



MALHEUR COUNTY

251 B Street West, #12 Vale, Oregon 97918

Phone (541)473-5185

BRH REZONE/LAND DIVISION APPLICATION PROCESS

ORS 215.700 and MCC Title 1 Chapter 13 allow up to 200 acres of land to be **rezoned** (and divided if necessary) to allow up to 100 rural homesites in the Border Region (Map 1).

- Each proposed homesite must have exactly two acres – to maximize the number of homes constructed.
- Applicants are limited to a maximum of 10 homesites, to allow as many property owners as possible to benefit.
- The county’s ability to rezone property under this statute sunsets in 2030.

Land proposed to be rezoned to BRH (Border Region Housing) must meet objective (mappable) eligibility requirements (Figure 1). In addition, the applicant must show that land proposed for rezoning has not been farmed for the last three years, is not viable for commercial farming, and that placement of a house on the property would not adversely affect accepted farming practices on surrounding lands.

The BRH rezoning/land division application review process has three steps.

STEP 1: BRH Pre-Clearance Review:

The purpose of the pre-clearance review is to make sure that land proposed for rezoning meets preliminary (objective and mappable) standards required by state law. The county has prepared detailed GIS mapping showing land that meets the following preliminary standards: Such land must:

- Be within the Border Region, Zoned EFU/ERU, privately-owned, and within a Rural Fire District.
- Not be within a city urban growth boundary, the 100-year floodplain, or in a designated or restricted groundwater area per ORS 537.730-740.
- Not be mapped as High-Value Farmland or as having Class I - III soils or as having a having Point of Use (irrigation) permit issued by the Oregon Water Resource Department.

Figure 1 shows Border Region land (lighter areas) that meets preliminary and mappable requirements. Staff will also review aerial photographs to determine if land proposed for rezoning is obviously irrigated or farmed.



Figure 1 Areas Potentially Eligible for BRH Rezoning – if meet additional review criteria

If the proposed rezoning area meets the objective standards based on objective GIS mapping and does not appear to have been irrigated/farmed for the last 3 years based on aerial photographs, then the applicant may proceed to Step 2.

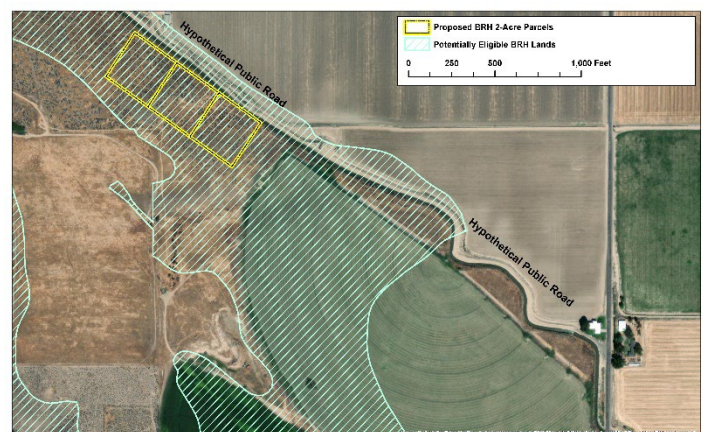


Figure 2 Potentially Eligible Sample Property

Figure 2 shows three potential homesites mapped as potentially preliminarily eligible for rezoning (white hatch marks) that are not obviously farmed or irrigated.

STEP 2: Pre-Application Conference with Staff:

The pre-application conference is designed to ensure that the applicant, working with staff, has enough evidence for the Review Board to approve the application. Thus, substantial evidence is needed to prove that land proposed for BRH rezoning to allow a house):

1. *Has not been employed for farm use in the prior 3 years;*
2. *Is not viable for reasonably obtaining a profit through a farm use; and*
3. *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

Applicant's Responsibilities

To begin addressing these criteria, the applicant should bring the following information to the pre-application conference:

1. A scale drawing showing the location and dimensions of each proposed 2-acre homesite within the eligibility area. The drawing should also show the location of proposed structures on each 2-acre homesite/parcel.
2. A signed affidavit from the property owner stating that the land proposed for rezoning has not been farmed for the last three years.
3. Aerial photographs for last three years showing proposed 2-acre homesites (lots or parcels), remaining land under the same ownership, and all adjacent tax lots (including those directly across a road).
4. A description of how access will be provided to the site from a public road, and how on-site water and sanitation will be provided.
5. Tax assessor records for the last three years showing if the land is subject to farm tax deferral.
6. A written description of current uses on the property and on adjacent properties, focusing on the types of farming activities (crops grown or grazing), and related farming practices that occur on a seasonal basis (for example, tilling, planting, fertilization, weed and pest control, harvesting).
7. A completed form signed by the applicable Rural Fire District identifying fire protection standards specific to your proposal.

County Staff Responsibilities

In addition to providing advice to the applicant, the following information will be provided by Staff:

- Map showing applicant's property in relation to objective (mappable) eligibility standards.
- Maps of potential natural hazards (slopes, landslide hazards, and wildfire hazards).
- A form letter for the applicable irrigation

district(s) (if any) to complete, certifying whether the land proposed for rezoning has an irrigation water right.

- A form letter for the tax assessor to complete stating that the land proposed for rezoning has not been subject to special open space assessment in the last 10 years.
- A hand-out showing information sources to demonstrate how the applicant can show that the three discretionary review criteria are met. If a land division is proposed, the applicant must submit a complete partition or subdivision application materials per MCC Chapter 7.
- A farm and forest non-complaint agreement form for you to sign after rezoning is approved.
- If a land division is proposed, the applicant must submit a complete partition or subdivision application materials per MCC Chapter 7.
- To partially cover county staff research and mapping time, a research fee of \$250 is required.

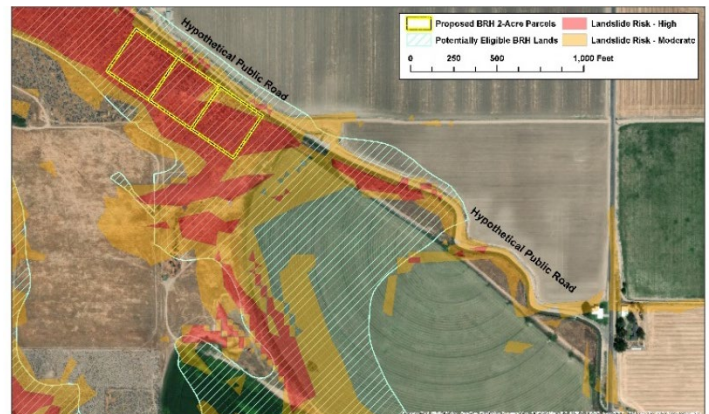


Figure 3 Potentially Eligible Site with High Landslide Risk

STEP 3: Submit Completed Application Forms & Application Fees

To be complete, the rezoning application must provide all application materials identified in Steps 1 and 2, and information identified in the pre-application conference. The \$500 application review fee must be paid.

Once staff determines that the application is complete for review purposes, a public hearing will be scheduled before the Review Board.

- The Review Board will render a final decision on the proposed rezone application, based on information submitted in the public hearing record.
- The Review Board may require conditions of approval be met for the rezone to become effective or before building permits may be issued.
- If a land division is proposed, the county must approve the final plat to determine the precise size of each parcel and the location of rezoning boundaries.