



**NOTICE OF DECISION ON A TYPE II LAND USE PERMIT**

**Decision:** Approved with Conditions

**Permit Type:** Temporary Dwelling for Care

**File No.** Z0406-22

**Proposal:** The applicant is requesting a Temporary Dwelling for Care Permit to authorize the temporary placement of a recreational vehicle, in addition to the primary dwelling. The care recipient (Duwomaiish Gabrielle), who requires care due to medical conditions, would reside in the temporary dwelling. Their care provider, Linda Raab, along with the rest of the residential occupants, will reside in the primary dwelling.

**Decision Date:** November 3, 2022

**Deadline for Filing Appeal:** November 15, 2022, at 4:00 pm.

Unless appealed, this decision is effective on November 15, 2022 at 4:00 pm.

**Issued By:** Aldo Rodriguez, Planner I, ARodriguez@clackamas.us

**Assessor's Map & Tax Lot(s):** 33E10BD00600

**Site Address:** 19219 S NEIL RD, Estacada, 97023

**Applicant:** Linda Raab

**Owner of Property:** Linda A. Raab

**Zoning:** RRF-5

**Community Planning Organization (CPO) for Area:**  
Redland-Fischers Mill

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are

interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

**OPPORTUNITY TO REVIEW THE RECORD:** The submitted application is available for review online at <https://acela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select Record Info and then select Attachments from the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be purchased at the rate of \$2.00 per page for 8 1/2" x 11" or 11" x 14" documents, \$2.50 per page for 11" x 17" documents, \$3.50 per page for 18" x 24" documents and \$0.75 per sq ft with a \$5.00 minimum for large format documents.

**APPEAL RIGHTS:** Any party disagreeing with this decision, or the conditions of approval, may appeal this decision to the Clackamas County Land Use Hearings Officer. An appeal must include a completed County Appeal Form and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified on the first page of this decision.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

The County Appeal Form is available at [www.clackamas.us/planning/supplemental.html](http://www.clackamas.us/planning/supplemental.html). Any party or parties appealing this decision may withdraw their appeal at any time prior to the hearing or final decision by the Hearings Officer. A party wishing to maintain individual appeal rights may file an individual appeal and pay the \$250.00 fee, even if an appeal by another party or parties has been filed.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

**APPLICABLE APPROVAL CRITERIA:** This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 316, 1204, 1307.

### **PUBLIC AND AGENCY COMMENTS:**

Notice was sent to applicable agencies and owners of property within 500 feet.

Staff received two comments via email from the Redland-Viola-Fischers-Mill CPO. One on October 6, 2022 and another on October 24, 2022.

The October 6, 2022 email summarizes the CPO concerns along with their motion to comment on the application and suggest the application should not be approved.

The October 24, 2022 email provides the CPO's amended decision from its original motion from their October 5 meeting and recommends approval of the application based on clarification from the applicant.

Staff received a comment from the Onsite Water Program requesting the applicant check with them to confirm an Authorization Notice is required.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.**

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).*

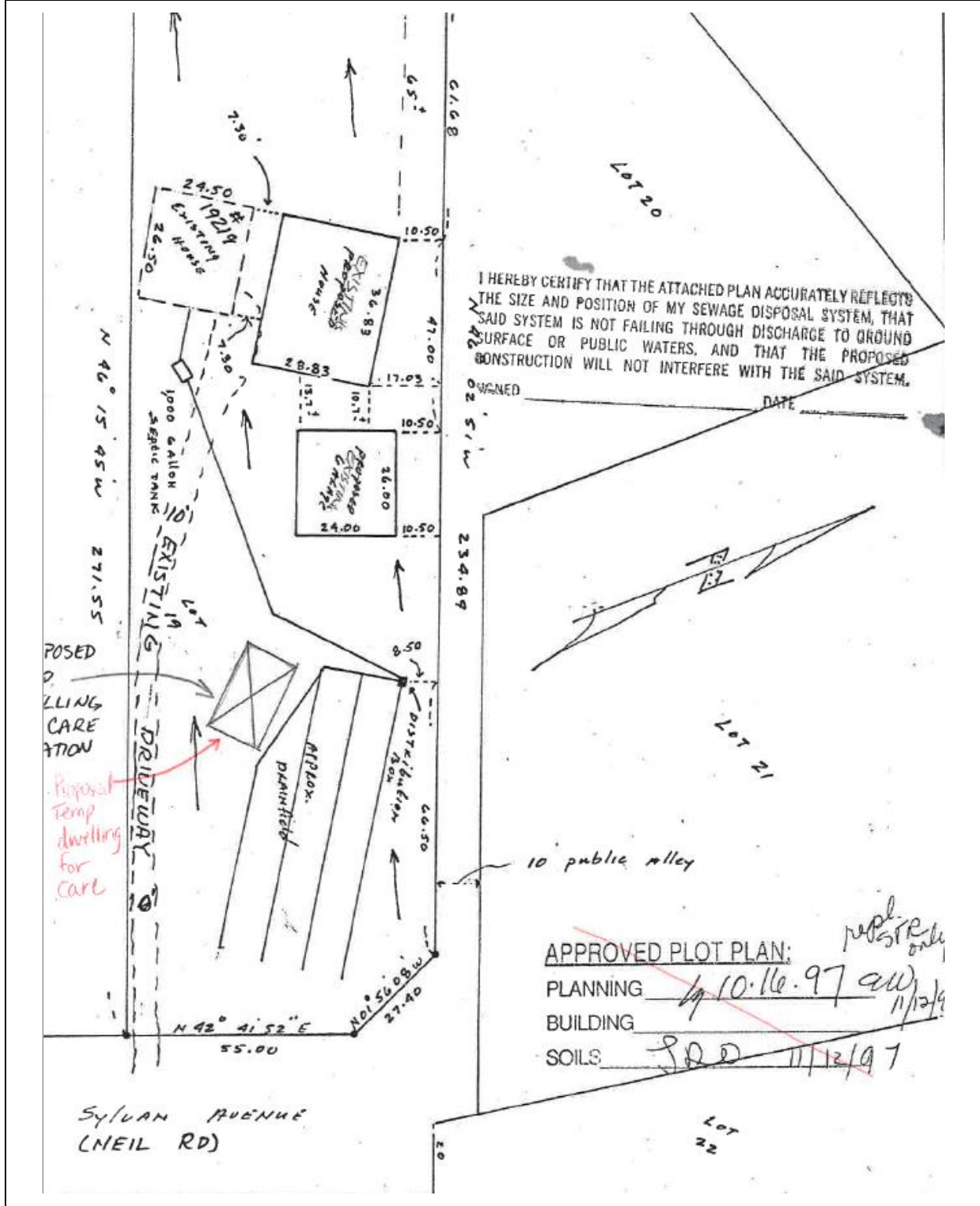
503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? 翻译或口译? |

Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Location Map



# Site Plan



I HEREBY CERTIFY THAT THE ATTACHED PLAN ACCURATELY REFLECTS THE SIZE AND POSITION OF MY SEWAGE DISPOSAL SYSTEM, THAT SAID SYSTEM IS NOT FAILING THROUGH DISCHARGE TO GROUND SURFACE OR PUBLIC WATERS, AND THAT THE PROPOSED CONSTRUCTION WILL NOT INTERFERE WITH THE SAID SYSTEM.

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

**APPROVED PLOT PLAN:**

PLANNING 10.16.97 aw repl. only

BUILDING 11/2/97

SOILS 900 11/12/97

## CONDITIONS OF APPROVAL

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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 parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on 8/22/2022. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. Approval Period & Renewal: Approval of this renewal Temporary Dwelling for Care application is valid for 3 years from the date of the final written decision. The permit may be renewed, subject to review as a Type II application pursuant to Section 1307, for a period not to exceed 3 years. The permit may be renewed an unlimited number of times. NOTE: 2 years for EFU, TBR, and AG/F zones.
3. **Within 30 days of the date of this decision, the applicant shall contact the County's Septic & Onsite Wastewater Program at 503-742-4740 or [SoilsConcern@clackamas.us](mailto:SoilsConcern@clackamas.us) to confirm if an Authorization Notice is required.** Any septic system that serves a single-family dwelling and is connected to the temporary dwelling must be reviewed every five years, in accordance with state law to ensure that the system is functioning, safe and properly maintained. The last documented Authorization
4. The temporary dwelling shall be occupied by Duwomaiish Gabrielle, the care recipient. The permanent dwelling shall be occupied by Linda Raab, the care provider, along with the two additional residential occupants (Jeanette Thibert and M. Lee Burlson).
5. The temporary dwelling shall comply with the minimum yard depth standards for primary buildings in the RRFF-5 zoning district.
6. Provide documentation the recreational vehicle is currently registered and licensed with State of Oregon.
7. Utilities / Services: All water, electricity, natural gas, and sanitary sewer service for the temporary dwelling shall be extended from permanent dwelling services. No separate meters for the temporary dwelling shall be allowed. An exception may be granted if the utility providers substantiates the separate services is required or if more than one legally established services exist on the subject lot, parcel, or tract. Driveway access: The temporary dwelling shall use the same driveway entrance as the permanent dwelling.
8. Setbacks: The temporary dwelling shall comply with the primary structure setback standards of the underlying RRFF-5 zoning district.
9. Separation Distance: The temporary dwelling shall be located within 100 feet of the permanent dwelling (measured from the closest portion of each structure).

10. Deed Statement: A written statement shall be recorded in the County deed records that recognizes that the temporary dwelling approved pursuant to Subsection 1204.04 is temporary and that the temporary permit is not transferable when the property is conveyed to another party.
11. Rental Income: The temporary dwelling shall not be a source of rental income.
12. Removal / Storage: If the temporary dwelling is a manufactured dwelling or residential trailer, it shall be removed from the subject lot, parcel, or tract within 90 days of when the permit expires or the need for care ceases, whichever first occurs. An exception to this provision may be granted if a temporary manufactured dwelling is converted to a permanent dwelling. Such a conversion shall only be allowed if the temporary dwelling complies with all applicable requirements for a permanent dwelling, and if the conversion will not result in the subject lot, parcel, or tract's violating the density standards of the underlying zoning district. If the temporary dwelling is a recreational vehicle, it shall be removed from the subject lot, parcel, or tract or placed in a stored condition when the permit expires or the need for care ceases, whichever first occurs. It is a violation of ZDO 1204 to leave a temporary dwelling on the subject property after the need for care ceases.

## **FINDINGS**

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The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

**A. PROJECT OVERVIEW**: The applicant is proposing a Temporary Dwelling for Care to authorize the temporary placement of a recreational vehicle, in addition to the primary dwelling, in the provision of care to Duwomaish Gabrielle, who requires care, as determined by a licensed health care professional, and will reside in the temporary dwelling. The care provider, Linda Raab, along with the two additional residents, will reside in the primary dwelling.

**B. ZDO Section 1204 Temporary Permits**

Section 1204 of the ZDO, Temporary Permits, sets forth the process, standards and requirements for reviewing an application to renew a permit for a Temporary Dwelling for Care. The proposed renewal of a Temporary Dwelling for Care is subject to the criteria and standards of Section 1204 that are outlined below:

**1204.04 TEMPORARY DWELLING FOR CARE**

A. A temporary permit for a dwelling for care requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

1. The temporary dwelling will be a manufactured dwelling, residential trailer, or recreational vehicle.

***Finding:** The temporary dwelling will be a recreational vehicle. **This criterion is met.***

2. The temporary dwelling will be occupied by a person or persons who require(s) care or who will provide care. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the temporary dwelling provided such occupancy is consistent with the remaining provisions of Subsection 1204.04.

***Finding:** Duwomaiish Gabrielle, the care recipient, will reside in the temporary dwelling and Linda Raab, the care provider, along with two additional residents, will reside in the primary dwelling. **This criterion is met.***

3. The temporary dwelling will be located on the same lot of record or tract as a lawfully established permanent dwelling. The permanent dwelling will be occupied by the person(s) receiving care from the occupant(s) of the temporary dwelling or by the person(s) providing care to the occupant(s) of the temporary dwelling. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the permanent dwelling, provided such occupancy is consistent with the remaining provisions of Subsection 1204.04.

***Finding:** As demonstrated on the applicant's site plan and required by the conditions of approval, the temporary dwelling will be located on the same lot of record or tract as the lawfully established permanent dwelling. Duwomaiish Gabrielle, the care recipient will reside in the temporary dwelling and Linda Raab, the care provider, along with two residents will reside in the primary dwelling. **This criterion is met.***

4. There exists a need for care. The need shall be documented by a signed statement from a licensed healthcare provider. The statement shall be dated within 90 days preceding the date the application is submitted and shall identify the care recipient, generally indicate that an age-related and/or medical condition results in a need for care, and substantiate that the type of assistance required by the patient is consistent with the type of assistance identified in the definition of care in Subsection 1204.04(B).

***Finding:** The applicant has provided documentation by Bryan Wilson, a licensed healthcare provider indicating that an age related and/or medical condition results in the need for care for this individual and assistance is required for the patient from Linda Raab, the health care provider.*

5. There exists no reasonable housing alternative in the form of adequate housing on the subject lot of record or tract. A determination regarding the



reasonableness of the care recipient and the care provider occupying the permanent dwelling together, and the reasonableness of either residing in an existing accessory dwelling unit or an existing accessory historic dwelling on the subject lot of record or tract, shall be made based on the size and floor plan of the permanent dwelling, and of any accessory dwelling unit(s) or accessory historic dwellings(s) on the lot of record or tract, with consideration for maintaining a degree of privacy and independence for both the care recipient and the care provider; and

*Finding: The applicant submitted a floor plan of the current primary dwelling. The floor plan indicates there is only one bedroom and two bathrooms available. With already 3 individuals living in the dwelling, there is not enough room to be able to provide care to Duwomaiish Gabrielle. Although the property owner has applied for a guest house (BP# B0520422), a "guest house" is not considered an accessory dwelling but is defined as an accessory building per the definition in Section ZDO 202. Therefore, there is no reasonable housing alternative on the subject tract. The temporary dwelling will provide a space for Duwomaiish Gabrielle to receive care and provide privacy. **This criterion is met.***

6. There exists no reasonable alternative care provider. Alternative care providers who shall be considered include:
  - a. Other adults who live with the care recipient; and
  - b. Other relatives of the care recipient who live nearby. This alternative shall only be considered in cases where the care recipient currently resides on the subject lot of record or tract; and

*Finding: No other adults live with the care recipient and there are no other relatives of care who live nearby. **This criterion is met.***

7. There is no other temporary dwelling for care on the subject lot of record or tract.

*Finding: The applicant's site plan, aerial photographs, and building permit history demonstrate that there are no other temporary dwellings for care on the subject lot of record or tract.*

- B. As used in Subsection 1204.04, care means assistance, required as a result of age or poor health, that is given to a specific person in the activities of daily living, which may include, but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation, and transportation, or care means daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in Subsection 1204.04, care does not include assistance with improvement or maintenance of property in the absence of a documented need for assistance with personal activities or a

need for personal supervision due to cognitive impairment. Care does not include financial hardship alone.

*Finding: The proposed care recipient, Duwomaish Gabrielle, requires care in the form of food preparation, laundry, routine shopping, medication management, transportation, and eating. **This criterion is met.***

C. A temporary permit for a dwelling for care shall be subject to the following conditions of approval:

1. The temporary dwelling shall be connected to a sanitary sewer system or to an on-site wastewater treatment system approved by the County. The temporary dwelling shall use the same on-site wastewater treatment system used by the permanent dwelling, if that system is adequate to accommodate the additional dwelling. An exception may also be granted if more than one lawfully established on-site wastewater treatment system exists on the subject lot of record or tract.

*Finding: Based on the applicant's narrative, the toilet in the recreational vehicle is not functional and will not be used. The care recipient will be using the bathroom within the primary dwelling. Regardless, there has been no exception proposed or necessary and will be conditioned. **As conditioned, this criterion is met.***

2. The temporary dwelling shall comply with the minimum yard depth standards for primary buildings in the applicable zoning district.

*Finding: As demonstrated on the applicant's site plan, the temporary dwelling can reasonably meet with the minimum yard depth standards of the RRFF-5 underlying zone with require a front yard setback of 30 feet, a side yard setback of 10 feet, and a rear yard setback of 30 feet. **As conditioned, this criterion is met.***

3. All water, electricity, natural gas, and sanitary sewer service for the temporary dwelling shall be extended from the permanent dwelling services. No separate meters for the temporary dwelling shall be allowed. An exception may be granted if the utility provider substantiates that separate service is required or if more than one lawfully established service exists on the subject lot of record or tract.

*Finding: No exceptions to this standard are proposed or necessary. **As conditioned, this criterion is met.***

4. The temporary dwelling shall use the same driveway entrance as the permanent dwelling, although the driveway may be extended. An exception may be granted if more than one lawfully established driveway entrance to the subject lot of record or tract exists.

*Finding: As demonstrated on the applicant's site plan and required in the conditions of approval, the temporary dwelling will use the same driveway entrance as the permanent dwelling.*

5. The temporary dwelling shall be located within 100 feet of the permanent dwelling. This distance shall be measured from the closest portion of each structure. This distance may be increased if the applicant provides evidence substantiating that steep slopes, significant natural features, significant existing landscaping, existing structures, other physical improvements, or other similar constraints prevent compliance with the separation distance standard. The increase shall be the minimum necessary to avoid the constraint. An exception may also be granted if the temporary dwelling will be sited in the same or substantially similar location as a previous, lawfully established temporary dwelling for care.

*Finding: The applicant submitted an additional note via an email regarding the 100 feet distance requirement. The applicant, per her email, indicated that the temporary dwelling will be located within 65 to 100 ft. from the dwelling. As demonstrated on the applicant's narrative and required in the conditions of approval, the temporary dwelling will be located within 100 feet from the primary dwelling. **As conditioned, this criterion is met.***

6. A written statement shall be recorded in the County deed records recognizing that a dwelling approved pursuant to Subsection 1204.04 is temporary and that the temporary permit is not transferable when the property is conveyed to another party.

*Finding: A condition of approval requires the applicant to record a deed recognizing that a dwelling approved pursuant to 1204.04 is temporary and that the temporary permit is not transferable when the property is conveyed to another party.*

7. The temporary dwelling shall not be a source of rental income.

*Finding: There is no evidence the applicant will use the temporary dwelling as a source of rental income. **As condition, this criterion is met.***

8. If the temporary dwelling is a manufactured dwelling or residential trailer, it shall be removed from the subject property when the permit expires or the need for care ceases, whichever first occurs. An exception to this provision may be granted if a temporary manufactured dwelling is converted to a permanent dwelling. Such a conversion shall be allowed only if the temporary dwelling complies with all applicable standards of this Ordinance for a permanent dwelling, including any that limit the number of dwelling units permitted on the subject property. If the temporary dwelling is a recreational

vehicle, it shall be removed from the subject property or placed in a stored condition when the permit expires or the need for care ceases, whichever first occurs. A recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site wastewater treatment system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.

***Finding:** The proposed temporary dwelling is a recreational vehicle. It shall be removed from the subject property or placed in a stored condition when the permit expires or the need for care ceases, whichever first occurs. **As conditioned, this criterion is met.***

- D. A temporary permit for a dwelling for care may be approved for a period not to exceed two years in the EFU, TBR, and AG/F Districts and for a period not to exceed three years in any other zoning district. The permit may be renewed, subject to review as a Type II application pursuant to Section 1307, for a period not to exceed two years in the EFU, TBR, and AG/F Districts and three years in any other zoning district. A temporary permit for a dwelling for care may be renewed an unlimited number of times.

*Finding: The Temporary Dwelling for Care is located in the RRFF-5 Zoning District, and is approved for a period not to exceed 3 years. A condition of approval limiting approval has been adopted.*

- E. In lieu of Subsections 1204.04(A) and (B), a renewal application shall be subject to the following standards and criteria:

*Finding: Not applicable, the application is not for a renewal of a temporary care permit. This review is for a new application.*

- F. An application shall be evaluated as a renewal application rather than a new application if the permit is requested for the same lot, parcel, or tract and the same care recipient as the previous permit.

*Finding: Not applicable, the application is not for a renewal of a temporary care permit. This review is for a new application.*