



Oregon

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TO: County Planning Directors and Interested Persons

FROM: Ronald Eber, Farm and Forest Lands Specialist 

SUBJECT: **Approved 2004-2005 EFU and Forest Reports**

APPROVED FARM AND FOREST REPORTS:

On January 26, 2007, the Land Conservation and Development Commission approved the enclosed report required for submittal to the Legislature by ORS 197.065 analyzing applications for dwellings, non farm and non forest uses and land divisions in farm and forest zones. The purpose of the Farm and Forest Reports is to allow the Legislature, Commission, local officials and interested parties to evaluate how effective Goals 3 and 4 are at protecting agricultural and forestlands. The requirement to prepare the Farm Report was adopted in 1983 and 1989 for the Forest Report.

The statute requires the Commission to submit a report to the Joint Legislative Committee on Land Use before each Legislative session "analyzing applications approved and denied for" certain dwellings, nonfarm and nonforest uses and land divisions in EFU and Forest zones based on the information provided by each county and from other public comments. The report may also contain "such other matters pertaining to protection of agricultural or forest lands as the Commission deems appropriate." (ORS 197.065(1)(d)).

The current Biennial Report includes two separate reports, one for decisions on farm land and one for decisions on forest lands, for the two year period of January 1, 2004 to December 31, 2005. Information for 2006 period is just being submitted and is being readied for analysis.

Draft copies of the Farm and Forest reports were mailed to all of you previously for comment. Corrections were made to the Tables based on the comments received.

Additionally, the Commission directed the department to monitor any approvals for dwellings and other uses in farm and forest zones based on any waivers to the provisions of these zones resulting from the passage of Ballot Measure 37 and approved forms for providing information about these decisions as a regular part of these reports. These new forms are attached. Information about some land use decisions based on Measure 37 waivers approved in 2005 is included in these reports.

The Commission also directed the department to continue to explore cost effective means to map the geographic extent of the approvals of dwellings and non-farm and non-forest uses with Metro, counties and other interested parties. Further, the Commission believes such an effort can provide some very important information on the effectiveness of Oregon's land use program to protect its farm and forest land base that will be crucial to any upcoming review of these programs.

Overall, development approvals for dwellings, uses and land divisions on farm and forest lands during the 2004-05 reporting period continue to reflect the influence of changes to state laws and LCDC rules enacted since 1993.

Attachments:

- A. ORS 197.065
- B. 2004 and 2005 Farm Report
- C. 2004 and 2005 Forest Report
- D. Approved Post M 37 Reporting Forms

197.065 Biennial report analyzing uses of certain land; annual local government reports. (1) Prior to each legislative session, the Land Conservation and Development Commission shall submit to the Joint Legislative Committee on Land Use a written report analyzing applications approved and denied for:

(a) New and replacement dwellings under:

(A) ORS 215.213 (1)(e) and (g), (2)(a) and (b), (3) and (4), 215.283 (1)(e) and (f), 215.284 and 215.705; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(b) Divisions of land under:

(A) ORS 215.263 (2), (4) and (5); and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(c) Dwellings and land divisions approved for marginal lands under:

(A) ORS 215.317 or 215.327; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland; and

(d) Such other matters pertaining to protection of agricultural or forest land as the commission deems appropriate.

(2) The governing body of each county shall provide the Department of Land Conservation and Development with a report of its actions involving those dwellings, land divisions and land designations upon which the commission must report to the Joint Legislative Committee on Land Use under subsection (1) of this section. The department shall establish, after consultation with county governing bodies, an annual reporting period and may establish a schedule for receiving county reports at intervals within the reporting period. The report shall be on a standard form with a standardized explanation adopted by the commission and shall be eligible for grants by the commission. The report shall include the findings for each action except actions involving:

(a) Dwellings authorized by ORS 215.213 (1)(e) or 215.283 (1)(e); or

(b) Land divisions authorized by ORS 215.263 (2) creating parcels as large as or larger than a minimum size established by the commission under ORS 215.780.

(3) The governing body of each county shall, upon request by the department, provide the department with other information necessary to carry out subsection (1) of this section. [1983 c.826 §13; 1985 c.811 §9; 1987 c.555 §4; 1989 c.107 §1; 1993 c.792 §9; 2001 c.704 §9]

New Dwellings Approved in Forest Zones

TYPE OF DWELLING	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	TOTALS (% of Net)
Forest Template ORS 215.750	368	309	252	276	264	277	281	237	218	232	278	275	3267 (72%)
Large Lot ORS 215.740	7	9	36	13	13	16	19	21	15	28	31	16	224 (5%)
Lot-of-Record ORS 215.720	23	68	63	52	78	46	41	47	33	43	55	41	590 (13%)
Temporary Hardship ORS 215.755(2)	58	55	43	45*	40	52	37	35	41	24	19	29	478 (10%)
Net New Dwellings	456	441	394	386	395	391	378	340	307	327	383	361	4559
Replacement ORS 215.755(1)	88	90	106	95	90	85	81	91	93	97	98	114	1128 (20%) of Total
TOTAL DWELLINGS APPROVED IN FOREST ZONES	544	531	500	481	485	476	459	431	400	424	481	475	5687

Prepared by the Department of Land Conservation and Development (DLCD)

Using data submitted by Oregon's 36 counties

Note: For 2001 only, the numbers shown are a 12 month average (16 month total ÷ 16 x 12 = 2001)

The 1997 number is an average for the approvals of temporary hardship dwellings from 1994 to 2002 because the actual number approved in 1997 is not available.

Approved 2004-05 FOREST REPORT

January 1, 2004 through December 31, 2005

Introduction

State law (ORS 197.065) requires the Oregon Land Conservation and Development Commission to submit a report to the Legislature "analyzing applications approved and denied" for certain land uses in exclusive farm use (EFU) and forest zones and "such other matters pertaining to protection of agricultural or forest land as the Commission deems appropriate." Land use decisions compiled in this report were made on land protected by Statewide Planning Goal 4, in either a forest or in a "mixed" agricultural/forest zone where the predominant use of the property was determined to be forest use.

The Department of Land Conservation and Development receives a description of each local decision affecting forest, along with a compilation of all decisions made during the reporting period from each county. This report summarizes the information provided by the counties for the two year period.

Usually the department prepares separate farm and forest land reports for each year. For this biennium, there will be separate farm and forest land reports for the entire two year period. Separate tables for each year are still included as the basis for the combined reports.

Reporting Period

This report includes the land use decisions made between January 1, 2004 and December 31, 2005. This time-frame is referred to in this report as the 2004 or 2005 reporting period. This report contains information on land use decisions involving dwellings, divisions, and other non forest uses approved on land zoned for forest use. The data on which this report is based is contained in Tables A through J. These tables cover dwelling and division decisions, as well as other types of uses

Use of Reported Information

The Department uses the collected information to monitor the type and extent of development occurring on private forest land statewide and in individual counties in order to:

1. Assess the effectiveness of the forest zone to implement Statewide Goal 4; and
2. Focus staff resources to assist counties and the public with the implementation of Statewide Goal 4 where needed.

The Department recognizes that many counties have processes, such as pre-application conferences, which serve to discourage applications that are unlikely to be approved. Such local processes are not specifically addressed in this report. **For this reason, we urge readers to use caution in creating "approval rates" based on the information in this report.**

Relatively few applications for dwellings and land divisions are actually denied. In many cases, early conferences between potential applicants and planners result in a decision by the potential applicant not to apply. Some counties have compared the number of client contacts or "pre-application conferences" with the actual number of approvals and denials. These numbers show there are many more of these initial contacts than actual decisions.

Ballot Measure 37

This report includes a new section for the land use decisions approved in farm zones based on waivers to state and local land use regulations under Ballot Measure 37 (ORS 197.352). All these decisions were made in the 2005 reporting period. These decisions are based on the Goal 4 and forest zone standards for dwellings and land divisions in effect at the time an applicant acquired the property and will be an added feature of this and future reports. A new reporting form was approved by the Commission for use with the 2006 Farm/Forest report.

Oregon's Forestland Protection Program

The conservation of forestland is one of the primary objectives of Oregon's statewide planning program. Oregon has determined that it is the state's interest to protect the land resource foundation of one of its largest industries, forestry.

Oregon's forestlands protection program is based on several elements composed of statutory and administrative rule provisions, the forest lands goal, and LUBA/Court opinions and interpretations. These elements are held together in a program by Statewide Planning Goal 4 "Forest Lands." This goal requires the identification and zoning of forest lands, and requires counties to review certain non forest uses according to statutory forest land and LCDC administrative rule provisions. The LCDC rule (OAR 660, Division 6) and statutory provisions (ORS 215.700 to 215.755) set forth the dwellings and other non forest uses allowed in forest zones. The goal and administrative rule also incorporate the statutory minimum lot sizes and standards for non forest land divisions (ORS 215.263 and 215.780).

Uses in Forest Zones

In Oregon, forestlands are protected from conversion to rural or urban uses and other conflicting non forest uses by the use of forest zones based on statutory and administrative rule provisions. At present, about 8.2 million acres (29.7%) of private land in Oregon are included in forest zones under Statewide Planning Goal 4. An additional 2.2 million acres (7.9%) of private land is

included in mixed farm and forest zones under OAR 660-006-0050. Prior to 1990, the county forest zones were generally similar to those for EFU zones applied to agricultural lands. Based on several court decisions and concerns about the amount of development allowed on the state's productive forest lands, the Commission adopted amendments to Goal 4 (*Forest Lands*) and a new administrative rule (OAR 660, Division 6). The 1993 Legislature (HB 3661) modified some of these rules and directed the Commission to conform Goal 4 and its administrative rule with the new provisions of HB 3661. This bill established the types of dwellings allowed on forestland and established minimum lot sizes for forest zones. In March 1994, the Commission adopted amendments to make their rules consistent with HB 3661.

Dwellings

In forest zones, dwellings are allowed for five (5) different reasons and include lot-of-record dwellings, large-lot dwellings, template dwellings, temporary hardship dwellings, and replacement dwellings. Each of these dwelling types is discussed in this section. The number of approved dwellings in 2004 was 481 and in 2005, 475 as opposed to 424 in 2003.

Overall, there have been no significant changes in the approval rates for the different types of dwellings allowed in Forest zones statewide. In general, the number of yearly approvals for template dwellings has been on a downward trend with the current approvals slightly higher than its respective eleven year average since 1995. The number of yearly approvals for the other types of allowed dwellings have been relatively stable with the current approvals slightly less than its respective eleven year average since 1995. See the "New Dwellings Approved in Forest Zones" chart attached to the cover memorandum.

Lot-of-Record Dwellings

"Lot-of-record" dwellings may be approved on lots that have been in the same ownership since 1985 and have a low capability for growing merchantable tree species. In 2004, 55 were approved and in 2005, 41 were approved. The total approved lot-of-record dwellings in 2003 was 43 (Table A). For both reporting periods, over ninety percent (90%) are on parcels less than 40 acres in size (Table C).

Large-Lot/Ownership Dwellings

Regional approval standards for dwellings on ownerships of different sizes are provided for in western and eastern Oregon by ORS 215.740. In western Oregon, the tract must be larger than 160 contiguous acres or 200 non-contiguous acres. In eastern Oregon, it must be larger than 240 contiguous acres or 320 non-contiguous acres. The approval of large-lot/ownership dwellings in 2004 was 31 and dropped to 16 in 2005 as compared to the 28 approvals in 2003 (Table A).

Template Dwellings

“Template” dwellings may be approved based on the amount of development (dwellings and parcels) within a 160-acre “template” centered on the parcel.

The total number of template dwellings increased again to 278 in 2004 and then dropped slightly to 275 in 2005 compared to the 232 template dwellings approved in 2003 (Table A). The great majority of the dwellings (> 70%) were approved based on the template test for the most productive forest soils.

For the 2004-05 reporting periods, most template dwellings (>85%) were approved on parcels less than 40 acres (Table B).

Adjacent to Public or Private Industrial Forest Lands

A number of parties have expressed concern that state law allows siting of dwellings in locations where they would likely conflict with adjacent forest operations. The Department has reviewed template and lot-of-record dwellings approved to find whether the new home sites are adjacent to public or private industrial timber ownerships (Table D).

Ownership	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05
Private Ind.	23	23	68	70	56	62*	52	50	62	31
Public	21	18	51	74	31	59*	32	43	34	20

Note: * These are the 2001 averages.

The total approved for template and lot-of-record dwellings was 331 dwellings in 2004 and 314 in 2005. Most (71 & 84%) of these dwellings are not adjacent to forest operations.

Replacement Dwellings

A "replacement dwelling" is a new site-built house or manufactured home that replaces an older dwelling on a parcel. The older dwelling must be demolished, converted to a non-residential use, or moved if it is a manufactured home.

The total approved in 2004 was 98 dwellings and increased to 114 in 2005. The overall number of replacement dwellings continues to increase. (Table E). A previous review of these decisions shows that replacement dwellings are overwhelmingly sited on small parcels less than the minimum lot size and likely less than 10 acres in size.

Temporary Hardship Dwellings

A "temporary hardship dwelling" is usually a manufactured home placed on a parcel temporarily for reasons of a specific hardship (usually medical) and must be removed at the end of the hardship. Temporary dwellings now account for 10% of all dwellings approved in forest zones. (Table E). Typically, the hardship dwelling houses an ill or elderly relative of a household member who lives in the main dwelling on the property. The approval of temporary hardship dwellings decreased from 24 to 19 in 2004 and increased to 29 in 2005. (Table E).

Land Divisions

Forest Land Divisions

The number of new forest parcels created in 2004 increased to 60 and decreased back to 50 in 2005. (Table G). However, most of the new parcels created were larger than the statutory 80 acre minimum lot size in ORS 215.780 (Table H).

Non Forest Land Divisions

Non forest land divisions may be authorized for certain types of non forest uses. Non forest land divisions may only include one existing dwelling that was established prior to 1995, with no more than 10 acres, and when the remaining parcel satisfies the minimum parcel size of the zone (ORS 215.780(2)(b)). The 2001 Legislature approved Senate Bill 715 (now ORS 215.780(2)(e)) which allows parcels with multiple dwellings to be divided with one dwelling per new parcel. The number of new non forest parcels created decreased to 13 in 2004 and increased to 21 in 2005. (Table G). However, >77% of the new parcels created were less than 10 acres in size (Table I).

Other Uses

Table J is a summary of the non forest uses approved in 2004 and 2005. No significant changes in approvals has emerged.

Ballot Measure 37

At least two counties approved land uses in Forest zones based on waivers to current land use regulations granted under Ballot Measure 37 (ORS 197.352). These included 3 new dwellings on existing parcels, a seven lot residential subdivision and a personal use airport.

Grant County: A personal use airstrip on 80 acres as permitted in 1978 by ORS 215 (M120534).

Union County:

One dwelling on a 121 acre parcel as permitted in 1972.

Two dwellings on a 38 acre parcel as permitted in 1963.

Seven lot residential subdivision of 236 acres as permitted by 1975 standards for the division of farmland and for farm dwellings under ORS 215 (M118967). County did not apply 1975 standards required under Goal 3 and the state's waiver.

3 additional lots with dwellings have tentatively been approved pending the approval of a comparable state waiver.

Baker, Clackamas, Douglas, Deschutes, Jackson, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Umatilla, Wallowa and Yamhill counties reported not making any decisions in Forest zones in 2005.

