



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Approved with Conditions

Permit Type: Temporary Dwelling for Care

File No. Z0251-22-STC

Proposal: The applicant is proposing to a permit for a Temporary Dwelling for Care for the temporary placement of a recreational vehicle, in addition to the primary dwelling, in the provision of care to a family member. The family member who requires care will reside in the permanent dwelling. The care providers will reside in the temporary dwelling.

Decision Date: July 5, 2022

Deadline for Filing Appeal: July 18, 2022, at 4:00 pm if this date falls on Monday through Thursday and 3:00 pm if this date falls on Friday

Unless appealed, this decision is effective on July 18, 2022 at 4:00 pm if this date falls on Monday through Thursday and 3:00 pm if this date falls on Friday

Issued By: Melissa Lord, Planner I, MLord@clackamas.us

Assessor's Map & Tax Lot(s): T2S R3E Section 26 Tax Lot 00208

Site Address: 16161 S Eaden Rd., Oregon City, OR, 97045

Applicant: Dorothy and Jerry Barello

Owner of Property: Dorothy and Jerry Barello

Zoning: Timber (TBR)

Community Planning Organization (CPO) for Area:

Redland-Viola-Fischer's CPO
Land Ward, LanceWard@aol.com

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 the Community Involvement Office at 503-655-8552.

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.

Please check <https://www.clackamas.us/planning> for our current hours of in-office operation. Appeals may be submitted in person during office hours. Appeals may also be submitted by email or US mail.

The County Appeal Form is available at 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) Sections 202, 406, 1204, and 1307.

PUBLIC AND AGENCY COMMENTS:

Notice was sent to applicable agencies and owners of property within 750 feet. Comments were received from the Clackamas County Septic and Onsite Wastewater department and are addressed in this decision.

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.

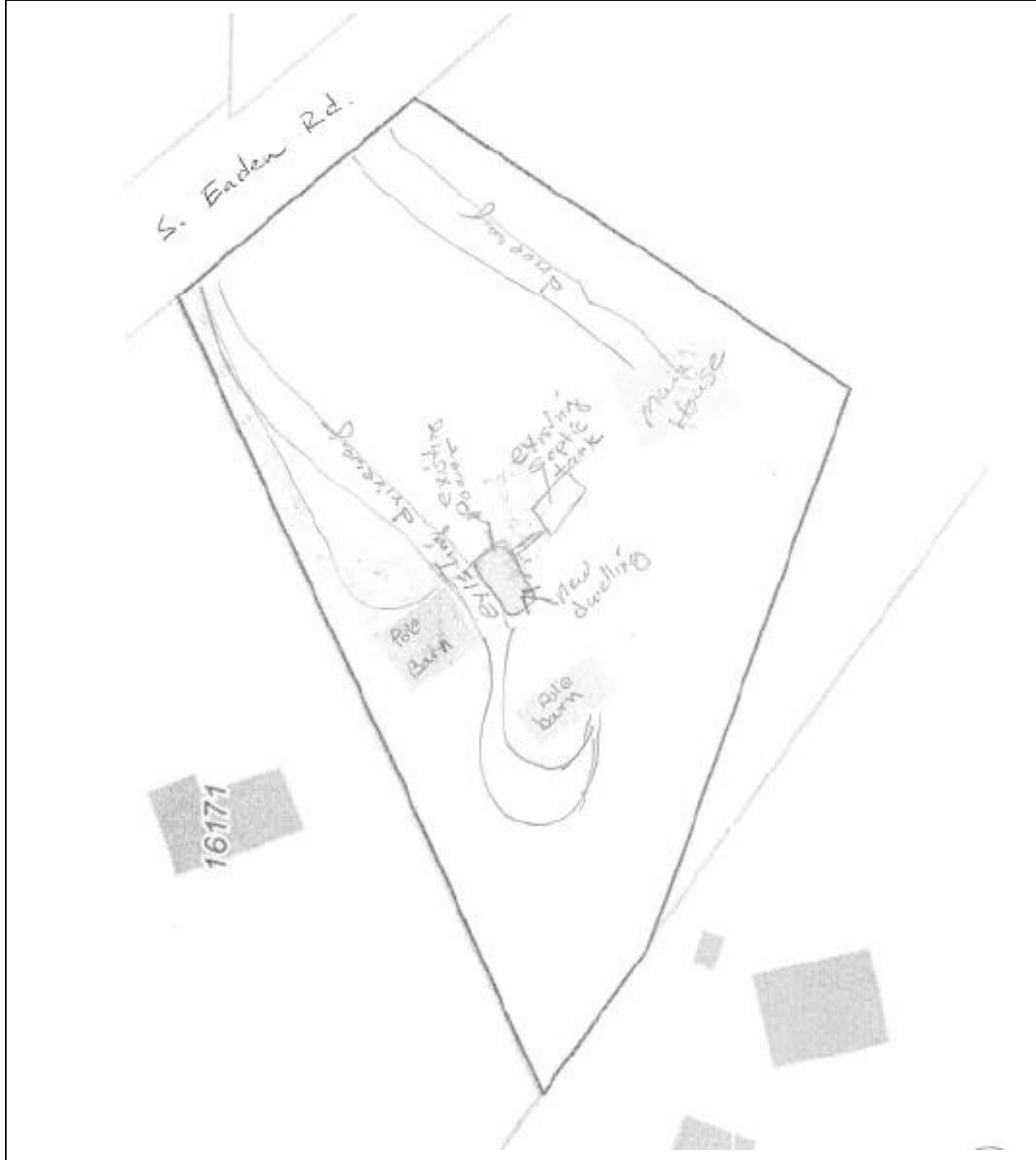
Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

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



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 parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on May 20, 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 two (2) 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 two (2) years. The permit may be renewed an unlimited number of times.
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 to apply for an Authorization Notice.** 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.
4. The temporary dwelling shall be occupied by Michelle Sumner and James Morgan Jr., the care providers. The permanent dwelling shall be occupied by Jerry Barello and Dorothy Barello, the care recipient and his spouse.
5. The temporary dwelling shall comply with the minimum yard depth standards for primary buildings in the Timber zoning district.
6. Utilities / Services: An exception to the utility service standards was authorized for the proposed Temporary Dwelling for Care.
7. Driveway access: The temporary dwelling shall use either the same driveway entrance as the permanent dwelling or a separate, pre-existing lawfully established driveway entrance.
8. Setbacks: The temporary dwelling shall comply with the primary structure setback standards of the underlying Timber 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: The temporary dwelling, a recreational vehicle, 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

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 the property owner Jerry Barelo. Mr. Barelo, who requires care as determined by a licensed health care professional, will reside in the primary dwelling. The care providers, Michelle Sumner and James Morgan Jr., Mr. Barelo's daughter and her domestic partner, will reside in the temporary 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: Jerry Barelo, the care recipient will reside in the permanent dwelling with his spouse Dorothy Barelo. Michelle Sumner and James

Morgan Jr. the care providers will reside in the temporary 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. Jerry Barello, the care recipient, will reside in the permanent dwelling with his spouse Dorothy Barello and the care providers, Michelle Sumner and James Morgan Jr. will reside in the temporary 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 Dr. Matthew Satober, a licensed healthcare provider indicating that age related and medical conditions result in the need for care for Mr. Barello and assistance is required for the patient from Michelle Sumner and James Morgan Jr., the care providers. This criterion is met.

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.

Finding: In order to maintain a degree of privacy and independence the care providers, Mr. Barello's daughter and her domestic partner, will live in

the temporary dwelling. The care providers will reside in the recreational vehicle with their two dogs. The care recipient will reside in the permanent dwelling, a two-bedroom house. Mr. Barello's spouse, Dorothy, requires assistance to care for her husband due to her own age-related physical limitations and the degree of care Mr. Barello requires. 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: Dorothy Barello, the care recipient's spouse, resides in the permanent dwelling with Jerry Barello, the care recipient. Mrs. Barello requires assistance to care for her husband due to her own age-related physical limitations in order to provide the level of care that Mr. Barello requires. There are no other relatives known to staff that live nearby who could provide care to Mr. Barello. 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. There was previously a manufactured dwelling, authorized on a temporary basis to provide care for Mr. Barello, approved under land use permit Z0431-09-STC. The previous temporary dwelling for care permit was not renewed and the manufactured dwelling was removed. This criterion is met.

- 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 applicant provided a statement from a licensed health care provider confirming the Mr. Barello requires care due to age- and medical-related reasons. The care recipient, Mr. Barello, requires assistance with

transportation, medication management, food preparation, property maintenance, and other day-to-day tasks as described by the health care provider's statement in the application materials. 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: The applicant is not proposing to establish a new on-site wastewater treatment system for the temporary dwelling. The temporary dwelling shall be connected to the existing system. 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 complies with the minimum yard depth standards of the Timber (TBR) 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. 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: As demonstrated on the applicant's site plan, the temporary dwelling will connect to an existing power supply. An exception may be granted to the standard for other utilities if the applicant provides written confirmation that the utility provider substantiates the need for a separate service. As conditioned, this criterion can be 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 the temporary dwelling will use a different driveway entrance than the permanent dwelling. The second driveway entrance is pre-existing, and no new driveway access is proposed. An exception has been granted. This criterion is met.

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 did not provide measurements on the site plan confirming that distance between the temporary and permanent dwellings. A condition of approval is warranted to ensure that this criterion is met. Based upon the application materials submitted, an exception to this criterion is not necessary. As conditioned, this criterion can be 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. As conditioned this criterion is met.

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

Finding: There is no evidence that the temporary dwelling will be a source of rental income. The applicant substantiated the need for a temporary dwelling in order to provide care to the care provider's father. As conditioned 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 temporary dwelling for care is a recreational vehicle. A condition of approval is warranted to ensure compliance with this criterion. 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 Timber (TBR) Zoning District, and is approved for a period not to exceed two (2) 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.