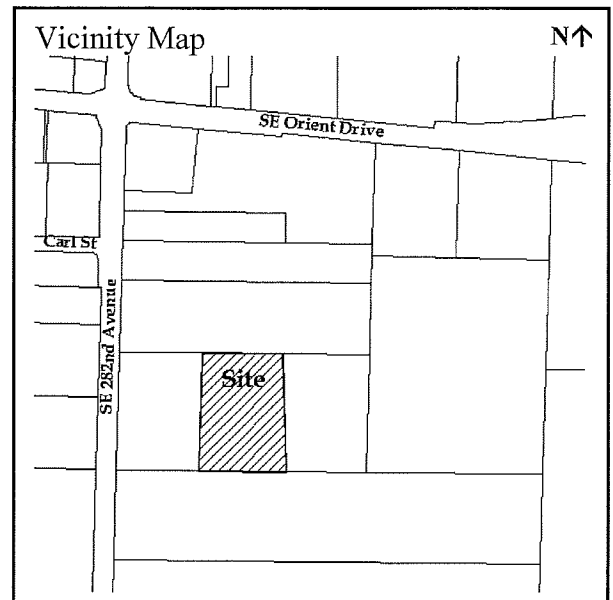


1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2014-3298
Permit: Temporary Health Hardship
Location: 7404 SE 282nd Avenue
Tax Lot 1600, Section 19
Township 1 South, Range 4 East, W.M.
Tax Account #R994191470
Applicant: Linda Elliott
Owners: Rick and Linda Elliott
Base Zone: Multiple Use Agriculture – 20
(MUA-20)
Overlays: Significant Environmental Concern for
water resources (SEC-wr) and wildlife
habitat (SEC-h)



Summary: Applicant is requesting a Health Hardship permit to allow for the continued use of a manufactured dwelling on the property for the care of a relative.

Decision: Approved with Conditions

Unless appealed, this decision is effective Friday, July 11, 2014, at 4:00 PM.

Issued by:

By: L. Nesbitt for Lisa Estrin
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Friday, June 27, 2014

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 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, ext. 22597.

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 Friday, July 11, 2014 at 4:00 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. *Temporary Uses* – MCC 36.0515 Temporary Health Hardship Permit.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

Scope of Approval

- 1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s).**
- 2. The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved.**
- 3. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in MCC 36.0515 (B)(1) through (4). More than one extension may be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.**

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. This health hardship permit authorizes the placement and maintenance of a temporary dwelling to be occupied by Shirley Dikeman. Occupancy of the temporary dwelling may occur only while Shirley Dikeman for which the Temporary Health Hardship Permit was granted lives on the property. This health hardship permit is not transferable to another party. [MCC 36.0515(F)]
2. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care of Shirley Dikeman. [MCC 36.0515(G)]
3. Within thirty days of this decision becoming final, the property owners shall record a covenant that states that the dwelling is temporary and must be removed as set forth in MCC 36.0515(G) and that the Temporary Health Hardship Permit is not transferable to another party. [MCC 36.0515(C)(2)]

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.
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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*.

1.00 Project Description:

Staff: The applicant, Linda Elliott is requesting a Health Hardship permit in order to allow a temporary dwelling to remain on the subject property so that Shirley Dikeman may live in it and her family to assist her with daily care.

2.00 Property Description & History:

Staff: The subject property is 2 acres and contains an existing single family dwelling and an existing detached shop/garage. The dwelling was constructed in 2006 and was authorized by T2-05-050. At present, the property has areas of excess gravel, failed plantings and an addition to the shop/garage without permits. The property owners have been working with Land Use Planning to correct these issues.

In 1997, a Health Hardship permit was authorized allowing the placement of the existing single-wide manufactured dwelling located to the northwest of the primary dwelling (Exhibit A.4). The application was renewed in 1999. Unfortunately, the Health Hardship permit was allowed to lapse two years later. In 2005, T2-05-050 the Health Hardship permit was reauthorized. However, the permit has lapsed again. The property owners have requested this application to reauthorize its use by Shirley Dikeman.

3.00 Multiple Use Agriculture – 20 Criteria:

3.01 § 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: The applicant has requested a health hardship permit pursuant to MCC 36.0515. Please see additional findings in Section 4 below.

3.02 § 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

Staff: The manufactured dwelling used for the health hardship situation is located 12 feet from the western side property line, over 30 feet from the front property line to the north, over 200 feet from the rear property line to the south and 200 feet from the eastern side property line. The manufactured dwelling is less than 35 feet in height. *Criteria met.*

- 3.03 (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 health hardship dwelling is currently connected to an on-site sewage disposal system. The stormwater was reviewed as part of the original permit for the dwelling placement in 1997. *Criteria met.*

4.00 Health Hardship Criteria

4.01 § 36.0515 TEMPORARY HEALTH HARDSHIP PERMIT

(B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a lot in conjunction with an existing single-family dwelling allowed in the zone subject to the following:

(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, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

Staff: Shirley Dikeman is the mother of Linda Elliott (Exhibit A.3). Linda and Rick Elliott are the property owners of the property (Exhibit A.5 and B.1). Linda Elliott is the care provider for Shirley Dikeman. *Criteria met.*

- 4.02 (2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:**

(a) The person identified in the application has a health hardship as defined in MCC 36.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 36.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health

hardship.

Staff: A written statement by a licensed physician has been provided that meets the above requirements (Exhibit A.2). *Criteria met.*

- 4.03** **(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.**

Staff: Linda Elliott has provided a written statement (Exhibit A.3) that as the care provider she is capable of providing the necessary daily care needed by Shirley Dikeman. *Criterion met.*

- 4.04** **(4) The following criteria are satisfied:**

(a) The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

(b) The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 36.7601 through 36.7616 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps.

Staff: The temporary dwelling is a mobile home. The temporary dwelling is located within 10 feet of the permanent dwelling on the property. The mobile home is connected to the same utilities as the permanent dwelling and uses the existing driveway. *Criteria met.*

- 4.05** **(C) Prior to installation of the temporary dwelling on the site, the property owner shall:**

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities,

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

Staff: The temporary dwelling currently exists on the subject site. The necessary building and electrical permits were obtained in 1997 to establish the temporary dwelling on the site. The previously health hardship permit lapsed. This permit will reauthorize a temporary health hardship on the site. A condition of approval has been included requiring that the property owners record the above covenant within 30 days. *As*

conditioned, criteria met.

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Health Hardship permit to re-establish the use on the site in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

6.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2014-3298 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	2.05.2014
A.2	1	Medical Letter dated January 31, 2014	2.05.2014
A.3	1	Narrative	2.05.2014
A.4	1	Site Plan	2.05.2014
A.5	2	Bargain and Sale Deed	3.19.2014
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S4E19BC - 01600	2.5.2014
‘C’	#	Administration & Procedures	Date
C.1	2	Incomplete Letter	2.21.2014
C.2	1	Applicant’s Acceptance of 180 Day Clock	3.19.2014
C.3	1	Complete Letter (Day 1)	3.20.2014
C.4	5	Opportunity to Comment	6.12.2014
C.5	7	Administrative Decision	6.27.2014