

LAND MANAGEMENT DIVISION

Date Received:



TYPE II APPLICATION -
Verification of Replacement Rights: EFU
Exclusive Farm Use Zone

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

Assessor's Map and Taxlot Number

Site address

PROPOSAL: A Request for Type II review to replace a dwelling in the Exclusive Farm Use Zone, pursuant to the Type II application procedures outlined in Lane Code 16.212(3)-2.7.

REQUIRED SUBMITTALS

(Also reference the Application Standards handout)

Lane Code 14.020 (3)(b) Electronic Materials.

- (i) When application or appeal materials submitted in hard copy format are over five pages in length, an applicant or appellant must provide an identical electronic version of the submitted materials in addition to a hard copy. Any other party submitting written materials into the record that are over five pages is also encouraged to submit an identical electronic copy. Any electronic materials must be in a format acceptable to the Director. This provision should not be interpreted to prohibit electronic submittals of materials less than five pages in length. The County will scan submitted materials upon request for fee. The County cannot be held responsible for electronic submittals that are not received by the Director or not confirmed by the Director to have been received.
- (ii) When electronic materials over five pages in length are submitted by any party for inclusion in an application record, an identical hard copy of the materials must also be submitted unless this requirement is waived by the Director.

Lane Code 14.040 Application Requirements

- (1) **Minimum Submittal Requirements.** Applications for a Type I through Type IV procedure must be submitted on a form provided by the Director, address all applicable standards and criteria, and include the following materials and information:
 - (a) Applications must include at least one hard copy of all application materials, no larger than 11 inch x 17 inch in size;
 - (b) All applicable information requested on the application form;
 - (c) Required filing fee, except that the required filing fee may not be required when Lane County initiates an application;
 - (d) Signature of each applicant;
 - (e) Signature of a property owner or property owner's authorized representative;
 - (f) Proof of property ownership by providing a certified or recorded copy of a deed, or land sale contract, or Lane County Tax Assessor's records;
 - (g) Assessor's map and tax lot number of the subject property;
 - (h) A site plan drawn to a standard engineer's scale, and conforming to the County's site plan submittal standards;

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.
 - (i) Information demonstrating compliance with any applicable prior decisions and conditions of approval for the subject property;
 - (j) A written narrative clearly indicating what action is requested and addressing all applicable standards and criteria;
 - (k) Supporting information required to evaluate the application and address the applicable standards and criteria;
 - (l) A written statement indicating whether a railroad-highway crossing provides or will provide the only access to land that is the subject of an application; and

Does a railroad-highway crossing provide the only access to the subject property?

Yes ___ No ___

- (m) Additional information needed to evaluate applicable standards and criteria.
- (2) Fees Required. In addition to any other applicable approval criteria, an approvable Type II or III application must be accompanied by the appropriate filing fee unless the Director authorizes a waiver or reduction to filing fees pursuant to Lane Manual Chapter 60.850.
- (3) Determination of Application Requirements. The Director may waive any of the requirements of subsection (1) above if deemed to be inapplicable to the application.
- (4) Applicant's Burden. It is the applicant's responsibility to provide evidence demonstrating that the application complies with all applicable standards and criteria.

ADDITIONAL INFORMATION REQUESTED FOR THIS APPLICATION:

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(4) contains the Exclusive Farm Use (EFU) Zone Table Use 2.7 states that the alteration, restoration, or replacement of a lawfully established dwelling is subject to (4)(z), (4)(cc), (6)(a)-(d), and (15).

(4) Use Standards

- (z) Single-family dwelling deeds. The landowner shall sign and record in the deed (z) records for the County 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 this application is approved, this will be made a condition of approval.

- (cc) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.212(15)(a). For the purpose of LC 16.212(4)(cc), the "same site" is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

How far will the new dwelling be from the center of the existing dwelling? _____ Feet

(6) Alteration, Restoration or Replacement of a Lawfully-Established Dwelling

- (a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the approval authority finds to its satisfaction, based on substantial evidence that:

Provide evidence the dwelling was lawfully built or placed on the subject property. Evidence may include:

- Building permit or land use application records from the Lane County Land Management Division
- Records from the Lane County Assessment and Taxation Office indicating that the structure has existed on the property and been taxed on a continuous annual basis from a date that, as determined by the Director, predates zoning that would restrict or regulate the establishment of a dwelling on the subject property

Explain the evidence you are submitting. 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. Indicate if you are submitting building permit/land use records, or records from the Assessment and Taxation Office.

- (i) The dwelling to be altered, restored or replaced has, or formerly had:
- (aa) Intact exterior walls and roof structures;
 - (bb) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (cc) Interior wiring for interior lights; and
 - (dd) A heating system;

Submit pictures of the kitchen, bathroom, interior lights, heating system, and exterior of the dwelling, demonstrating the structure meets the above criteria.

- (ii) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for:
- (aa) The previous five property tax years; or
 - (bb) If the dwelling was constructed within the last five years, the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
 - (cc) Notwithstanding (ii)(aa) and (bb) above, if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
 - (A) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

- (B) The applicant establishes to the satisfaction of the approval authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "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.

Provide taxation records to show the dwelling was taxed as a dwelling for the last five years. If the dwelling has been eliminated from the tax rolls, provide tax records showing the structure was taxed as a dwelling until such time as it was taken off the tax rolls.

(b) For replacement of a lawfully established dwelling under this section:

- (i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - (aa) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - (bb) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - (cc) 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:

- (ii) The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished, or converted.

This will be made a condition of approval.

- (iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.213 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

Is 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.

- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of

construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

- (i) The siting standards of Subsection (6)(c)(ii) apply when a dwelling qualifies for replacement because the dwelling:
 - (aa) Formerly had the features described in Subsection (6)(a)(i); or
 - (bb) Was removed from the tax roll as described in Subsection(6)(a)(iii).
- (ii) The replacement dwelling must be sited on the same lot or parcel:
 - (aa) Using 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; and
 - (bb) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
- (iii) Replacement dwellings that currently have the features described in Subsection (6)(a)(i) and that have been on the tax roll as described in Subsection (6)(a)(ii)(cc) may be sited on any part of the same lot or parcel.

If the dwelling has been removed or no longer complies with the habitability requirements in (6)(a)(i) above, explain how the new dwelling will be sited as such:

- Same lot or parcel as the previous dwelling:

- Using part of the footprint of the previous dwelling or cluster near a road, ditch, river, property line, forest boundary or other natural boundary:

- How will the location of the replacement dwelling minimize the adverse impacts on resource use of land in the area?

- Is the replacement dwelling clustered within 500 yards on another structure? Yes ___ No ___

(d) A replacement dwelling permit that is issued under Use 2.7:

- (i) Is a land use decision and subject to review using Type II procedure according to LC Chapter 14 where the dwelling to be replaced:
 - (aa) Formerly had the features described in Subsection (6)(a)(i); or
 - (bb) Was removed from the tax roll as described in Subsection (6)(a)(ii)(cc);
- (ii) Is not subject to the time to act limits of LC 14.090 and does not expire;

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

SITING CRITERIA

Lane Code 16.212(15) Development Standards

All uses or activities allowed by LC 16.212 must comply with the requirements in Section (15)(b). Uses or activities allowed by LC 16.212, except farm use, must comply with the requirements in LC 16.212(15)(a) and (b).

(a) For approval of a use or activity allowed by LC 16.212 that requires a Type II or Type III review, the Approval Authority must balance the setback requirements of LC 16.212(15)(b) with the applicable approval standards of LC 16.212(3) and (6) through (14) 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 and development accessory to residential uses to be sited upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as "Major" must 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(15)(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: _____

(ii) Dwellings and development accessory to residential uses to be sited upon all of tracts must 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) All uses, activities, and structures allowed by LC 16.212 must comply with:

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

- (aa) 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
- (bb) 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

- (ii) **Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a Riparian Modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.**

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