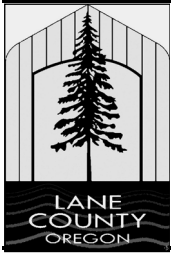


Date Received:

LAND MANAGEMENT DIVISION



TYPE I APPLICATION -
Verification of Replacement Rights: EFU
Exclusive Farm Use Zone - SAME Site

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 I determination to replace an existing dwelling on the same site area as the existing dwelling in the Exclusive Farm Use Zone, pursuant to Lane Code 16.212(3)-2.7 and Oregon Revised Statute 215.291 (as modified by Oregon House Bill 3024, January 1, 2020, and House Bill 2192, January 1, 2024).

This application is based on objective evidence and is not a land use decision; therefore, it is not subject to public notice or appeal.

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 20 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 20 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 20 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 20 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 PROPERTY: _____

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(3) contains the Use Table for the Exclusive Farm Use (EFU) Zone. Use 2.7 states that the alteration, restoration, or replacement of a lawfully established dwelling is subject to (4)(y), (4)(bb), (6)(a)-(d), and (15). The standards apply to the extent they are consistent with Oregon Revised Statutes 215.291.

(4) Use Standards

- (y) **Single-family dwelling deeds.** The landowner shall sign and record in the deed 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.

- (bb) **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)(bb), 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

*If new dwelling is more than 142 feet from the center of the existing dwelling, a Type II review is required.

(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 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. Attach additional written response if needed.

(i) The dwelling to be altered, restored or replaced has, or formerly had:

- (aa) Intact exterior walls and roof structure;**
- (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 photos of the kitchen, bathroom, interior lights, heating system, and exterior of the dwelling, demonstrating the structure meets the above criteria. Please indicate the date photos were taken.

(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.

(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); ***

Does the dwelling currently have the features listed in LC 16.212(6)(a)(i)(aa)-(dd) above? Yes ___ No ___

*If the dwelling does not currently have the features listed in Subsection (6)(a)(i), a Type II review is generally required regardless of whether it continues to be taxed as a dwelling.

ORS 215.291 governs the alteration, restoration, or replacement of dwellings in the EFU zone and further provides that the lawfully established dwelling may be altered, restored or replaced if:

ORS 215.291(1)(b):

- (A) Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:**
 - (i) Five years before the date of the application; or**
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or**
- (B) If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:**
 - (i) Five years before the date of the destruction or demolition; or**
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.**

Provide taxation records that show the dwelling was taxed as a dwelling for the last 5 tax years or, if the dwelling is less than 5 years old, from the time that it was first established and became subject to taxation. If the Assessment & Taxation stopped assessing the building as a dwelling due to destruction or demolition, provide tax documentation for the 5 years prior to the date of destruction or, if it was less than 5 years old at the time of destruction or demolition, as of the date it was first constructed and taxed.

Was the dwelling eliminated from property tax assessment in the previous 5 tax years? Yes ___ No ___

If no, was it first constructed/placed and assessed more than 5 years ago? Yes ___ No ___

If yes, was it eliminated by destruction or demolition? Yes ___ No ___

Or, was it eliminated by other means? Please explain. _____

*If the dwelling no longer possesses all of the features listed in LC 16.212(6)(a)(i)(aa)-(dd) or has been eliminated from the tax rolls as a dwelling, Type II review is required.

ORS 215.291(2): For replacement of a lawfully established dwelling under this section:

- (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or**

As provided in Lane Code 16.212(6)(b)(i)(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 to Nonresidential Use ___

Explain your answer: _____

*If you choose to convert the dwelling to an allowable nonresidential use, a Type II application is required.

(b) The replacement dwelling:

- (A) May be sited on any part of the same lot or parcel.**
- (B) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.**

Will the replacement dwelling be on the same lot or parcel? Yes ___ No ___

The replacement dwelling must be located within the “same site” on the subject property, pursuant to LC 16.212(4)(bb). The applicable siting standards in LC 16.212(15) are provided below.

- (C) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:**
 - (i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or**
 - (ii) No statewide map of wildfire risk has been adopted.**

If the application is approved, this will be made a condition of approval. (See the Planner on Duty or call them at 541-682-3577) to confirm whether a statewide map of wildfire risk has been adopted and identifies the dwelling site as extreme or high wildfire risk. See the Builder on Duty or call them at 541-682-4651) for information regarding the fire hardening construction provisions of Section R327 of the Oregon Residential Specialty Code).

- (c) 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.**

Will the replacement dwelling 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.

ORS 215.291(5): An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (1)(a) of this section.

ORS 215.291(6): Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.

If the application is approved, this requirement will be made a condition of approval. Additionally, pursuant to ORS 215.417 (effective January 1, 2024), this application will be valid for four years from the date of approval.

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.

Note: Subsection (a) is only required for uses that require notice and the opportunity for appeal or a hearing. Per LC 16.212(4)(bb), notice is not required for this application. Subsection (a) is not applicable for this application.

- (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