proposal Meets the Dimensional Requirements of the Rural Residential Zone**

MCC 33.3155 Dimensional Requirements

A. **(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).**

Applicant: The subject lot is .34-acre. See lot of record under mcc.2222.

Staff: The proposal does not call for the creation of new parcels.

Criterion met.

B. **(C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
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30	10	30	30
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Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Applicant: The house is more than 30-feet from front property line. The house is more than 10-feet from side property line. The house is more than 30-feet from rear property line. The house is not more than 2ft high.

Staff: The proposed site of the new manufactured home meets all the dimensional setbacks as measured on the submitted site plan (Exhibit 2). The new dwelling is a single story as seen on the submitted elevation plan (Exhibit 3) – well below the 35-foot maximum structure height.

Criterion met.

- D. **(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.**

Staff: NW King Road has the minimum 50-feet of right-of-way.

Criterion met.

- E. **(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

Staff: No other structures are proposed.

Criterion met.

7. **The Subject Property is a Lot of Record**

MCC 13) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “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.

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

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. 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
3. 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
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

MCC 33.3170 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

Staff: The subject lot is part of the Fairland subdivision that was platted with County approval on August 7, 1961. By obtaining County approval of the subdivision, the County determined the property met the zoning requirements. By obtaining a subdivision plat, the property met the land division rules. Therefore, the property is a Lot of Record.

Criteria met.

8. **The Proposal Meets the SEC-v Approval Criteria**

MCC 33.4565 Criteria for Approval of SEC-v Permit -Significant Scenic Views

A. **(B) In addition to the information required by MCC 33.4520, an application for development in an area designated SEC-v shall include:**

- (1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;**
- (2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;**
- (3) A list of identified viewing areas from which the proposed use would be visible; and,**
- (4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.**

Staff: The applicant submitted the required information. See applicant narrative below in B.

Criteria met.

B. **(C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be *visually subordinate*. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:**

- (1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.**
- (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.**
- (3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.**

(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(6) Limiting structure height to remain below the surrounding forest canopy level.

(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:

Applicant: The said property is not and will not be visible from identified viewing areas. The property site is below the crest that is at least 300 feet from the property line. The crest is the peak of that area of the West Hills and can be seen from identified viewing areas. The elevation of the site drops from the crest to the property line and the new house elevation is 13' which is lower than the 22' allowed. The existing house that on the site now is at the same elevation that is being proposed and it can not be seen from the identified viewing areas.

For the existing vegetation issue on lot 7 I'm including a conservation easement that has been recorded with Multnomah County that will cover if the trees are to die or be cut down that they will be replaced so that the existing screening vegetation will be preserved on lot 7.

Staff: The land from Highway 30 westward slopes up to a peak at roughly NW Mann Road, dips down to a flat shelf and then slopes back up in a northwest direction. The development site is on the flat shelf that is not visible from identified viewing areas. Roughly 115-feet from the development site to the northwest is the top peak of the immediate crest line that would prevent any structure developed on the subject site from breaking the tree or ridge line. The shelf the development site is on is roughly 100-feet west and downslope from NW Mann Road which is roughly the peak of the ridge line that slopes down towards Highway 30 (See Map Exhibit 4).

The elevation drops significantly from the crest to the property line as confirmed during a site visit by staff. Additionally, the adjacent property to the east, between the property and the crest, contains a large clustering of mature trees that provides additional screening to the east. The applicant has recorded a conservation easement on the adjacent property to the east with the cluster of trees. The easement ensures that the trees remain on the property and if they die, they will be replaced with comparable trees. Because of the topography, the proposal being a single-story manufactured home, and the adjacent screening, the development will not be seen from any identified viewing area and the criteria of MCC 33.4565(C)1-7 are satisfied.

Criteria met.

9. **The Proposal Meets the SEC-h Approval Criteria**

MCC 33.4570 Criteria for Approval of SEC-h Permit -Wildlife Habitat

(B) Development standards:

- A. **(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

Staff: The subject site is mostly cleared. The only forested areas are within the required setbacks and so will remain in place.

Criterion met.

- B. **(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

Staff: The site plan (Exhibit 2) shows the new dwelling being 44-feet from the road.

Criterion met.

- C. **(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

Staff: The property has an existing driveway that will not be extended beyond 500-feet.

Criterion met.

- D. **(4) The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.**

Staff: The entire property is only 100-feet wide so the driveway will be within 100-feet of both side property lines.

Criterion met.

- E. **(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.**

Staff: The development is within 300-feet of every property line.

Criterion met.

- F. **(6) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

Staff: No fencing is proposed as part of this application.

Criterion met.

- G. (7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Water-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion

Scientific Name	Common Name
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

Staff: A condition of approval will require the removal of the listed nuisance plants.

Criterion met.

Conclusion:

Staff: Based on the findings and other information provided above, this application for a Significant Environmental Concern Permit satisfies, with appropriate conditions, the applicable Multnomah County Zoning Code requirements.

Exhibits:

1. General Application Form
2. Site Plan
3. Building Elevation Plan
4. Topographic Air Photo