



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

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[www.co.linn.or.us](http://www.co.linn.or.us)

**CONDITIONAL USE PERMIT APPLICATION**

**LOT OF RECORD DETERMINATION**

**EXCLUSIVE FARM USE & FARM/FOREST ZONING DISTRICTS**

**APPLICATION FEE \$650.00/\$1500.00**

The lot of record review is the first step in determining whether a residence can be located on an existing tract of land. A property owner or the owner's authorized agent can apply for a lot of record determination. If it is determined that the application qualifies as a lot of record, then the second step in the conditional use review will take place. The second step involves notification to surrounding property owners and interested agencies of a pending land use decision. The notice provides an opportunity for interested parties to comment on the application based upon the decision criteria. The decision criteria for a lot record dwelling are contained in this application.

After this application is complete, staff will review it to make sure all the necessary documentation has been included. The applicant must provide a copy of the deed or land sales contract, which shows that the property was acquired as set out below. A decision will be made regarding lot of record status. If the property does not qualify as a lot record, then the application will be denied and the applicant will be notified. Property qualifying as a lot of record will be reviewed as an administrative conditional use permit and processed under the procedures set out in Article 2 of the zoning ordinance.

If you have any questions while filling out the application, please contact the department for help. Planning staff are available Monday through Friday, 8:30 am to 12:00 pm and 1:00 pm to 5:00 pm, and can be contacted at 541-967-3816.

## Lot of Record Decision Criteria

### Section 933.705 - Pre-85 single-family dwellings; generally

#### (A) Definitions

- (1) For purposes of LCC 933.705 to 933.708, the following definitions apply.
  - (a) **“Owner”** includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
  - (b) **“Tract”** means only those units of land and parts of any unit of land of a tract, as that term is defined in LCC 920.100, that lie within the Rural Resource Zone when:
    - (i) the tract, as the term is defined in LCC 920.100, is split-zoned into resource-zoned and non-resource zoned property, and
    - (ii) at least one authorized unit of land is wholly within the Rural Resource Zone.

#### (B) **General decision criteria for dwellings authorized under LCC 933.705 to 933.720.** The criteria in this subsection apply to the establishment of a single-family dwelling authorized under the provisions of LCC 933.705 to 933.720.

- (1) The authorized unit of land on which the dwelling will be sited was lawfully created and was acquired by the owner:
  - (a) Prior to January 1, 1985; or
  - (b) By devise or by intestate succession from a person who acquired the authorized unit of land prior to January 1, 1985.
- (2) The tract on which the dwelling will be sited does not include a dwelling.
- (3) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.
- (4) The authorized unit of land on which the dwelling will be sited, if in the EFU or in the farm area of the F/F zoning district, is on:
  - (a) non-HVFL as described in LCC 933.706; or
  - (b) HBFL-2 as described in LCC 933.707; or
  - (c) HVFL-1 as described in LCC 933.708.
- (5) The authorized unit of land on which the dwelling will be sited, if in the forest area of the F/F zoning district, is sited as described in LCC 933.720.
- (6) When the authorized unit of land on which the dwelling will be sited lies within an area designated in the *Comprehensive Plan* as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the *Comprehensive Plan* and the Land Development code intended to protect the habitat are based.
- (7) When the authorized unit of land on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single authorized unit of land when the dwelling is allowed.

#### (C) When the decision maker approves an application for a single-family dwelling under the provisions of this section, the application may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.

- (D) The decision maker may, by application of criteria adopted by the Land Development Code; deny approval of a dwelling allowed under LCC 933.706 to 933.720 in any area where the decision maker determines that approval of the dwelling would:
- (1) Exceed the facilities and service capabilities of the area;
  - (2) Materially alter the stability of the overall land use pattern in the area; or
  - (3) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

#### **Section 933.706 - Pre-85 non-HVFL dwellings**

- (A) A dwelling may be sited in the EFU or in the farm area of the F/F zoning district when the authorized unit of land on which the dwelling will be sited meets the criteria in subsection (B) and the requirement in subsection (C).
- (B) **Decision Criteria**
- (1) The authorized unit of land is non-HVFL.
  - (2) The criteria of LCC 933.705 are met.
  - (3) The criteria of LCC 933.310(B)(1) to (3).
- (C) **Requirement.** The decision maker shall notify the County Assessor that it intends to allow the dwelling.

#### **Section 933.707 - Pre-85 HVFL-2 dwellings**

- (A) A single-family dwelling not in conjunction with farm use may be sited on HVFL-2 in the EFU or in the farm area of the F/F zoning district if it meets the criteria of subsection (B) and the requirement in subsection (C) of this section.
- (B) **Decision Criteria**
- (1) The criteria of LCC 933.705 are met
  - (2) The tract on which the dwelling will be sited is:
    - (a) Identified as HVFL-2;
    - (b) Not protected as HVFL-1; and
    - (c) Twenty-one acres or less in size.
  - (3) The tract is bordered on at least:
    - (a) 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
    - (b) 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary.
  - (4) The criteria of LCC 933.310(B) (1) to (3).
- (C) **Requirement.** The decision maker shall notify the County Assessor that it intends to allow the dwelling.

#### **Section 933.708 - Pre-85 HVFL-1 dwelling**

- (A) A single-family dwelling not in conjunction with farm use may be sited on HVFL-1 in the EFU or in the farm area of the F/F zoning district if it meets the criteria of subsection (B) and the requirement of subsection (D) of this section.

(B) **Decision Criteria**

- (1) The criteria of LCC 933.705 are met;
  - (2) The authorized unit of land is protected as HVFL-1 as described under ORS 215.710(1); and
  - (3) The Commission determines that:
    - (a) The authorized unit of land cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.
    - (b) The dwelling will comply with the provisions of LCC 933.310(B) (1).
    - (c) The dwelling will not materially alter the stability of the overall land use pattern in the area.
  - (4) The criteria of LCC 933.310(B) (1) to (4).
- (C) The Director shall provide notice of all applications for dwellings allowed under this section to the State Department of Agriculture. Notice shall be provided in accordance with LCC 921.370 but shall be mailed at least 20 calendar days prior to the public hearing before the Commission under this section.
- (D) **Requirement.** The decision maker shall notify the County Assessor that it intends to allow the dwelling.

**Section 933.720 - Pre-85 forestland dwelling**

- (A) A dwelling authorized under LCC 928.628(B) (1) may be permitted in the forest area of the F/F zoning district only if the decision criteria set forth in subsection (B) are met.
- (B) **Decision Criteria**
- (1) The predominate use of the land was forestry on January 1, 1993.
  - (2) The criteria of LCC 933.705 are met;
  - (3) The criteria of LCC 933.310(B) (1) to (3) and (5) are met;
  - (4) The tract on which the dwelling will be sited is:
    - (a) composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species, and
    - (b) located within 1,500 feet of a public road. The road shall not be a United State Forest Service road or Bureau of Land Management road and shall be maintained and either paved or surfaced with rock.
- (C) A new dwelling authorized under this section must satisfy the requirements of LCC 933.170 and 934.590.
- (D) If the authorized unit of land is more than 10 acres, the property owner shall comply with LCC 933.170.

**Section 933.310 - RRZ conditional uses; generally**

(B) **Decision Criteria**

- (1) The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system, and an adequate supply of potable water.
- (2) The development will not be located within a mapped geologic hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard-mitigation requirements.
- (3) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.
- (4) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (5) If in the forest area of the F/F or in the FCM zoning districts, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

**Application Check List (for department use)**

- A. Complete application \_\_\_\_\_ Site plan \_\_\_\_\_ Ownership \_\_\_\_\_
- B. Environmental health division approval
  - 1. Existing system has been checked \_\_\_\_\_
  - 2. New site has been approved \_\_\_\_\_
  - 3. New site has been requested but not reviewed \_\_\_\_\_
- C. Property development standards can be met:
  - 1. Width \_\_\_\_\_ Depth \_\_\_\_\_ Frontage \_\_\_\_\_ Coverage \_\_\_\_\_ Setbacks \_\_\_\_\_
  - 2. Legal lot \_\_\_\_\_ Area \_\_\_\_\_
- D. Proposal is located within:
  - 1. UGB \_\_\_\_\_ Planning area \_\_\_\_\_ Greenway \_\_\_\_\_ A.O. Zone \_\_\_\_\_
  - 2. S.B.H.O \_\_\_\_\_ Habitat \_\_\_\_\_ Floodplain \_\_\_\_\_ Historic \_\_\_\_\_
- E. Application accepted by: \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Refer to: Staff \_\_\_\_\_ P.C. \_\_\_\_\_
- F. This application contains:
  - Medical hardship c.u.p. \_\_\_\_\_ Aggregate resources c.u.p. \_\_\_\_\_
  - Non-resource residence c.u.p. \_\_\_\_\_ Solid waste c.u.p. \_\_\_\_\_
  - Resource residence c.u.p. \_\_\_\_\_ Comprehensive plan amend. \_\_\_\_\_
  - Variance \_\_\_\_\_ Comprehensive plan revision \_\_\_\_\_
  - Conditional use \_\_\_\_\_ Zoning map amendment \_\_\_\_\_
  - Non-resource division \_\_\_\_\_ Easement \_\_\_\_\_ Subdivision \_\_\_\_\_
  - Resource division \_\_\_\_\_ Major partition \_\_\_\_\_ Minor partition \_\_\_\_\_
  - Nonconforming use \_\_\_\_\_ Greenway c.u.p. \_\_\_\_\_ Caretaker c.u.p. \_\_\_\_\_
  - UGM c.u.p. \_\_\_\_\_ Planned unit development \_\_\_\_\_

**I. Background Information (to be completed by applicant in ink or typewritten)**

- A. Applicant's name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_  
Phone number (home) \_\_\_\_\_ (work) \_\_\_\_\_
- B. Property owner (if different than applicant) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_  
Phone number (home) \_\_\_\_\_ (work) \_\_\_\_\_
- C. Applicant's representative (if any) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_  
Phone number (home) \_\_\_\_\_ (work) \_\_\_\_\_
- D. Legal description of property  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot(s) \_\_\_\_\_  
Site address (if any) \_\_\_\_\_
- E. Zoning designation \_\_\_\_\_ Comp Plan \_\_\_\_\_
- F. Size of parcel \_\_\_\_\_

G. Additional parcels in contiguous ownership:  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot(s) \_\_\_\_\_

H. Is the property located within a rural fire protection district? If so, what district?  
\_\_\_\_\_

**II. Verification of Ownership and Applicant's Certification**

A. Does the application violate any recorded codes, covenants, or restrictions that are attached to the subject property?

Yes \_\_\_\_\_ No \_\_\_\_\_

B. The owner has the following legal interest in the property: owner of record \_\_\_\_\_, or land sales contract purchaser \_\_\_\_\_.

C. The property owner has owned the property since before January 1, 1985 or received the property by devise or intestate succession from a person listed in the lot of record criterion. *Please provide a copy of the deed or land sales contract verifying timely ownership interest. If the property was received by devise or intestate, please identify the relationship with person(s) transferring ownership.*

I hereby certify that the statements, attachments, exhibits, plot plan and other information submitted as a part of this application are true and any approval granted based on this information may be revoked if it is found that such statements are false.

Owner's signature \_\_\_\_\_ Date \_\_\_\_\_

Owner's signature \_\_\_\_\_ Date \_\_\_\_\_

PLEASE NOTE: County ordinance does not allow an application to be reviewed unless the owner has first authorized it. The assessor's office records are used to verify the ownership. Please contact the assessor's office (Second Floor, Room 215, Linn County Courthouse) to complete this section.

The Linn County Assessor's Office verifies that the Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, Tax Lot(s) \_\_\_\_\_ is owned or is being purchased by: \_\_\_\_\_

If more than one owner is included on your records, please list all persons involved.

Other owners:

\_\_\_\_\_

\_\_\_\_\_  
Signature of Assessor's Representative

Date \_\_\_\_\_

**III. Description of Property (to be filled out by applicant in ink or by typewriter)**

A. How is the property now used? Please describe any farm or forest land uses on the property.

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B. Does the property owner(s) own or in the process of purchasing property that is contiguous to the parcel identified in this application?

No \_\_\_\_\_ Yes \_\_\_\_\_ If the answer is yes, please answer question C.

C. Is there a dwelling located on a parcel owned being purchased by the applicant that is contiguous to the property proposed for a dwelling?

No \_\_\_\_\_ Yes \_\_\_\_\_

D. Does the property have an approval from the Linn County Environmental Health Program for location of subsurface sewage disposal system? Yes \_\_\_\_\_ No \_\_\_\_\_

E. What type of access does the property have?

County road name \_\_\_\_\_

Public road name \_\_\_\_\_

State highway \_\_\_\_\_

Easement (please attach a copy) \_\_\_\_\_

F. How close is the property to a county or public road (distance in feet)? \_\_\_\_\_

G. Is the land involved in this request on farm or forest deferral? You can determine this by contacting the Linn County Assessor's Office. Yes \_\_\_\_\_ No \_\_\_\_\_

H. Please submit a site plan (drawing) which shows the property dimensions, location of any existing structures, the proposed location of new structures and any natural features such as hills, drainage ways and streams and natural vegetation. An example is attached.

**IV. Soils Review (to be completed by staff)**

Soil Type	Acreage/Percent	SCS Class High Value	Cubic Fee Per Year
Total			

1. Tract qualifies as predominately high value type I:  
 Yes \_\_\_\_\_ (give %)      No \_\_\_\_\_ (give %)
2. Tract qualifies as predominately high value type II:  
 Yes \_\_\_\_\_ (give %)      No \_\_\_\_\_ (give %)
3. Tract is capable of producing 5,000 cubic feet per year of commercial tree species:  
 Yes \_\_\_\_\_      No \_\_\_\_\_

**V. Tract and Perimeter Test Non-/Qualifying Type II Property (to be completed by staff)**

1. Tract is 21 acres or less: Yes \_\_\_\_\_ No \_\_\_\_\_
2. Tract is composed predominately of type II agricultural soil:  
 Yes \_\_\_\_\_ (give %)      No \_\_\_\_\_ (give %)
3. Tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993.

## STANDARD SITE PLAN DRAWING

For a complete and accurate evaluation of your proposal, it is necessary to include sufficient information and detail on a site plan drawing. An example is provided as a guide to the preparation of your plan. The site plan you submit will constitute the formal development plan upon which your request is based.

You may submit separate plans to show details of particular aspects of your proposal, i.e. landscaping, off-street parking, topography and drainage plans.

Any public or semi-public use or activity will require written detail and description of such use, i.e. number of employees, hours of operation, unusual equipment or activities that may produce noise, odor, glare, vibration, etc., equipment storage areas, guard or watchman requirements, aerial hazards and road access needs.

This site plan requirement is in addition to any other requirements for zoning, building, sanitation or other governmental permits or standards compliance.

### SITE PLAN REQUIREMENTS:

- (1) The site plan must be submitted on paper no larger than 8½ inches by 14 inches and drawn to scale.
- (2) Indicate the scale (for example, 1" = 800') on the site plan.
- (3) Include a North arrow indicating the direction of North on the map.
- (4) Include the applicant's name and address in an information block at the bottom of the page.
- (5) Show the dimensions of the property. These may be taken from surveys, deeds and assessor's records.
- (6) Indicate the names of roads adjacent to the property.
- (7) Indicate the approximate distance and direction to nearest city or town.
- (8) Indicate the dimensions and distance from property lines to all structures, both existing and proposed, as well as fences, culverts, light standards and signs on the property and adjacent properties.
- (9) Indicate the location of existing and proposed access ways, parking and loading areas, approaches and barriers. The type of surfacing should be indicated.
- (10) Identify the location of significant land features, such as streams, creeks, drainage areas and slope.
- (11) Identify the location of existing and/or proposed septic tanks, repair areas and wells. If known, indicate any wells or septic systems on adjacent properties if they are within 10 feet of this property.
- (12) Indicate existing uses of land (cultivation, pasture, timber, etc.). Indicate types of crops, pasture, grass and timber species.

Attach sample plot plan (see sample plotplan on Planning and Building webpage)