



# MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918 Phone (541)473-5185 Fax (541)473-5140

File Number: 2020-03-007  
Application Fee: \$100  
Date Received: 03-12-2020

## DEFERRED REPLACEMENT DWELLING APPLICATION

### LANDOWNER INFORMATION

Name: Jeffrey B Downie + Amber L Downie  
Address: 1764 Hwy 201 (Po Box 246)  
City/State/Zip: Adrian OR 97901  
Phone: 541-339-3244 or 541-709-6560  
Email: adownie5@yahoo.com

### APPLICANT INFORMATION Check box if same

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

### PROPERTY INFORMATION

Township: 22S Range: 46E Section: 03 Tax Lot: 801 Ref #: 20789 Acres: 6.27 Zoning: CA-1  
Address: 1764 Hwy 201 Adrian OR 97901

My signature below affirms that I have discussed my application with the Planning Director, and that I acknowledge the following disclosures:

1. I understand that any representations, conclusions or opinions expressed by staff in the pre-application review of this request do not constitute final authority or approval, and that I am not entitled to rely upon any such expressions in lieu of formal approval of my request.
2. I understand I may ask questions and receive input from Planning Staff, but acknowledge that I am ultimately responsible for all information or documentation submitted with this application. I further understand that Planning Staff cannot legally bind the County to any fact or circumstance which conflicts with state and local laws, and in the event a direct conflict occurs, the statement or agreement is null and void.
3. I understand I have the burden to prove my request meets Oregon State Statutes and Malheur County Code requirements and that I must address all of the criteria that apply. The criteria for approving or denying my request for the **deferred replacement of a lawfully established dwelling** has been furnished to me as part of this application.
4. I understand that the dwelling to be replaced is a lawfully established dwelling that has, or formerly had:
  - A. Intact exterior walls and roof structures;
  - B. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - C. Interior wiring for interior lights;

- D. A heating system; and
- E. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five (5) property tax years, or if the dwelling has existed for less than five years from that time, or the dwelling was improperly removed from the tax roll by a person other than the current owner.
  
- F. For deferred replacement:
  - i The dwelling to be replaced must be removed or demolished within three (3) months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the current dwelling is not removed or demolished within three (3) months after the deferred replacement permit is issued, the permit becomes void. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
  
- 5. I understand that I must cause to be recorded in the deed records of Malheur County a statement that the dwelling to be replaced has been removed or demolished as required under OAR 660.033.0130(8)(b)(B). (Statement for Deferred Replacement Dwelling) This statement must also be delivered to the Planning Department.
  
- 6. I understand Planning Staff is entitled to ask for additional information, photographs, assessor's records or documentation any time after the submission of this application if it is determined such information is needed for review and approval.
  
- 7. I understand I am entitled to have a lawyer or a land use consultant helps me with my application and to appear with me (or for me) at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of my application, I have been advised that it may be in my best interests to have professional assistance.
  
- 8. I understand that the sewage system for the new dwelling must meet all Department of Environmental Quality requirements for sanitation.
  
- 9. I understand that the new dwelling must meet all Malheur County Code, zoning and flood regulations, and Oregon State Building Code regulations (plumbing, electrical, structural).
  
- 10. I understand that as a condition of approval for a replacement dwelling under ORS 215.283 (1)(p) in a farm zone, that the landowner (applicant, applicant's spouse or applicant's child) for the new replacement dwelling, must 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 practices for which no action or claim is allowed under ORS 30.938. (Covenant Not to Sue)
  
- 11. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned Exclusive Farm Use (EFU), then, as a condition of approval, I will execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on the EFU portion of the lot or parcel. A release from the deed restriction may occur if the statute regarding replacement dwellings change to allow the lawful siting of another dwelling or there is a zone change. I will deliver a copy of the recorded deed restriction to the Planning Department. (Covenant/Deed Restriction)
  
- 12. If the dwelling to be replaced cannot currently meet the structural standards in Paragraph 4 above (because the dwelling formerly had the structural standards) the new dwelling is subject to the following siting standards:
  - a. the new dwelling must be sited on the same lot or parcel;
  - b. 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
  - c. if possible, for the purpose of minimizing the adverse impacts on a resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

## 2 | Deferred Replacement Dwelling Application (Exclusive Farm Use Zone)

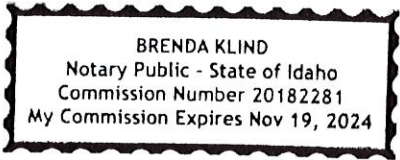
SIGNATURES:

Property Owner(s): [Signature] Date: 3/10/20

Property Owner(s): [Signature] Date: \_\_\_\_\_

STATE OF OREGON  
County of Malheur

Subscribed and sworn to before me this 10 day of March, 2020 by  
Brenda Klind (name)



[Signature]  
Notary Public, State of Oregon ID

My Commission expires: Nov 19, 2024

PLEASE NOTE: Before this application will be processed, you must supply all requested information and forms, and address all listed or referenced criteria. Pursuant to ORS 215.427(2), this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

Map No. 22546E03 Tax Lot: 801 Reference No. 20789

APPROVED:

This application is granted, denied and/or subject to the following conditions:

~~This approval does not authorize construction.~~

[Signature]  
Eric Evans, Planning Director Date 3-16-2020