

**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.

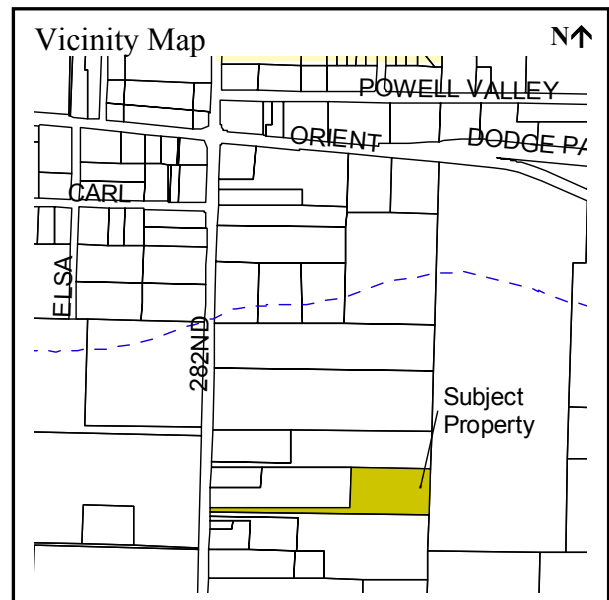
Case File: T2-05-064

Permit: Temporary Health Hardship Dwelling

Location: 7850 SE 282nd Avenue
TL 800, Sec 19CB, T 1S, R 4E, W.M.
Tax Account #R99419-1580

Applicant: Jeffrey Penuel

Owner: Emma Penuel



Summary: Applicant proposes to:

1. Replace the existing dwelling with a new triple-wide manufactured dwelling; and
2. Utilize the replaced manufactured dwelling for a health hardship dwelling for his mother in the Multiple Use Agriculture – 20 zoning district.

Decision: Approved with conditions.

Unless appealed, this decision is effective Thursday, September 22, 2005, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Thursday, September 8, 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 Lisa Estrin, 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 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, September 22, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

Multiple Use Agriculture -20

MCC 36.2825 Review Uses – (A) Temporary Uses...

MCC 36.2855 Dimensional Standards and Development Requirements

MCC 36.2870 Lot of Record

MCC 36.2885 Access

Temporary Permit

MCC 36.0515 Temporary Health Hardship Permit

Administration & Procedures

Chapter 37, particularly

MCC 37.0530(B) Type II Decision

MCC 37.0550 Initiation of Action

MCC 37.0560 Code Compliance and Applications.

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. A request for permit extension may be required to be granted 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 issuance of land use sign off for the building permit to site the replacement dwelling**, a penal bond in the amount of \$1,000 is to be submitted to the Land Use Planning Section.
2. The health hardship dwelling shall be removed from the property within six months after the health hardship ceases to exist. Failure to remove the health hardship dwelling within this time period may cause the forfeiture of the penal bond to the County.
3. The health hardship dwelling shall be for Emma Penuel. Upon her permanent departure from the property, the six month removal period shall commence.
4. The health hardship dwelling shall be connected to the same public facilities (e.g., sewer, water or power mains, curb cuts, etc.) as the permanent dwelling.
5. The Health Hardship Dwelling permit may be renewed if the Health Hardship situation continues. Every two years from the date this decision becomes final (Friday, September 2, 2005), the applicant shall apply for a renewal of the Health Hardship permit. This renewal shall include:
 - A recent (within 6 months prior to the two year deadline) physician's statement verifying that the Health Hardship situation still exists (MCC 36.0515(A)(6));
 - A letter from the care provider describing the continuing assistance being given. (MCC 36.0515(A)(6)); and
 - A recent (within 6 months prior to the two year deadline) authorization from the Sanitarian for continued use of the septic system (Policy 37)

Building Permit Note

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have the building permit signed off, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-3043, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Four (4) sets each of the site plan, elevations and floor plans are needed for building permits signed off.

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 criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

Project Description:

Applicant: I am applying for a health hardship permit to put a second residence on the property located at 7850 SE 282nd Avenue, Gresham, OR 97080. I wish to set up triple wide mfg. home for my wife and I to live in, as my wife does not want to live in the same house as my mother. There is no other suitable accommodation within 750 feet of the residence.

My mother was permanently injured in an auto accident, and has limited mobility which requires her to have assistance with daily functions around the house, and property. My wife and I provide that assistance. I ask for your approval of this permit. Thank You, Jeff Penuel.

Staff: The applicant is requesting to replace the existing 1980 mobile home located on the 3.35 acre site with a new manufactured dwelling. The replaced 1980 mobile home will be utilized as a health hardship dwelling for the property owner, Emma Penuel. The new manufactured dwelling will become the permanent residence on the site and will be occupied by Jeff Penuel and his wife who will be the caregivers for Ms. Penuel.

1.00 ***Administration and Procedures***

1.01 **Type II Case Procedures**

MCC 37.0530(B): ...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...

Staff: The application was submitted June 23, 2005 and was deemed complete as of July 7, 2005. An “Opportunity to Comment” notice was mailed on July 11, 2005 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

1.02 **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: The proposed project is located on Tax Lot 800, Section 19CB, Township: 1 South, Range: 4 East. Assessment & Taxation records show that the land is owned by Emma Penuel. The property owner has granted approval for Jeffrey Penuel to make application for a Health Hardship dwelling (Exhibit A.1). *This criterion has been met.*

1.03 **MCC 37.0560 Code Compliance and Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property

line adjustments, 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.

Staff: There are no known violations on the site.

2.00 ***Multiple Use Agriculture - 20***

2.01 **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: MCC 36.0515 allows the temporary placement of a manufactured dwelling to be utilized as a Health Hardship dwelling. The applicant has demonstrated compliance with the applicable code criteria. *This criterion has been met.*

2.02 **MCC 36.2855 Dimensional Standards and Development Requirements.**

All development proposed in this district shall comply with the applicable provisions of this section.

(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: The applicant's site plan (Exhibit A.3) shows that the existing mobile home and proposed manufactured dwelling meet the required yard requirements. The dwellings meet the maximum structure height of 35 ft. *These criteria have been met.*

2.03 **(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: The applicant has provided documentation that the site is suitable to have a septic system that can be utilized by the permanent and health hardship dwelling (Exhibit A.5). A storm water certificate and storm water system (Exhibit A.6) has been designed by Bogdan Popescu, a registered professional engineer for the new impervious surfaces to be created. *These criteria have been met.*

2.04 **(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.**

Staff: This criterion will be reviewed at the time of land use sign off of the building permit. The project appears to be permissible as a Minimal Impact Project requiring installation of erosion control and inspection by staff.

- 2.05 **(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 owner has recorded the required covenant in April 2005. *This criterion has been met.*

- 2.06 **MCC 36.2870 Lot of Record.**

- (A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:....**

Staff: Multnomah County in T2-01-036 granted a property line adjustment to create the subject property in its current configuration. Property line adjustments may only be permitted between two lots of record. Through T2-01-036 the County has found that the subject property is a Lot of Record. *This criterion has been met.*

- 2.07 **MCC 36.2880 Off-Street Parking and Loading.**

Off-Street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.

Staff: Multnomah County Code requires two parking spaces for a single family dwelling. The site plan shows adequate room within the driveway area for parking of four cars (Exhibit A.3). *This criterion has been met.*

- 2.08 **MCC 36.2885 Access.**

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Staff: The subject property fronts onto 282nd Avenue which is a public street. *This criterion has been met.*

- 3.00 **Health Hardship Criteria**

- 3.01 **MCC 36.0515 Temporary Health Hardship Permit**

The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of daily health care needs to a person with a demonstrated health hardship by allowing the placement of a mobile home on a lot with an existing single family residence. The permit is temporary in nature and not intended to encourage an increase in the residential density beyond that envisioned by the Comprehensive Plan and its implementing ordinances.

- (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:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

Staff: The current property owner Emma Penuel will live in the health hardship dwelling. *This criterion has been met.*

- 3.02 **(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 caregivers are Emma's son and his wife. *This criterion has been met.*

- 3.03 **(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: A physician statement has been submitted by the applicant (Exhibit A.4). *This criterion has been met.*

- 3.04 **(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 surrounding area is zoned as either Multiple Use Agriculture or Exclusive Farm Use which has limited residential opportunities. No rental housing is available in this area. The existing dwelling is not adequate. *This criterion has been met.*

- 3.05 **(4) The following locational criteria are satisfied:**
- (a) The proposed siting of the mobile home will satisfy the applicable setback and lot coverage standards of the zoning district without variance.**

Staff: As found under 2.02, the health hardship dwelling meets the applicable setback. The Multiple Use Agriculture zone does not have a lot coverage standard. *This criterion has been met.*

- 3.06 **(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 property is zoned Multiple Use Agriculture – 20 and may not be divided at this time. *This criterion is not applicable at this time.*

- 3.07 **(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 health hardship dwelling and the permanent dwelling will be connected to the same septic system. A condition of approval has been included requiring the two dwellings be connected to the same public services. *As conditioned, this criterion has been met.*

- 3.08 **(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: The applicant's site plan shows only a handicap ramp leading to the health hardship dwelling (Exhibit A.3). *This criterion has been met.*

- 3.09 **(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: A condition of approval has been included to require a bond prior to issuance of the land use sign-off of the building permit for the replacement dwelling. *As conditioned, this criterion has been met.*

- 3.10 **(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: A condition of approval has been included requiring renewal of the health hardship permit.

4.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Health Hardship permit in the Multiple Use Agriculture - 20 zoning district. This approval is subject to the conditions of approval established in this decision.

5.00 **Exhibits**

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6/23/05
A.2	1	Narrative Statements	6/23/05
A.3	1	Site Plan	6/23/05
A.4	1	Doctor's Note	6/23/05
A.5	3	Certification of On-Site Sewage Disposal	6/23/05
A.6	4	Stormwater Certificate	6/23/05
A.7	1	Certification of Water Service	6/23/05
A.8	1	Fire District Access Review	6/23/05
A.9	6	Fire District Fire Flow Requirements	6/23/05
A.10	3	Conditions & Restrictions in the MUA-20 Zone	6/23/05
A.11	1	Floor Plan	6/23/05

A.12	3	Legal Descriptions to Finalize Lot Line Adjustment	6/23/05
A.13	2	Bargain & Sale Deed 2003-074589	6/23/05
A.14		Bargain & Sale Deed 2003-074591	6/23/05
A.15		Bargain & Sale Deed 2003-074592	6/23/05
‘B’		Staff Exhibits	Date
B.1	1	A&T Property Record for TL 800, 1S4E19CB	6/23/05
B.2	1	A&T Map 1S4E19CB	4/14/04
B.3	1	Zoning Map	6/23/05
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	7/7/05
C.2	3	Opportunity to Comment	7/11/05