

LAND MANAGEMENT DIVISION

Date Received:



LAND USE APPLICATION - DIRECTOR  
Verification of Replacement Rights  
Exclusive Farm Use Zone – Option (b)

PUBLIC WORKS DEPARTMENT 3050 N. DELTA HWY, EUGENE OR 97404 Planning: 682-3577

For Office Use Only: FILE #

FEE:

Applicant (print name): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant Signature: \_\_\_\_\_

Agent (print name): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Agent Signature: \_\_\_\_\_

Land Owner (print name): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*Through applying for this application I authorize the Lane County Planning Director, designee, or hearings official to enter upon the property subject of the application to conduct a site visit necessary for processing the requested application. Lane County shall contact the Land Owner prior to the site visit to arrange an appropriate time for the site visit.*

Land Owner Signature: \_\_\_\_\_

LOCATION

Township - Range - Section - Taxlot

Site address

**PROPOSAL:** A Request for Director Approval of a replacement dwelling in a new site in the Exclusive Farm Use Zone, pursuant to Lane Code 16.212(5)(b).

**NOTICE:** The Applicant is responsible for providing enough information in this application for staff to make reasonable findings.

**ADJOINING OWNERSHIP** Is any adjacent property under the same ownership as the subject property? List the map and tax lot(s).

\_\_\_\_\_  
\_\_\_\_\_

**SITE PLAN** A site plan must be included. Refer to the handout entitled “How to prepare your plot plan”. Identify nearby driveways. Driveways spacing standards are contained in Lane Code 15.138.

**ZONING** \_\_\_\_\_

**ACREAGE:** \_\_\_\_\_

**DESCRIBE THE ACCESS TO THE PROPERTY** (circle the answer):

State Hwy                      County Rd                      Public Rd                      Private Easement

Road name: \_\_\_\_\_

**NUMBER OF EXISTING DWELLINGS ON PARCEL:** \_\_\_\_\_

**EXISTING IMPROVEMENTS:** What structures or improvements does the property contain (i.e., outbuildings, roads, driveways, wells, septic tanks, drainfields)? Will any structure or improvement be removed/demolished?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHYSICAL FEATURES:** Describe the site.

▪ The Vegetation on the property: \_\_\_\_\_  
\_\_\_\_\_

▪ The Topography of the property: \_\_\_\_\_  
\_\_\_\_\_

▪ Any Significant Features of the property (steep slopes, water bodies, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## APPROVAL CRITERIA

**Lane Code 16.212(5) Allowable Residential Uses On High Value Farmland or Land That Is Not High Value Farmland.** The following residential uses are allowed on high value farm land or land that is not high value farmland subject to compliance with the general provisions and exceptions specified by this Chapter of Lane Code and compliance with the requirements in LC 16.212(5)(a) through (d) below. Final approval of a non-farm use authorized under LC 16.212(5) below will not be given unless any additional taxes imposed on the change in use have been paid. On January 2, 2024, the provisions in LC 16.212(5)(a) and (b) (adopted to enact HB 2746) will sunset and the previous replacement dwelling provision will be reintroduced unless otherwise acted upon by the legislature (Ordinance No. 14-08).

(b) The alteration, restoration, or replacement of a lawfully established dwelling that does not meet the requirements in LC 16.212(5)(a)(i) or (iii) above is allowed subject to prior submittal of an application pursuant to LC 14.050, approval of the application by the Director pursuant to LC 14.100 provide written notice of the decision and an opportunity for appeal, and compliance with these requirements:

- (i) There is objective evidence demonstrating that the existing dwelling was lawfully placed on the subject property. The burden of proof is upon the applicant to provide this evidence to the Director;
  - (aa) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.
  - (bb) If the value of the dwelling was eliminated from the tax roll as a result of the destruction of the dwelling, provide evidence the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated. Destruction can include by fire, natural hazard, or by a demolition permit.
  - (cc) If the value of the dwelling was improperly removed from the tax roll by a person other than the current owner, provide evidence. “Improperly removed” means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

Explain the evidence you are submitting about how the dwelling was lawfully placed. Your evidence must show when the dwelling was lawfully built. If the dwelling is a manufactured dwelling, please provide evidence when it was lawfully placed and that it has continued to remain on the property. Copies of building permits, the assessor’s appraisal jacket, or other records may be used.

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**(ii) The dwelling has or formerly had:**

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| <b>(aa) intact exterior walls and roof structure;</b>  | Yes | No |
| <b>(bb) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;</b> | Yes | No |
| <b>(cc) interior wiring for interior lights; and</b>   | Yes | No |
| <b>(dd) a heating system;</b>  | Yes | No |

Submit pictures of the dwelling or other proof to support your answers. Include pictures of the kitchen, bathroom, interior lights and hearing system.

**(iii) The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within one year of the completion of the replacement dwelling. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the county may require the structure to be removed, demolished, or converted before a date set by the county that is not less than 90 days after the replacement permit is issued.**

- (aa) The applicant must record a statement at Lane County Deeds and Records that the dwelling to be replaced has been removed, demolished, or converted.**
- (bb) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.**

What will you do with the existing dwelling?      Remove                  Demolish                  Convert

Explain your answer:

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**(iv) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section must comply with all applicable siting standards in LC Chapter 16. However, the siting standards cannot be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of a lot or parcel not zoned Exclusive Farm Use, the applicant, as a condition of approval, must execute and record in Lane County Deeds and Records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless a statement of release is placed by the Director in the Lane County deed records. The Applicant must obtain the signature of the Director on the release which states that the provisions of this subsection regarding replacement dwellings have changed to allow the siting of another dwelling. The Director shall maintain a record of the lots or parcels that do not qualify for the siting of a dwelling under the provisions of this subsection, including a copy of the deed restrictions and release statements filed under this section;**

The replacement dwelling is subject to all applicable siting standards in LC Chapter 16.

If the replacement dwelling going to be located on a portion of the lot or parcel not zoned EFU?    Yes    No

If Yes, as a condition of approval, the property owner must execute and record a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel.

**(v) If the dwelling formerly had features described in LC 16.212(5)(b)(ii), was removed from the tax roll as described in LC 16.212(5)(b)(i)(bb) or (cc), or has a replacement dwelling permit that expired before January 1, 2014, then the replacement dwelling must comply with the following:**

(aa) through (cc) below only apply to applications where the dwelling is no longer habitable, was removed from the tax rolls as a dwelling, or had an approval for a replacement dwelling which expired before January 1, 2014:

**(aa) Be sited on the same lot or parcel; and**

**(bb) Use all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel as permitted by LC Chapters 15 and 16; and**

Explain how the replacement dwelling will use all or part of the footprint of the replaced dwelling or be located near a road, ditch, river, property line, forest boundary or other natural boundary of the lot or parcel:

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**(cc) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, site dwelling within a concentration or cluster of structures or within 500 yards of another structure.**

Explain how the replacement dwelling will be located within a concentration or cluster of structures OR within 500 yards of another structure:

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**(vi) An accessory farm dwelling authorized pursuant to LC 16.212(6)(b) or (7)(e) below may only be replaced by a manufactured dwelling;**

Was the dwelling placed as an accessory farm dwelling?                      Yes                      No

**(vii) LC 16.212(10)(h) below; and**

**The Director shall require as a condition of approval that the landowner for the dwelling sign and record in the Lane County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.**

If your application is approved, you will need to sign and record a "Farm and Forest Management Agreement".

**(viii) Land use approval of a decision described in LC 16.212(2)(b) above is not subject to LC 14.700 and does not expire.**

If this application is approved, this decision does not expire.

**SITING CRITERIA**

**LC 16.212(10)**

**Development Requirements. Uses or activities allowed by LC 16.212(3) through (9) above, except farm use, shall comply with the requirements in LC 16.212(10)(a) through (d) below.**

**(a) For approval of a use or activity allowed by LC 16.212(4) through (9) above that requires notice and the opportunity for appeal or a hearing, the Approval Authority shall balance the setback requirements of LC 16.212(10)(a) below with the applicable special use approval requirements in LC 16.212(4) through (9) in order to minimize adverse impacts upon nearby farm and forest uses or to assure optimal siting of proposed dwellings to minimize adverse impacts on nearby farm and forest lands.**

**(i) Dwellings to be sited upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as “Major” shall be sited as follows:**

**(aa) Near dwellings on other tracts.**

**(bb) With minimal intrusion into forest areas undeveloped by non-forest uses.**

**(cc) Where possible, when considering LC 16.212(10)(a) (i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.**

Is the property within a “Major” wildlife Habitat area? (See the Planner on Duty to determine if your property is within a Major Wildlife Habitat area.)      Yes      No

If yes, will the dwelling be near other dwellings on adjacent property?

Explain: \_\_\_\_\_

If yes, will the dwelling be located near dwellings on other tracts?

Explain: \_\_\_\_\_

**(ii) Dwellings to be sited upon all other tracts shall be sited as follows:**

**(aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.**

**(bb) On the least valuable farm or forest areas of the tract or located near dwellings on other tracts.**

Is the dwelling within 500 feet of adjoining property zoned F-1?      Yes      No

If yes, explain: \_\_\_\_\_

Is the dwelling within 100 feet of adjoining property zoned F-2 or EFU?      Yes      No

If yes, explain: \_\_\_\_\_

How is the dwelling located on the least valuable farm or forest areas of the tract?

\_\_\_\_\_  
\_\_\_\_\_

**(b) Property Line Setbacks. No structure other than a fence or sign shall be located closer than:**

**(i) 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and**

**(ii) 10 feet from all other property lines except as provided below.**

Does the property front County Right-of-way?      Yes      No

If yes, what is the distance from the proposed dwelling to the County Right-of-way? \_\_\_\_\_ Feet

How far is the proposed dwelling from the northern property line? \_\_\_\_\_ Feet

How far is the proposed dwelling from the eastern property line? \_\_\_\_\_ Feet

How far is the proposed dwelling from the southern property line? \_\_\_\_\_ Feet

How far is the proposed dwelling from the western property line? \_\_\_\_\_ Feet

**(c) Riparian Setback Area. Except for property located between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene and Springfield Urban Growth Boundaries, where setbacks are provided for in LC 16.253(6), the riparian setback area shall be the area between a line 100 feet above and parallel to the ordinary high water of a Class I stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence shall be located closer than 100 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) or LC 16.253(6), as applicable, are met.**

**(d) Maintenance, Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area. Maintenance, removal and replacement of indigenous vegetation within the riparian setback area designated for riparian vegetation protection by the comprehensive plan must comply with the provisions of LC 16.253(2) or LC 16.253(6), as applicable.**

Is there a designated Class 1 stream on the property?      Yes      No

If yes, how far will the dwelling be from the Class 1 stream? \_\_\_\_\_ Feet