

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

NOTICE OF DECISION
CONDITIONAL USE CASE NO. CU 25-010

APPLICATION: Application of Susan Maloch for a conditional use permit to establish a temporary medical hardship dwelling on a 3.07-acre parcel in an AR-3 (Acreage Residential) zone located at 5028 Dumore Dr SE, Aumsville (T8S; R2W; Section 13B; Tax lot 400).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions.

EXPIRATION DATE: This conditional use permit is valid only when exercised by **March 18th, 2027**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

RENEWAL: This permit may be renewed for successive one year periods if the applicant submits to the Planning Division, **on an annual basis**, a new Primary Care Provider Certificate which indicates that the hardship continues to exist.

WARNING: A decision approving the proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
2. The applicant shall receive permits to begin reconstruction of the primary dwelling on this property within two years of the date of this decision.
3. The applicant shall sign and submit an RV Removal Agreement Declaratory Statement (form enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. The siting of the proposed hardship dwelling shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.
5. The proposed RV shall use the existing septic system if it is feasible.
6. The proposed RV shall be located within 100 feet of the primary dwelling.
7. The applicants are advised that this permit is granted for a period of one year **and must be renewed for successive one-year periods** upon submittal of a Primary Care Provider Certificate verifying that the hardship conditions continue to exist. In addition, every five years the Marion County Building Inspection Division requires a septic evaluation for shared systems prior to renewal of hardship conditional uses.
8. The applicant will continuously comply with all applicable sections of MCC 17.120.040.

9. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a county hearings officer for a public hearing.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding # under Findings and Conclusions be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

10. The applicants should contact the Aumsville Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **March 18th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 19th, 2025** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject property is designated rural residential in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding AR (Acreage Residential) zone is to meet the housing needs of a segment of the population desiring the advantages of a rural homesite.
2. The property is located at the corner of Dumore Dr SE and Edcliff Ct SE. The property has several accessory structures related to the golden retriever breeding and training kennel that was approved as a conditional use in 2018 by CU18-045. The dwelling on this property was destroyed by fire in 2023. There are currently two RVs on the parcel. One inhabited by the property owner, who is in the process of applying for building permits to rebuild the dwelling. The other is inhabited by the proposed hardship inhabitant.
3. Surrounding uses directly adjacent to the subject parcel are all rural residential. The subject parcel sits roughly in the middle of a strip of exception lands on either side of Dumore Dr SE that zoned AR. On the other side of rural residential properties are large parcels in farm use zoned EFU (Exclusive Farm Use).
4. The applicant is proposing to establish a medical hardship dwelling using a recreational vehicle.
5. A signed Primary Care Provider Certificate has been submitted for John Hohnstein indicating he has medical conditions that preclude him from maintaining a complete separate and detached dwelling apart from his family.
6. Various agencies were contacted with requests for comments.

Marion County Building Inspection commented: No Building Inspection concerns. RV type structures are not regulated by the state building code, however, if a manufactured home is proposed to be placed, then a placement permit is required to be obtained prior to the placement of the home.

Marion County Septic commented: An authorization for a hardship connection will be required. Drainfield must be located and staked out on ground, tank must be pumped and inspected, provide pumping document and create a map showing proposed connection to septic system as well as current connection.

All other commenting agencies either did not respond or stated no objection to the proposal.

7. In order to approve a recreational vehicle for use as a medical hardship dwelling the applicant must demonstrate compliance with the specific criteria listed in MCC 17.120.040. These include:

- A. This subsection contains definitions for the section and is not applicable as a criterion.
- B. This subsection contains various requirements for application submission, including “a signed statement from a licensed medical professional indicating whether the aged or infirm person has a hardship as defined in subsection (A) of this section. The statement shall also attest whether the licensed medical professional is convinced the person(s) with the hardship must be provided the care so frequently or in such a manner that the caregiver(s) must reside on the same premises” and “identify whether the aged or infirm person(s) and/or caregiver(s) will be residing in the hardship permit dwelling.”

The applicant has submitted a signed Primary Care Provider Certificate for John Hohnstein indicating he has medical conditions that preclude him from maintaining a separate and detached dwelling apart from his family. Susan Maloch is a friend who asserts they are capable of assisting John with trips to the doctor and physical care. John will reside in the hardship dwelling which is a recreational vehicle. The criterion is met.

- C. *In the EFU, SA, FT and TC zones, occupancy of a hardship permit dwelling is limited to the term of the hardship suffered by the existing resident or a relative as defined in ORS 215.283(2)(L).*

The application is in an AR zone, the criterion does not apply.

- D. *When the aged or infirm person must be provided care so frequently or in such a manner that caregiver(s) must reside on the same premises, the aged or infirm person and/or those caregivers providing care for the aged or infirm person may temporarily reside in the hardship permit dwelling for the term necessary to provide care.*
 - 1. *Those providing the care must show that they will be available and have the skills to provide the care required, as described by the licensed medical professional.*
 - 2. *Caregivers may reside within a hardship permit dwelling during periods of absence and medically necessary absence.*
 - 3. *Caregivers shall not have any financial or expense obligation increased for residing in the hardship dwelling during periods of absence and medically necessary absence.*

The applicant has attested in submission of this application that she (Susan Maloch) possesses the necessary skills to provide the requisite care. The applicant understands the rest of these requirements. The criterion is met.

- E. *A temporary absence or medically necessary absence from the property by the aged or infirm person(s) will not result in the revocation or denial of a hardship permit.*
 - 1. *When a medically necessary absence results in the aged or infirm person(s) living off of the property for more than 165 days in one calendar year or 165 consecutive days they must provide notice of the medically necessary absence to prevent the absence from being considered an extended absence.*
 - 2. *Notice of a medically necessary absence that will result in the aged or infirm person(s) living off of the property for more than 165 days in one calendar year or 165 consecutive days must be provided within 14 days of learning that the absence from the property will result in the aged or infirm person having to live away from the property for more than 165 days in one calendar year or 165 consecutive days.*
 - 3. *Notice of a medically necessary absence must:*

- a. *Be submitted in writing;*
- b. *Include a statement from a licensed medical provider outlining that the absence from the property is necessary for the care or medical treatment of the aged or infirm person;*
- c. *Provide an estimate as to when the aged or infirm person(s) will return to the property;*
- d. *Include an assessment from the licensed medical professional on whether or not the aged or infirm person(s) will be able to reside on the property again.*
 - i. *If a licensed medical professional cannot provide an assessment on whether the aged or infirm person will be able to return to the property at the time when notice of a medical necessary absence is due, a hardship permit may be approved for the amount of time necessary, not to exceed one year, for the licensed medical professional to make the assessment as to whether the aged or infirm person(s) will be able to return to the property.*
 - ii. *If a licensed medical professional cannot provide an assessment after the period of time described in subsection (E)(3)(d)(i) of this section, then a determination will be made as to whether the hardship permit is still necessary for the care of the aged or infirm person(s).*
4. *Notice of a medically necessary absence may be submitted by the owner(s), aged or infirm person(s), caregiver(s) of the aged or infirm person(s), or other agent of the aged or infirm person(s).*
5. *Caregivers may not be charged any rent or otherwise required to provide financial compensation to live in the hardship dwelling during a temporary absence or medically necessary absence. If as a part of any agreement to provide caretaking services, the caregiver was required to provide financial compensation or incur a financial obligation in order to reside within the hardship dwelling then that arrangement will not violate this subsection (E)(5); provided, that the arrangement existed prior to the temporary absence or medically necessary absence.*

These shall be a condition of approval. These criteria can be met.

- F. *Extended absence from the property by the aged or infirm person(s), or caregiver(s) when the hardship permit dwelling is only being inhabited by caregiver(s), creates a rebuttable presumption that the hardship permit is no longer necessary to provide care to the aged or infirm person(s).*
1. *Extended absence from the property may result in revocation of the hardship permit; issuance of a citation pursuant to MCC 1.25.030; and/or initiation of civil action in circuit court pursuant to MCC 1.25.050.*
 2. *Notice will be provided to the owner of any substantiated violation of this subsection (F) 30 days prior to the effective date of a revocation of the hardship permit made pursuant to subsection (F)(1) of this section.*

These shall be a condition of approval. The criterion is met.

- G. *A mobile home or recreational vehicle being used as a hardship dwelling shall to the extent permitted by the nature of the property and existing development:*

1. *Be located as near as possible to other residences on the property;*

The proposed location of the hardship dwelling is within 100-feet of the proposed location for the primary dwelling. The criterion is met.

2. *On EFU, SA, FT and TC zoned property, be located on the portion of the property that is least suitable for farm or forest use, if it is not feasible to locate it near an existing residence;*

The subject parcel is zoned AR and not in farm use, the criterion does not apply.

3. *Not require new driveway access to the street;*

No new driveway access is needed, the hardship dwelling will use the existing driveway. The criterion is met.

4. *Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.*

Inspection and approval by a county sanitarian, as required by Marion County Building Inspection Division, shall be a condition of approval. The criterion is met.

H. For an existing building to be used as a hardship dwelling it must:

1. *Be suitable for human habitation;*
2. *Comply with all building and specialty codes (for example, but not limited to, electrical, plumbing, and sanitation) applicable to dwellings;*
3. *Not require new driveway access to the street; and*
4. *Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.*

The proposed hardship dwelling is a recreational vehicle, the criterion does not apply.

- I. *One of the residences shall be removed from the property within 90 days of the date the person(s) with the hardship or the care provider no longer reside on the property.*
 1. *In the case of a recreational vehicle, it shall be rendered uninhabitable by disconnection from services.*
 - a. *An agreement to comply with this requirement shall be signed by the applicant, and the owner of the recreational vehicle if different than the applicant.*
 - b. *Oregon Department of Environmental Quality removal requirements also apply.*
 2. *In the case of an existing building, the renovations or modifications made to an existing building to be used for inhabitation must be removed.*
 - a. *The existing building shall be returned to similar conditions as its previous use; or*
 - b. *If the existing building is not going to be returned to its previous use then the building must be used for either a permitted use or a new use application for the existing building must be obtained.*
 3. *In the case where an agricultural exemption is sought for an existing building, a new application must be approved regardless of any previously approved agricultural exemption.*

MCC 17.120.040(I)(1) is the relevant criterion for this proposal. Approval shall be conditioned on an RV Removal Agreement being recorded with the Marion County Clerk's Office. The criterion is met.

- J. *Applicants are responsible for ensuring that all caregivers and/or other persons residing in the hardship dwelling are removed from the hardship dwelling within 90 days of the date that the person with the hardship or the care provider no longer resides in the hardship dwelling or on the property.*
 1. *Applications for a hardship dwelling must include a description of how the applicant will ensure this condition is met.*

This shall be a condition of approval. The criterion is met.

- K. *At the time of renewal of a hardship dwelling permit, if the aged or infirm person has been on a temporary absence or medically necessary absence from the property for at least 30 consecutive days prior to submission of the renewal application, the application must include:*
 1. *In the event of a medically necessary absence, an assessment by a licensed medical professional stating that it is reasonably likely that the aged or infirm person will return to the property within the renewal period; or*
 2. *In the event of a temporary absence, a statement from the owner or aged or infirmed person setting forth the date on which the aged or infirm person will return to the property.*

If the aged or infirmed person does not return to the property within the time period described in subsection (A)(5) of this section, then the aged or infirm person's absence will be deemed an extended absence.

This shall be a condition of approval. The criterion is met.

L. The use of a hardship permit dwelling is intended to be temporary, shall be subject to review every year, and shall continue to meet the above criteria in order to qualify for renewal.

This shall be a condition of approval. The criterion is met.

M. For hardships in a resource zone based on a natural hazard event, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building when the temporary residence is established within an existing building if the hardship is located within 100 feet of the primary residence or the temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.

This hardship is not related to a natural hazard event. The criterion does not apply.

8. Since the property is located in an AR zone, the proposal must also satisfy the conditional use criteria in MCC 17.128.040. Those requirements are:

A. The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.

The purpose and intent of the AR zone is to provide for establishment of acreage homesites for the segment of the population who chooses to live in the rural area, and who may not be involved in agricultural or timber uses. Density restrictions imposed by minimum lot sizes in the AR zone ensure the properties are large enough to facilitate wells and septic systems, and maintain the rural character of the area. The subject parcel is within the AR-3 zone, which designates the minimum parcel size at three acres, and the parcel is 3.07-acres. The home on this property was destroyed by fire in 2023 and the property owner has been occupying an RV while preparing to rebuild. The property owner has plans to rebuild the home this year, 2025, at which point they will cease occupation of an RV and only one person will be living on the property in an RV. RV habitation is limited to 120 days out of a calendar year except in certain situations such as a home being unintentionally destroyed, or for an approved conditional use hardship. A conditional use hardship may be permitted in conjunction with a single-family dwelling on an AR zoned property. Therefore, as a condition of approval the applicant shall complete the rebuild of their home.

B. The use will not increase traffic beyond the capacity of existing roads.

Dumore Rd SE is classified as a local road. The proposed medical hardship is in part due to the occupant's need for assistance making trips to the doctor and grocery store. The slight increase in trips resulting from one person's needs will not increase traffic beyond the capacity of existing roads in the area. The criterion is met.

C. Adequate fire protection and other rural services are, or will be, available when the use is established.

The subject parcel is served by the Aumsville Fire District and the Marion County Sheriff's Department. The property already contains a well, and the applicant will obtain septic permits to ensure wastewater will be appropriately disposed of on the property. The criterion is met.

D. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.

The subject parcel is within the Sensitive Ground Water overlay indicating potential issues with the aquifer now or in the future. The additional water use of one person on the property will not significantly affect the aquifer. Permitting for septic will ensure that any temporary connection from the RV will not overload the system. In the situation where connection is not possible, use of the RV holding tank and removal to a permitted wastewater site

will ensure proper disposal that mitigates any potential environmental impacts. The residential use of the RV will have no adverse impact on the watershed, fish and wildlife habitat, soil or slope stability, nor air and water quality. The criterion is met.

E. Any noise associated with the use will not have a significant adverse impact on nearby land uses.

The noise created by the proposed temporary medical hardship dwelling will be standard to a residence. All adjacent properties also contain residences, therefore the noise associated with the proposed use will not be incongruent with the area and will have no adverse impact. The subject parcel was approved in 2018 for a conditional use dog kennel for breeding and training of Golden Retrievers (CU18-045). There are specific criteria for that conditional use permit intended to avoid significant adverse impact on the neighborhood. Noise impacts created by these two conditional uses are not related and should be considered separate in the event of complaints. The criterion is met.

F. The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.

There are no nearby water impoundments, nor are there nearby aggregate sites. The criterion is met.

9. Based on the available evidence, John Hohnstein's physical circumstances constitute a medical hardship condition relating to the aged, the infirm, or persons otherwise incapable of maintaining a complete, separate and detached residence apart from their family. The evidence also indicates the proposed RV would be relatively temporary in nature. The requirement that an RV Removal or Disconnect Agreement be filed by the applicant ensures that the RV removed or disconnected and no longer used for residential purposes when the hardship ceases.
10. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: March 3rd, 2025

If you have any questions regarding this decision contact John Speckman at (503) 588-5038

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.



ZONING MAP

Input Taxlot(s): 082W13B000400

Owner Name: MALOCH, SUSAN

Situs Address: 5028 DUMORE DR SE
City/State/Zip: AUMSVILLE, OR, 97325
Land Use Zone: AR-3
School District: CASCADE
Fire District: AUMSVILLE

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 200 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.