

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. 25-020**

APPLICATION: Application of Donna Hartenstine for a conditional use permit to establish a temporary medical hardship dwelling on a 1.97-acre parcel in an AR (Acreage Residential) zone located at 15855 Sophia Ln N E, Silverton (T7S; R1W; Section 6C; Tax lot 900).

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 **May 26th, 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 Physician's 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 proposed use. To ensure the subject property can accommodate the proposed use 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 submit a Manufactured Dwelling/RV Removal or Disconnect Agreement (enclosed) to the Planning Division. This agreement specifies that placement of the manufactured home or RV is temporary and it will be removed, or the RV disconnected and no longer used for residential purposes, after the hardship ceases.
3. The applicant shall sign and submit a Farm/Forest Declaratory Statement (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.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

4. The proposed RV shall use the existing septic system if it is feasible or another method approved by Marion County Septic.
5. The RV shall be located as shown on the applicant's site plan.
6. 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.

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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the Silverton 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 Marion 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 Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **May 26th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 27th, 2025**, unless further consideration is requested.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow for the creation of acreage home sites at a density that maintains the character and environmental quality of the County's rural residential areas.
2. The property is located on the north side of Sophia Ln NE, a named private easement, and on the west side of Forest Ridge Rd NE 1,000 feet north of the intersection of Forest Ridge Rd and Highway 214. The subject parcel is developed with a single-family dwelling and several accessory structures. The property was involved in a prior land use case, P07-052, a partition case that created the parcel in its current configuration. The parcel is legal for land use purposes.
3. Surrounding properties are almost entirely zoned AR and are in use as rural residences, with some farm uses (Christmas tree fields) to the north on a large AR parcel and 250 feet to the south on a large SA (Special Agriculture) zoned parcel.
4. A signed Primary Care Provider Certificate has been submitted for Donna Hartenstine indicating she has medical conditions that preclude her from maintaining a complete separate and detached dwelling apart from her family.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Septic commented: "A septic authorization is required to connect the hardship to the existing septic system. Per OAR 340-071-0205(7), hardship authorizations are valid for up to 5 years, not exceeding the cessation of the hardship. If the hardship is still needed, a new authorization will be required every 5 years."

All other contacted agencies either stated no objection to the proposal or failed to comment.

6. In order to approve a manufactured home/RV under medical hardship the applicant must demonstrate compliance with the specific criteria listed in Section 17.120.040 of the Marion County Code (MCC). These include:

Use of a temporary mobile home, recreational vehicle, or existing building for the care of someone with a hardship may be approved as a conditional use subject to meeting the following criteria:

A. For the purposes of this section:

- 1. "Absence" means that the person(s) for whom the hardship dwelling permit was granted has lived away from the hardship dwelling for less than 165 days per calendar year or less than 165 consecutive days;*
- 2. "Aged or infirm person" means the person(s) suffering from a medical hardship or hardship due to age or infirmity that requires care to be provided;*
- 3. "Application" means both an application to obtain approval to place a hardship permit dwelling on a property and the annual renewal of the hardship permit;*
- 4. "Domicile" means the intention of the aged or infirmed person(s) or caregiver(s) to live on the property or in the hardship permit dwelling as that person's primary residence;*
- 5. "Extended absence" means that the person(s) for whom the hardship dwelling permit was granted has not lived at the hardship dwelling for more than 165 days per calendar year or 165 consecutive days;*
- 6. "Hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;*
- 7. "Hardship permit" means a conditional use permit granted under ORS [215.283\(2\)\(L\)](#) and this section to allow for the use of a hardship permit dwelling on the property for a period of one year;*
- 8. "Hardship permit dwelling" means a temporary mobile home, recreational vehicle, or existing building used for the care of an aged or infirmed person who is or will be domiciled on the property;*
- 9. "Medically necessary absence" means an extended absence that is necessary for the aged or infirm person to receive medical care or treatment;*
- 10. "Owner" has the same meaning as defined in MCC [17.110.425](#); and*
- 11. "Temporary absence" means a period of up to 165 days per calendar year or 165 consecutive days, in which the aged or infirm person(s) has not lived on the property.*

B. An application for a hardship permit must be submitted in writing.

1. An application must:

- a. Include the name of the aged or infirm person(s) for whom the hardship permit is sought;*
 - b. Include 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;*
 - c. Identify whether the aged or infirm person(s) and/or caregiver(s) will be residing in the hardship permit dwelling.*
- 2. Only the owner(s) of a property may submit an application for a hardship permit.*
- 3. If additional information is required to clarify any portion of an application, the owner(s) will be notified in writing of the deficiencies within the application.*

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\(2\)\(L\)](#).

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.*

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.

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.

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;
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;
3. Not require new driveway access to the street;
4. Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.

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.

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.

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.

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.*

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.

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.

- 7. Based on the available evidence, Donna's physical circumstances constitute a 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 requirements that a Manufactured Dwelling/RV Removal or Disconnect Agreement be filed by the applicant ensures that the RV will be removed or disconnected and no longer used for residential purposes when the hardship ceases.
- 8. Since the property is located in an AR zone, the proposal must also satisfy the compatibility criteria in MCC 17.128.040 MCC. 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 of the AR zone is to provide areas for residences within the rural areas of Marion County. The proposed RV would serve as a temporary residence for a caretaker of the occupant of the dwelling so they can continue to reside on the property safely. A temporary residence is in harmony with the intent and purpose of the zone. The criterion is met.

- (b) *The use will not increase traffic beyond the capacity of existing roads.*

The proposed use of an RV as a temporary residence will not increase traffic beyond what would be reasonably expected for a single-family residence. The criterion is met.

(c) *Adequate fire protection and other rural services are, or will be, available when the use is established.*

The property is located within the Silverton Fire District and is served by the Marion County Sheriff's Office, which both provide rural emergency services. The parcel also already contains a well, septic and electricity and any other necessary rural services can be made available. 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 use of an RV as a temporary residence is not anticipated to generate pollution, either physical or verbal, that would have an adverse effect on watersheds, groundwater, or wildlife. Additionally, the proposal will require very little in the way of excavation and none of the property is within a geohazard area, so slope and soil stability is very unlikely to be impacted. The criterion is met.

(e) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

It is reasonable to assume the temporary use of an RV as a residence will generate noise levels within the range that is normally associated with residential use. As such, it is unlikely that it will have an adverse impact on nearby land uses. 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 potential water impoundments identified in the comprehensive plan which will be adversely impacted by the proposed use. The criterion is met.

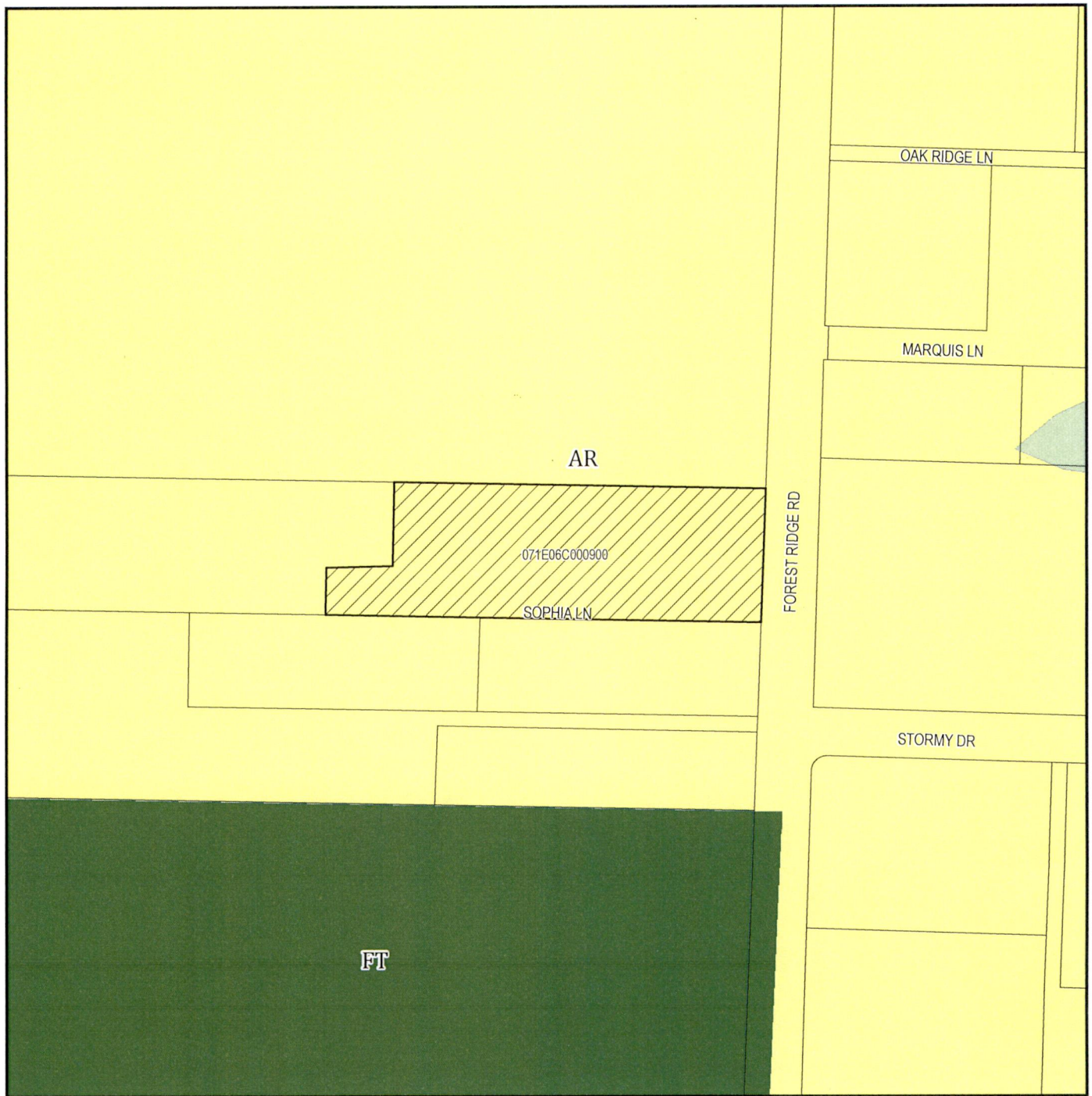
9. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria for placing a temporary manufactured home/RV for medical hardship purposes and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 9th, 2025

If you have any questions regarding this decision contact Alexander Seifer 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): 071E06C000900

Owner Name: HARTENSTINE, RICHARD M &
HARTENSTINE, DONNA M

Situs Address: 15855 SOPHIA LN NE
City/State/Zip: SILVERTON, OR, 97381
Land Use Zone: AR
School District: SILVER FALLS
Fire District: SILVERTON

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 185 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.