

Date Received: _____

LAND MANAGEMENT DIVISION



**TYPE II LAND USE APPLICATION –
Nonfarm Dwelling (Non-high Value Farmland)**

PUBLIC WORKS DEPARTMENT 3050 N. DELTA HWY, EUGENE OR 97408 Planning: 541-682-3577

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 (Director) review of a Nonfarm Dwelling in the Exclusive Farm Use Zone, pursuant to Lane Code 16.212(3)-2.6.

Version 6/2019

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? Where are of the existing structures permitted as an agricultural building?

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 Exclusive Farm Use (EFU) Zone Table of Permitted Uses. Use 2.6, a non-farm dwelling on non-high value farmland dwelling, is subject to (4)(y) and (10).

Lane Code 16.212(4)

- (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 approved, this will be made a condition of approval.

Lane Code 16.212(10) Dwellings Not in Conjunction with Farm Use on Non-High Value Farmland.

(10) Non-farm dwelling. A non-farm dwelling on Non-high Value Farmland is subject to the following requirements:

- (a) A dwelling not provided in conjunction with farm use may be established on a lot (a) or parcel, subject to compliance with the following requirements:

The subject property must be a lawfully established unit of land:

- Was the property created by a partition or subdivision? List plat number _____
- If not, a final legal lot verification is required prior to submittal of this application. What is the file number for the legal lot verification? _____

- (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

In order to demonstrate compliance with this criterion explain (attach additional pages if necessary):

- 1) The farm and forest practices on surrounding lands devoted to farm and forest uses;
- 2) explain why the proposed use will not force a significant change in those practices; and
- 3) explain why the proposed use will not significantly increase the cost of those practices.

- (ii) **The soils of the lot or parcel are predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture, Soil Conservation Service on October 15, 1983; and**

The parcel must contain a majority of soil types that are Class IV through VIII. Complete the table below.

Soil Type	Class	Acres
Total Acres		

Oregon Department of Land Conservation and Development (DLCD) has a process for property owners to challenge published soils information on agricultural land when applying for certain land use applications. Owners who believe soil on their property has been incorrectly mapped may hire a professional soil scientist to conduct a property specific soil assessment and provide the analysis to DLCD prior to submitting this application. A list of soils professionals and details of the Agricultural Soils Assessment process may be found at DLCD’s website link: <https://www.oregon.gov/lcd/FF/Pages/Soils-Assessment.aspx>

- (iii) **The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel will not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.**

Answer each question and attach additional pages if necessary. Additional supporting evidence from an expert (e.g., agronomic and/or forester report) may be required to address this criteria.

How does the terrain of the tract restrict the production of farm crops and livestock?

How does the soil of the tract restrict the production of farm crops and livestock?

How does the drainage and/or flooding of the tract restrict the production of farm crops and livestock?

How does the location and/or size of the tract restrict the production of farm crops and livestock?

Has the property been farmed in the past? ___ Yes ___ No If yes, describe how and when:

Explain how your parcel cannot reasonably be put to farm use in conjunction with other land?

Section (b) only applies to properties that are less than 3 acres in size, skip if property is large than 3 acres.

- (b) The dwelling shall comply with such other conditions as the approval authority considers necessary. A dwelling not provided in conjunction with a farm use, on a lot or parcel that is not larger than three acres is subject to the following requirements:**
- (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;**

Addressed above

- (ii) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by Lane Code relating specifically to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable;**

Staff will review the subject property and determine if any additional conditions are necessary. Any additional information pertaining to geological hazards is helpful.

- (iii) The lot or parcel was created between January 1, 1948, and July 1, 1983. See the definition of "Date of Creation and Existence" in LC 16.090.**

LC 16.090(53) Date of Creation and Existence. Applicable to Nonimpacted Forest Lands Zone (F-1, RCP), Impacted Forest Lands Zone (F-2, RCP), and Exclusive Farm Use Zone (EFU, RCP) only. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

For the purpose of this Section, only one lot or parcel exists if:

- (aa) The lot or parcel is contiguous to one or more lots or parcels described in this Section.**
- (A) "Contiguous" means "lots, parcels or lots and parcels that have common boundary, including but not limited to, lots, parcels or lots and parcels separated only by the public road."**
- (bb) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common; and**

When was the subject property created according to the criteria above? Explain how the subject property complies with the above criteria.

(iv) Notice of application shall occur in compliance with LC Chapter 14.

(c) Land use approval of a permit described in Section (10)(a) or (10)(b) shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in this Section may be made and approved pursuant to LC 14.700(2).

If approved, this will be made a condition of approval.

(d) No final approval of a nonfarm use under this section will be given unless any additional taxes imposed upon the change in use have been paid.

This will be made a condition of approval. Prior to a building permit for a dwelling, the owner must notify the county assessor that the lot or parcel is no longer being used a farmland or for other specially assessed uses (if applicable), and request that the county assess disqualifying the lot or parcel from special assessment, pay additional tax imposed upon disqualification from special assessment, and submit evidence to Planning regarding this action.

(e) The dwelling must comply with other conditions considered necessary by the approval authority.

If approved, staff will determine if any other conditions are necessary to comply with applicable approval criteria.

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 siting 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: _____

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

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