



LAND USE PERMIT APPLICATION 2022

Non Farm Dwelling

Return Application
Materials to:

Brandon McMullen
Planning Director
Voice: (541) 573-6655

Brandon.mcmullen@co.harney.or.us

at

**Harney County Planning
Department**
360 N. Alvord Ave.
Burns, OR 97720
Fax: (541) 573-2762

Visit us at
www.co.harney.or.us

PLANNING COMMISSION MEETINGS ARE HELD

Harney County Courthouse
Circuit Court Room
3rd Wednesday of each month,
7:00 PM

Get the latest version!
Application Revision Date:

2022

LAND USE PERMIT APPLICATION REVIEW PROCESS

This form provides for the simultaneous review of multiple proposed land use actions. Project review will be through an integrated and consolidated format as follows:

1. Pre-Application Meeting

The applicant(s) will meet with the Planning Director to review the proposed development/request. Applicable information will be discussed in relation to the proposal. The applicant(s) will then submit all applicable materials to the Planning Department at their convenience.

2. Application Meeting

The Planning Director will contact the applicant again to review the submitted application within one week after all materials have been submitted if the application is incomplete. The Planning Director will review applicable regulations in regards to the type of application. Once the application is complete the 150 day clock will begin which is the maximum amount of time the County has by law to process the application.

3. Consideration by Planning Commission

Public notices are published in the Burns-Times Herald and sent to adjacent property owners. The application will then go before the Harney County Planning Commission in an Open Record Public Hearing. Public comment is received and recommendations are made to the decision making body.

4. Decision Making Body Approval or Denial

The decision-making body (Planning Commission or County Court) takes the recommendation and either approves or denies the application. The County Court may, if the action is legislative in nature, send the application back to the Planning Commission for further review.

5. Provision for an Appeal

An appeal is provided for if the applicant/person with standing desires to challenge a decision of the decision-making body. The County Court or Planning Commission may hear the first level appeal.

6. First and Second Level Appeals

An appeal process is provided and is heard by a legislative body - either: the Harney County Court, LUBA or the Oregon State Court of Appeals.



Project Application #: 22- _____

Date Complete: _____

Final Decision or Public Hearing Date: _____

Harney County Planning Land Use Permit Application 2022

This application must be submitted to the Harney County Planning Department 360 N. Alvord Ave., Burns, OR 97720, (541) 573-6655, and must be accompanied by a non-refundable application fee(s). Acceptance of the application and fee(s) does not guarantee approval. **PLEASE COMPLETE THIS APPLICATION BY PRINTING CLEARLY WITH A BLUE or BLACK INK PEN (copies come out better). THANK YOU.**

Section 1: Contact Information

Name of Applicant: _____

Address: _____

City, State, Zip: _____

Email & Telephone Number: _____

Name of current Property Owner(s):
(If Property Owner is not the applicant) _____

Address: _____

City, State, Zip: _____

Email & Telephone Number: _____

The applicant or an appointed representative **MUST** be in attendance at the Public Hearing (*if required*) of the Harney County Planning Commission in order to explain the project. Planning Commission meetings occur every 3rd Wednesday of the month at 7 PM in the Harney County Circuit Court Room.

If there is no representative present during the scheduled Public Hearing for this Land Use Permit Application, the application will be tabled until the next regularly scheduled meeting. Additional Notification fees may apply.

Section 2: Type of Application and Fees

The following total must be paid when submitting an application. (Note: Additional Costs will be billed and must be paid prior to receiving a decision on the application.)

			Process Summary			
<input checked="" type="checkbox"/>	Type of Application: (Alphabetically Listed)	Fee(s):	Public Comment Period	Open Record Hearing	Decision Made By	1 st and 2 nd Level Appeal
<input checked="" type="checkbox"/>	Non Farm Dwelling	\$450.00 **	20 + days	PC	PC	CC and LUBA
<input checked="" type="checkbox"/>	Site Plan Review:	\$35.00	<p><i>Key for Abbreviations used above:</i> PD - Planning Director, PC - Planning Commission, CC - County Court, LUBA - Land Use Board of Appeals</p> <p>° It should be noted that appeals above LUBA would go to the Oregon Court of Appeals and possibly the Oregon Supreme Court</p> <p>° Application Fees are NON REFUNDABLE. Waivers may be granted by the Planning Director upon special request.</p>			
<input checked="" type="checkbox"/>	County Clerk Recording Fee of Findings and Decision:	\$131.00				
<input type="checkbox"/>	** Rural Addressing: When constructing a home.	\$50.00/ea				
TOTAL FEE		\$666.00				
***(see below for Additional Costs to be billed and paid separately):						

*****Advertisement Costs:** All land use applications will also have additional costs to be billed to the applicant **AFTER** the application is processed - actual costs for public notice in the Burns-Times Herald, \$2.00 for every adjacent landowner that receives a public notice by mail, AND \$8.00 for adjacent landowners map. *IF* applying for a Non Farm Dwelling an additional \$8.00 fee also applies to produce a Soils and 2000 acre Buffer Map. Other

mapping fees may also apply (See HCZO Section 9.050 for Filing Fee Schedule).

Appeals: There is a non-refundable fee when appealing to the Harney County Court of \$250.00 **NOT All Sections** of this Land Use Permit Application **may** be applicable to every type of application. Sections 1-3, p. 2-6 and Sections 11-12, p. 15-17 are required for every application.

Section 3: Property Information

Complete this section.

1. Location of Property (Provide directions you would give someone to get to the property):	
2. Has the Property or dwelling received a Rural Address ? <i>If so, what is it?</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes: _____
3. Assessor's Account Number(s) for the Property:	Parcel 1: _____ Parcel 2: _____ Parcel 3: _____
4. Assessor's Tax Lot Number(s) for the Property:	Parcel 1: _____ Parcel 2: _____ Parcel 3: _____
5. Legal Description of Property: Township: _____ Range: _____ Section: _____ Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A". (Obtain the legal description from either the Planning Department or Tax Assessor's Office)	
6. Current Zoning Classification:	<input type="checkbox"/> EFRU-1 (Exclusive Farm & Range Use) <input type="checkbox"/> EFRU-2 (Exclusive Farm & Range Use) <input type="checkbox"/> FU (Forest Use) <input type="checkbox"/> OTHER _____
7. Current Use of Property:	
8. Surrounding Uses of Property:	
9. Size of Property: (acres)	
10. Does the Property reside in a Floodplain ? <i>If the Property is in a Floodplain (Zone Ax) you will need to complete a Floodplain Development Permit before building.</i>	No: _____ Yes: _____ Zone: _____ Panel Number: _____ Will building permits eventually be applied for on this project? <input type="checkbox"/> Yes <input type="checkbox"/> No
11. Is the property located in Wetlands as listed on the National Wetlands	<input type="checkbox"/> No <input type="checkbox"/> Yes

Inventory maps?	
12. What road provides Access to the Property? (Note: Applicants must present evidence of legal access to any subject parcel proposed for development prior to the issuance of building permits and/or land use permits. (HCZO 4.120))	
13. Will the Property need an Access Permit onto a County Road or State Highway? (<i>If so</i> call Eric Drushella, County Road master, 541-573-6232, or ODOT, 541-889-9115).	<input type="checkbox"/> No <input type="checkbox"/> Yes, <i>if so</i> please contact the proper authority and provide that documentation with this application.
14. Are there any Easements that provide the MAIN ACCESS for the Property OR adjacent properties?	<input type="checkbox"/> Yes, <i>if so</i> please provide the documentation with this application. <input type="checkbox"/> No
15. Does the Applicant hold Title to the Property? <i>If not</i> , what is your interest in the Property?	<input type="checkbox"/> Yes <input type="checkbox"/> No _____
16. What type of Water Use/Rights is present on this Property? Describe type of Water Use - domestic wells, surface water rights, etc. (Contact Tony Rutherford, Watermaster, OWRD, County Courthouse, 541-573-2591.)	<input type="checkbox"/> No water uses/rights present. <input type="checkbox"/> Yes, there are water uses/rights. Check those that apply and list the number of each: <input type="checkbox"/> Stock Wells (No. _____) <input type="checkbox"/> Domestic Wells (No. _____) <input type="checkbox"/> Irrigation Wells (No. _____)
17. What is the Environmental Health of this Property? (For example: are there any dumpsites, pollutants, etc. which makes this Property environmentally unhealthy?)	<input type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor, <i>if so</i> , please explain:
18. Are there any Natural Hazards found on the Property? (Examples of natural hazards are natural floodways and steep slopes. <i>If</i> your proposal for development of a dwelling is on a slope greater than 12%, compliance with the standards under HCZO 4.070 is required.)	<input type="checkbox"/> No <input type="checkbox"/> Yes, <i>if so</i> , please explain:

19. Are there any **Archeological Sites** on this Property? (If during construction, remains are uncovered please contact the Harney County Planning Department immediately.)

- No
 Yes, if so, please describe:

20. Is the Property considered a **Legal Lot of Record**? This means that the parcel or lot was created according to required procedures. Mark which description applies and provide documentation (i.e. Property Deed Card – Assessor’s Office):

- A lot in an existing, duly recorded **subdivision**; or,
- A parcel in an existing, duly recorded major or minor land **partition**; or,
- An existing unit of land for which a **survey** has been duly filed which conformed to all applicable regulations at the time of filing, or,
- Any unit of land **created PRIOR to zoning** and partitioning regulations by deed or metes and bounds description, and recorded with the Harney County Clerk, provided, however that contiguous units of land so created under the same ownership and not conforming to the minimum property size of the underlying zone shall be considered one (1) lot of record.
- The **Property does not meet any of the above** descriptions.

21. Projected timeline of proposal: (When applying for a Conditional Use Permit it should be noted that *if* there is no substantial development begun within 1 year from the date of approval, a request for an extension must be written to and approved by the Harney County Planning Commission before the permit expires [the 1 year anniversary date]. There is a limit to one extension.)

22. Provide a **description of proposal**:

Section 4: Facilities and Services to Serve Project

Complete this section.

All facilities and services provided in Harney County are listed below. Please indicate who will provide each facility/service (either public or private) by providing name, address, and phone. For example, *if* a private domestic well were providing the drinking water, the provider would be the property owner.

Facilities and Services	Name of Provider, Address and Phone
23. Potable (drinking) Water:	<input type="checkbox"/> Private Property Owner, <input type="checkbox"/> Other _____
24. Sanitary Sewage Disposal:	<input type="checkbox"/> Private Property Owner, <input type="checkbox"/> Other _____
25. Electrical Services:	<input type="checkbox"/> Harney Electric Co-op, <input type="checkbox"/> Idaho Power <input type="checkbox"/> Oregon Trail Electric Co-op, <input type="checkbox"/> Other _____
26. Solid Waste (trash):	<input type="checkbox"/> C & B Sanitary, <input type="checkbox"/> Landfill: _____
27. County Roads:	Harney County Road Department , 266 S. Date, Burns, OR 97720, 541-573-6232
28. Law Enforcement:	Harney County Sheriffs Department , 485 N. Court, Burns, OR 97720, 541-573-6156
29. Structural Fire Protection:	(Currently there is no Rural Fire District in the County to provide structural Fire Protection.)
30. Public Schools:	
31. Telephone:	<input type="checkbox"/> CenturyTel - (800)-637-9843, <input type="checkbox"/> Other _____

32. Will there be any **undue impacts** on public facilities and services as a result of this land use proposal? (Attach additional pages *if necessary*.)

- No
 Yes, *if so*, please explain:

NOTE: "Undue impacts" are when the public facilities or services mentioned above will be adversely impacted or reach a point where they can no longer provide adequate levels of service to the general public.

Section 5: Non Farm Dwelling

Complete this section. The criteria for a non farm dwelling is listed in the Harney County Zoning Ordinance (HCZO) under 3.010(6)(B) or 3.020(6)(B). In addition, any applicable state criteria which is not incorporated in the HCZO is applicable. Currently, state criteria and rules for a non farm dwelling are listed under ORS 215.284(7) and associated Oregon Administrative rules listed under OAR 660-033-0010. Please answer the following questions in regards to the development of a non farm dwelling. If you require more space to answer the questions, please attach your answers to this application and label them as exhibits (e.g., “see exhibit C”). Note: An application for a non farm dwelling must meet all of the criteria as set out in the HCZO.

<p>33. Will the dwelling or activities associated with the dwelling 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?</p>	<p>Explain:</p>
<p>34. Will the dwelling be situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract? (Note: For more information on this and other requirements, see Section 7 of this application.)</p>	<p>Explain:</p>
<p>35. Will the dwelling materially alter the stability of the overall land use pattern of the area? Staff will provide the Planning Commission with a study of the surrounding area based on an evaluation of existing farm uses, current housing, and future housing development scenarios based on the land use pattern. This typically referred to as the “2000-acre study.” Please provide any additional information you feel necessary. (Note: For more information on this and other requirements, see Section 7 of this application.)</p>	<p>Explain:</p>
<p>36. Will the dwelling be sited on a lot or parcel created before January 1, 1993?</p>	<p><input type="checkbox"/> Yes, (see Property Deed Card) <input type="checkbox"/> No</p>

37. Is the parcel on **Farm Use Special Assessment**? *If so*, the parcel will not receive final approval without evidence that the lot or parcel has been disqualified. Payment of these back taxes/disqualification will be collected AFTER this application has been approved.

- No
 - Yes, *if so* Contact the County Assessor's office for the amount to be paid.
-

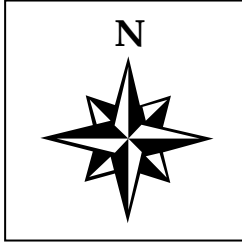
Section 6: Required Application Materials

Complete this section.

38. These materials are to be submitted with the application: The proceeding page is to be used as a base for the site plan. This site plan will **show what is or will be on the property**. Additional material may be requested.

<input checked="" type="checkbox"/>	Materials to be submitted for ALL types of Applications:
<input type="checkbox"/>	a) Completed Application form .
<input type="checkbox"/>	b) Applicable Application fees .
<input type="checkbox"/>	c) Site Plan Marked Exhibit B (see proceeding page) to include:
<input type="checkbox"/>	• North Arrow
<input type="checkbox"/>	• Site area showing Property boundaries and dimensions
<input type="checkbox"/>	• Proposed and existing structures with dimensions to nearest Property lines.
<input type="checkbox"/>	• Location of existing wells and water rights .
<input type="checkbox"/>	• Location of existing septic systems (i.e. tanks, drain fields)
<input type="checkbox"/>	• Widths and names of roads adjacent to the site as well as existing roads, which provide direct access to the Property.
<input type="checkbox"/>	• Existing access points (driveways, lanes, etc.)
<input type="checkbox"/>	• Easements and rights-of-ways
<input type="checkbox"/>	• Existing utility lines (above and below ground)
<input type="checkbox"/>	• Approximate location of any unusual topographical features
<input type="checkbox"/>	• Major geographic features
<input type="checkbox"/>	• Location of all creeks, streams, ponds, springs and other drainage ways.
<input type="checkbox"/>	d) Quick Print showing property details.
<input type="checkbox"/>	e) Property Deed Card – property history.
<input type="checkbox"/>	f) The Deed of the Property in question.
<input type="checkbox"/>	g) Tax Map – Assessor’s map of the Property.

Contact County Assessor Dept - for a copy of these

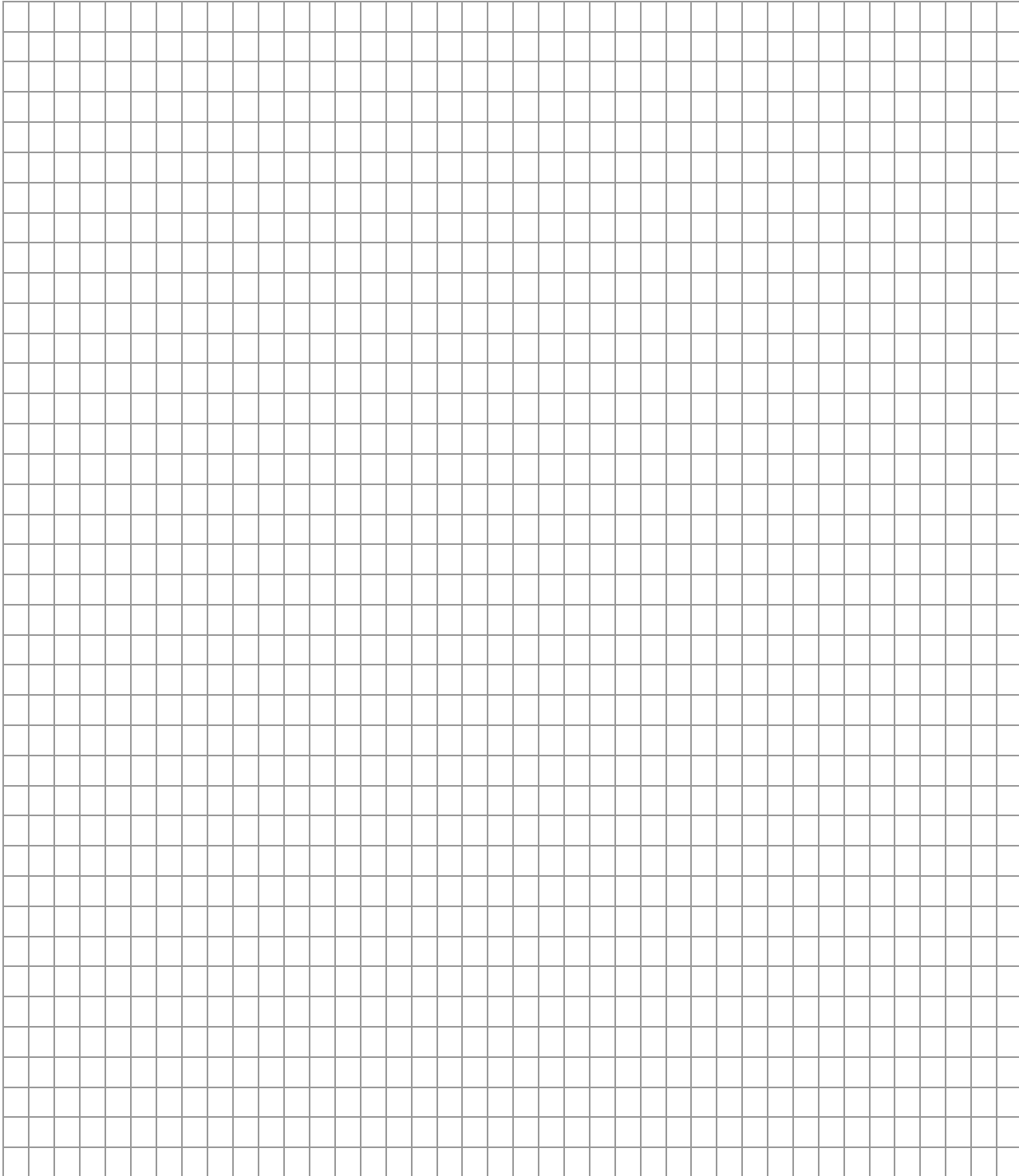


Owner/Applicant: _____

Exhibit B
Site Plan

Mailing Address: _____

Phone Number: _____



Section 7: Certification

Complete this section.

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. It is further understood that the signing of this application *if* for a dwelling will preclude any lawsuits related to the by-products (i.e. noise, dust, order, etc.) of farming operations.

ALL Property Owners with any interest in the properties being affected by this Land Use Permit Application must sign and date this form. *If* more room is needed signing the reverse side of this page is appropriate.

X

Signature of Applicant

Date

Printed Name of Applicant

X

Signature of Property Owner

Date

Printed Name of Property Owner

X

Signature of Property Owner

Date

Printed Name of Property Owner

ADDITIONAL NOTICE to interested parties

Is there anyone else besides the property owner and adjacent property owners who would like to receive notice of this application during its' review period and notice of decision? (Realtor, perspective buyer, etc.) *If so*, provide name and mailing address:

Name: _____

Name: _____

Mailing Address: _____

Mailing Address: _____

Section 8: Harney County Non Farm Dwelling Criteria

- A. Non-farm Dwelling. A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:
- a. 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;
 - b. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and
 1. The lot or parcel shall NOT be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
 2. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
 3. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands.
 - c. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:
 1. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.
 2. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010 (8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this paragraph.

Harney County Planning Department

3. *Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*
 - b. *The dwelling will be sited on a lot or parcel created before January 1, 1993;*
 - c. *The dwelling complies with such other conditions, as Harney County considers necessary.*
 - d. *Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's 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.*
 - e. *Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367 and any additional tax imposed as the result of disqualification has been paid.*

Note: As stated previously, an application for a non farm dwelling must meet all of the above criteria along with any applicable local/state regulations (*e.g., structural setbacks from property lines, onsite sanitation requirements, floodplain development, etc..*) It is recommended that the applicant provide any information they feel necessary to meet the above criteria, please attach any such additional information to this application and label them as exhibits (*e.g., "see exhibit C"*)
