

Section 2. AMENDMENT. DCC Chapter 18.128, Conditional Uses, is amended to read as described in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 3. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 20th day of December 2004.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


MICHAEL M. DALY, Chair


TOM DEWOLF, Commissioner


DENNIS R. LUKE, Commissioner

Date of 1st Reading: 20th day of December 2004.

Date of 2nd Reading: 20th day of December 2004.

Record of Adoption Vote

<u>Commissioner</u>	Yes	No	Abstained	Excused
Michael M. Daly	✓	_____	_____	_____
Tom DeWolf	✓	_____	_____	_____
Dennis R. Luke	✓	_____	_____	_____

Effective date: 20th day of December 2004.

ATTEST:

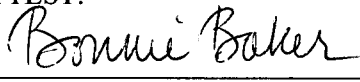

Recording Secretary

EXHIBIT "A"

DCC 18.04.030, Definitions.

* * * *

"Clear vision area" means a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines.

"Cluster development" means a ~~planned development, at least five acres in area,~~ permitting the clustering of single or multi-family residences on ~~one~~ part of the property, with individual lots of not less than two acres in size and not exceeding ~~two~~ three acres in size. ~~Individual lots are contiguous to one another except for occasional corridors to allow for human passage, wildlife travel or natural features such as a stream or bluff.~~ No commercial or industrial uses not allowed by the applicable zoning ordinance are permitted.

"Commercial agricultural enterprise" means farm operations which will:

- A. Contribute in a substantial way to the area's existing agricultural economy; and
- B. Help maintain agricultural processors and established farm markets. When determining whether a farm is part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

* * * *

"Nursing home" means any home, institution or other structure maintained or operated for the nursing or care of 16 or more ill, aged or infirm adults not requiring hospital care or hospital facilities.

"Open space" means lands used for agricultural or forest uses and any land area that would, if preserved and continued in its present use,;

- A. Conserve and enhance natural or scenic resources;
- B. Protect air, streams or water supply;
- C. Promote conservation of soils, wetlands, beaches or marshes;
- D. Conserve landscaped areas such as public or private golf courses, that reduce pollution and enhance the value of adjoining or neighboring property;
- E. Enhance the value to the public of adjoining or neighboring parks, forests, wildlife preserves, nature reservations or other open space;
- F. Enhance recreation opportunities;
- G. Preserve historic, geological and archeological sites;
- H. Promote orderly urban development; and
- I. Minimize conflicts between farm and nonfarm uses.

"Open space buffer" means the open space designated on the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area Parks and Open Space Plan, Figure 17 in DCC 23.36.052, the Deschutes County Comprehensive Plan. The open space buffer provides space between the Neighborhoods and Highway 97, Huntington Road, Burgess Road and the existing subdivision adjacent to the La Pine Neighborhood Planning Area.

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EXHIBIT "A"

(Ord. 2004-024 § 1, 2004; Ord. 2004-001 § 1, 2004; Ord. 2003-028 § 1, 2003; Ord. 2001-048 § 1, 2001; Ord. 2001-044 § 2, 2001; Ord. 2001-037 § 1, 2001; Ord. 2001-033 § 2, 2001; Ord. 97-078 § 5, 1997; Ord. 97-017 § 1, 1997; Ord. 97-003 § 1, 1997; Ord. 96-082 § 1, 1996; Ord. 96-003 § 2, 1996; Ord. 95-077 § 2, 1995; Ord. 95-075 § 1, 1975; Ord. 95-007 § 1, 1995; Ord. 95-001 § 1, 1995; Ord. 94-053 § 1, 1994; Ord. 94-041 §§ 2 and 3, 1994; Ord. 94-038 § 3, 1994; Ord. 94-008 §§ 1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§ 1, 2, and 3, 1994; Ord. 93-043 §§ 1, 1A and 1B, 1993; Ord. 93-038 § 1, 1993; Ord. 93-005 §§ 1 and 2, 1993; Ord. 93-002 §§ 1, 2 and 3, 1993; Ord. 92-066 § 1, 1992; Ord. 92-065 §§ 1 and 2, 1992; Ord. 92-034 § 1, 1992; Ord. 92-025 § 1, 1992; Ord. 92-004 §§ 1 and 2, 1992; Ord. 91-038 §§ 3 and 4, 1991; Ord. 91-020 § 1, 1991; Ord. 91-005 § 1, 1991; Ord. 91-002 § 11, 1991; Ord. 90-014 § 2, 1990; Ord. 89-009 § 2, 1989; Ord. 89-004 § 1, 1989; Ord. 88-050 § 3, 1988; Ord. 88-030 § 3, 1988; Ord. 88-009 § 1, 1988; Ord. 87-015 § 1, 1987; Ord. 86-056 § 2, 1986; Ord. 86-054 § 1, 1986; Ord. 86-032 § 1, 1986; Ord. 86-018 § 1, 1986; Ord. 85-002 § 2, 1985; Ord. 84-023 § 1, 1984; Ord. 83-037 § 2, 1983; Ord. 83-033 § 1, 1983; Ord. 82-013 § 1, 1982)

EXHIBIT "B"

18.128.200. Cluster development (single-family residential uses only).

A. Such uses may be authorized as a conditional use only after consideration of the following factors:

1. Need for residential uses in the immediate area of the proposed development.
2. Environmental, social and economic impacts likely to result from the development, including impacts on public facilities such as schools and roads.
3. Effect of the development on the rural character of the area.
4. Effect of the development on agricultural, forestry, wildlife or other natural resource uses in the area.

B. The conditional use shall not be granted unless the following findings are made:

1. ~~Human activities, including a~~ All development and alterations of the natural landscape, will be limited to 35 percent of the land and at least 65 percent shall be kept in open space uses. The area of development shall be measured by drawing a continuous line around the affected area 150 feet on either side of any lot, building, road or other such facility. In cases where the natural landscape has been altered or destroyed by a prior land use, such as surface mining, dam construction or timber removal, the County may allow reclamation and enhancement of the open space area if enhancement creates or improves wetlands, creates or improves wildlife habitat, restores native vegetation or provides for agricultural or forestry use of the property after reclamation.
2. The area not dedicated to open space or common use may be platted as residential dwelling lots or parcels that are a minimum of two acres and a maximum of three acres in size. Their use shall be restricted to single-family use. Single-family use may include accessory uses and County authorized home occupations. Uses permitted in the open space area may include the management of natural resources, trail systems or other outdoor uses that are consistent with the character of the natural landscape.
3. In the Wildlife Area Combining Zone, in addition to compliance with the WA zone development restrictions, uses and activities must be consistent with the required Wildlife Management Plan. The Plan shall be approved if it proposes all of the following in the required open space area:
 - a. Preserves, protects and enhances wildlife habitat for WA zone protected species as specified in the County Comprehensive Plan (DCC Title 23); and
 - b. Prohibits golf courses, tennis courts, swimming pools, marinas, ski runs or other developed recreational uses of similar intensity. Low intensity recreational uses such as properly located bicycle, equestrian and pedestrian trails, wildlife viewing areas and fitness courses may be permitted; and
 - c. Provides a supplemental, private open space area on home lots by imposing special yard setback of 100 feet on yards adjacent to required open space areas. In this yard, no structures other than fences consistent with DCC 18.88.070 may be constructed. The size of the yard may be reduced during development review if the County finds that, through the review of the wildlife management plan, natural landscape protection or wildlife values will achieve equal or greater protection through the approval of a reduced setback. In granting an adjustment, the County may require that a specific building envelope be shown on the final plat or may impose other conditions that

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- assure the natural resource values relied upon to justify the exception to the special yard requirements will be protected.
- d. Off-road motor vehicle use shall be prohibited in the open space area.
 - e. Adequate corridors on the cluster property to allow for wildlife passage through the development.
- 3 ~~4~~. All lots within the development shall be contiguous to one another except for occasional corridors to allow for human passage, wildlife travel, natural features such as a stream or bluff or development of property divided by a public road which shall not be wider than the average lot width, unless the Planning Director or Hearings Body finds that special circumstances warrant a wider corridor.
4. ~~In the rural zones, the cluster development shall be located on the least productive land.~~
5. All applicable subdivision or partition requirements contained in DCC Title 17, the Subdivision/Partition Ordinance, shall be met.
 6. The total number of units ~~may~~ shall be established by reference to the lot size standards of the applicable zoning district and combining zones exceed the overall density established by the minimum lot size of the zone in which the development is proposed by not more than 33 percent.
 7. The open space of the proposed development ~~shall~~ may be platted as a separate parcel or in common ownership of some or all of the clustered lots or parcels ~~units~~. For any open space or common area provided as a part of the cluster development, the owner shall submit proof of deed restrictions recorded in the County records. The deed restrictions shall preclude all future rights to construct a residential dwelling on the lot, parcel or tract designated as open space or common area for as long as the lot, parcel or tract remains outside an urban growth boundary. The deed shall also assure that the use of the open space shall be continued in the use allowed by the approved cluster development plan. However, the open area shall not be subject to development unless the whole development is brought inside an urban growth boundary. If open space is to be owned by a homeowner's association or if private roads are approved, a homeowner's association must be formed to manage the open space and/or road areas. The bylaws of the association must be recorded prior to or concurrent with the filing of the final plat. If the open space is located within the Wildlife Area Combining Zone, the management plan for the open space must be recorded with the deed restrictions or bylaws of the homeowner's association.
 8. Notwithstanding any provision to the contrary in other parts of the County's land use regulations, Roads within a cluster the development shall meet the requirements of the County Road Department and shall be considered may be private roads and lots or parcels may be created that front on private roads only. These roads must meet the private road standards of DCC Title 17, and are not subject to public road standards under DCC Title 17. An agreement acceptable to the Road Department and County Legal Counsel shall be required for the maintenance of private these roads. Public roads may be required where street continuation standards of DCC Title 17 call for street connections and the County finds that the benefits of street extension are significant and needed in the future, given the established pattern of street development on adjoining properties and transportation distribution needs. The area dedicated for public road rights of way within or adjacent to a

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planned or cluster development or required by the County during cluster development review shall be subtracted from the gross acreage of the cluster development prior to calculating compliance with open space requirements.

~~9. The rural character of the area shall not be adversely affected.~~

~~10. All service connections shall be the minimum length necessary and underground where feasible.~~

10. The number of new dwelling units to be clustered does not exceed 10.

11. The number of new lots or parcels to be created does not exceed 10.

12. The development is not to be served by a new community sewer system or by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

13. The development will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use, and will not significantly increase the cost of accepted farm or forest practices there.

14. All dwellings in a cluster development must be setback a minimum of 100 feet from the boundary line of an adjacent lot zoned Exclusive Farm Use that is receiving special assessment for farm use.

C. All applications shall be accompanied by a plan with the following information:

1. A plat map meeting all the subdivision requirements of DCC Title 17, the Subdivision/Partition Ordinance.

2. A draft of the deed restrictions required by DCC 18.128.200(B)(7). ~~An open space management plan which includes designation of proposed open space on the plat, a written management plan and deed restrictions that retain the open space in perpetuity.~~

3. A written document agreement establishing an acceptable homeowners association assuring the maintenance of common property, if any, in the development. The document shall include a method for the resolution of disputes by the association membership, and shall be included as part of the bylaws.

4. In the WA Combining Zone, the applicant shall submit an evaluation of the property with a Wildlife Management Plan for the open space area, prepared by a wildlife biologist that includes the following:

a. A description of the condition of the property and the current ability of the property to support use of the open space area by wildlife protected by the applicable WA zone during the periods specified in the comprehensive plan; and

b. A description of the protected species and periods of protection identified by the comprehensive plan and the current use of the open space area; and

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c. A management plan that contains prescriptions that will achieve compliance with the wildlife protection guidelines in the comprehensive plan. In overlay zones that are keyed to seasons or particular times of the year, restrictions or protections may vary based on the time of year. The management plan may also propose protections or enhancements of benefit to other types of wildlife that may be considered in weighing use impacts versus plan benefits.

5. Photographs and a narrative description of the natural landscape features of the open space areas of the subject property. If the features are to be removed or developed, the applicant shall explain why removal is appropriate.

6. A description of the forestry or agricultural uses proposed, if any.

D. Dimensional Standards:

1. Setbacks and height limitations shall be as prescribed in the zone in which the development is proposed unless adequate justification for variation is provided the Planning Director or Hearings Body, ~~but in no case shall the setbacks be less than 25 feet or the height greater than 40 feet.~~

2. Minimum area for a cluster development shall be determined by the zone ~~five acres unless otherwise limited by the zone~~ in which it is proposed.

E. Conditions for phased development shall be specified and performance bonds shall be required by the Planning Director or Hearings Body to assure completion of the project as stipulated, if required improvements are not completed prior to platting.

F. ~~Private~~ Ddevelopments with private roads shall provide bicycle and pedestrian facilities that comply with the private road requirements of Title 17. ~~If the bikeways are constructed as a part of the private roadway, they shall be at least four feet wide on each side of the uncurbed roadway, resulting in a minimum total roadway width of 28 feet. If the private roads are constructed to the minimum standard width of 20 feet, separated bike paths built to County standards shall be provided. If separated paths are meant to be shared by pedestrians or other users, the minimum width shall be 12 feet. Bicycle and pedestrian facilities shall connect with the County bicycle and pedestrian transportation systems.~~

G. Bicycle and pedestrian connections shall be provided at the ends of cul-de-sacs, at mid-block, between subdivision plats, etc., in the following situations. Connections shall have a 20-foot right of way, with at least a 10-foot wide useable surface, shall be as straight as possible, and shall not be more than 400 feet long.

1. ~~In residential areas and industrial parks~~ Wwhere the addition of a connection would reduce the walking or cycling distance to an existing or planned transit stop, school, shopping center, or neighborhood park by 400 feet and by at least 50 percent over other available routes.

2. For schools or commercial uses where the addition of a connection would reduce the walking or cycling distance to an existing or planned transit stop, school, shopping center, or neighborhood park by 200 feet or by at least 50 percent over other available routes.

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3. For cul-de-sacs or dead end streets where a street connection is determined by the Hearings Officer or Planning Director to be unfeasible or inappropriate provided that a bicycle or pedestrian connection is not required where the logical extension of the road that terminates in a cul de sac or dead end street to the nearest boundary of the development would not create a direct connection to an area street, sidewalk or bikeway.

The County may approve a cluster development without bicycle or pedestrian connections if connections interfere with wildlife passage through the subdivision, harm wildlife habitat or alter landscape approved for protection in its natural state.

H. A Conditions of Approval Agreement for the cluster development shall be recorded prior to or concurrent with the final plat for the development.

(Ord. 2004-024 § 2, 2004; Ord. 95-075 § 1, 1995; Ord. 93-005 § 11, 1993; Ord. 91-020 § 1, 1991)