



AGENDA

BURNS PLANNING COMMISSION MEETING

Wednesday, April 3, 2024, at 6:00 p.m.

**Burns City Hall
242 S. Broadway
Burns, Oregon 97720**

Chairperson Forrest Keady
Commissioner Jamie Attleberger
Commissioner Bryan Garo

COMMISSIONERS AND CITIZENS ARE WELCOME TO JOIN THE MEETING VIA ZOOM AS WELL AS IN PERSON.

Members of the public and media wishing to address the commission during any public comment period will be able to join the webinar as an “attendee.” Attendees will be able to view the Webinar on a desktop, laptop or mobile device such as a smartphone or iPad by using the following link:

<https://uso2web.zoom.us/j/9020143459> Meeting ID: 902 014 3459

1. Call Meeting to Order
2. Pledge of Allegiance
3. Roll Call
4. Approve Agenda
5. Approve Minutes – January 3, 2024
6. Public Comment



7. Public Hearing –

- 7.1 A proposed legislative amendment to make minor “housekeeping” corrections and additions to the City of Burns Zoning Ordinance, and to allow limited residential development within the Open Space zoning district. Additionally, an amendment of the City of Burns Zoning Map is proposed to update the zoning district labels on the adopted map to match the corresponding zoning districts in the recently adopted Zoning Ordinance. No changes to the existing zoning boundaries are proposed as part of the Zoning Map amendment.

Exhibit A: Zoning Amendment.

Exhibit B: Zoning Map.

Exhibit C: Digital Shapefile of New Zoning Map (See also, Exhibit B).

Exhibit D: City Council Informational Report.

Exhibit E: DLCD Notice & Public Hearing Notice.

8. New Business

9. Old Business

10. Adjourn

The Burns Planning Commission meetings are available via Zoom and in accordance with ORS 192.610 to 192.690, these meetings conform to guidelines set forth on public meeting law. In accordance with the Americans with Disabilities Act, this meeting location is accessible to person with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to City Recorder Tiffany Leffler (541) 573-5255.



BURNS PLANNING COMMISSION

January 3, 2024

The Burns Planning Commission held a meeting on January 3, 2024, at 6:00 p.m. Members present were as follows:

Acting Chairperson – Bryan Garo
Commissioner – Forrest Keady – Via Zoom
Commissioner – Jamie Attleberger - Excused

Also, present were City Manager Judy Erwin, City Land Use Planner Jay Harland via Zoom, and City/Planning Clerk Tiffany Leffler.

Acting Chairperson Garo called meeting to order at 6:00 p.m.

AGENDA

Commissioner Keady moved to approve the agenda as presented. Commissioner Garo seconded the motion. All ayes.

MINUTES

August 7, 2023 -

Commissioner Keady moved to approve the minutes as presented. Commissioner Garo seconded the motion. All ayes.

PUBLIC COMMENTS

There was no public comment.

PUBLIC HEARING

Acting Chairperson Garo opened the public hearing at 6:15 p.m.

LUP Jay Harland gave the admonishment.

Acting Chairperson Garo asked staff to read their report. The report read as such:



PLANNING COMMISSION REPORT

Adoption of New FEMA Flood Insurance Rate Maps & Associated Development Code Amendment Planning File No. LAPF-002-2023

STAFF REPORT

APPLICANT: City of Burns

PLANNING FILE: LAPF-002-2023

NATURE OF APPLICATION: A proposed legislative amendment to adopt new FEMA Flood Insurance Rate Maps (FIRMs) for the City of Burns, and associated amendments to the flood hazard regulations of Section 18.30.325 of the City of Burns Zoning Ordinance.

STAFF ANALYSIS: The Federal Emergency Management Agency (FEMA) has prepared an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Harney County and its incorporated areas. See, Exhibit A. The FIS and related FIRMs revise and update information on the existence and severity of flood hazards within the study area, which includes the City of Burns, and will be used to establish actuarial flood insurance rates and assist communities in their efforts to implement their floodplain management regulations. The updated FIS and FIRMs are slated to take effect on February 8, 2024, and need to be adopted by the City on or before that date in order for the City to remain in compliance with its obligations under the National Flood Insurance Program in which it is a participant. As part of the formal adoption of the updated FIS and FIRMs, an amendment to the Flood Hazard Area regulations in Section 18.30.325 of the Zoning Ordinance is necessary to update the FIS effective date and the FIRM panel numbers that are referenced therein. See, Exhibit B.

I. BACKGROUND INFORMATION

A. Current Flood Hazard Regulations: The City's current flood hazard regulations were drafted in accordance with FEMA and DLCDC guidance and first adopted by the City Council in March of 2022. Those regulations were directly carried over to the new City of Burns Development Code that was adopted on September 27, 2023, and took effect on October 27, 2023.

B. Agency Coordination and Public Notice: Pursuant to State legal requirements and the City of Burns Comprehensive Plan, the proposed amendment to the Zoning Ordinance was provided to the Department of Land Conservation and Development, and the Federal Emergency Management Agency (FEMA) for review and comment. The proposed Zoning Ordinance amendment was also posted to the City's website for 242 S. Broadway Street, Burns, Oregon 97720 | (541) 573-5255 | (541) 573-5622 Fax cityofburnsor.gov public review. At the time this report was prepared, staff had not received any comments from notified agencies or members of the public.



II. APPLICABLE CRITERIA

As a legislative amendment proposal, the Planning Commission is authorized to provide a written recommendation to the City Council which will decide whether to adopt the updated FIS and FIRMs, as well as the proposed Zoning Ordinance amendment.

III. KEY ISSUES & TOPICS FOR CONSIDERATION

The proposed text of the Zoning Ordinance simply changes the effective date of the FEMA Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) that pertain to the City of Burns and are referenced in Subsection 18.30.325.3.B of the Zoning Ordinance. The amendment also includes some additional definitions that pertain specifically to the flood hazard regulations. These definitions, like the others in Section 18.30.325, come from FEMA and DLCD guidance and were inadvertently omitted in the version of the new Zoning Ordinance that the City Council adopted in September.

IV. UPDATED FLOODPLAIN ADMINISTRATION RESOLUTION

Staff has also prepared an updated City Council resolution outlining the duties and responsibilities of the Floodplain Administrator. There are no substantive changes within the proposed resolution update as the modifications are limited to section number references that will match those of the recently adopted new Zoning Ordinance. See, Exhibit C.

V. CONCLUSION

The updated FIS and FIRMs were prepared by FEMA and their adoption is necessary to ensure the City's continued participation in the National Flood Insurance Program. The proposed Zoning Ordinance amendment is also necessary to update the text to reference the effective date for the new FIS and the FIRM panel numbers that are applicable to Burns. Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to adopt the new FIS and FIRMs, as well as the proposed Zoning Ordinance amendment. 242 S. Broadway Street, Burns, Oregon 97720 | (541) 573-5255 | (541) 573-5622 Fax cityofburnsor.gov

VI. EXHIBITS

- A.** Revised Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs)
- B.** Proposed Zoning Ordinance Amendment Text
- C.** Proposed Floodplain Administrator Resolution
- D.** Copies of Required Notice Materials



CITY OF BURNS PLANNING & ZONING DEPARTMENT

By: Jay Harland
Contract City Planner

Date: December 26, 2023

LUP Jay Harland informed the commissioners that his associate, Seth Adams, and himself went over the maps and they could not find one property that was added to the new FEMA Flood Insurance Rate Maps in the entire City of Burns. Houses had only come out, which was very rare, so they did not see any negative impact by this change. He said Staff's recommendation was to hear whatever testimony was given that evening and have the Planning Commission make a favorable recommendation to City Council to adopt the new maps and all the study that goes with them, along with little code changes. He also made the Planning Commission aware that there would be a Resolution that would go along with this that designates the City Manager as the Flood Plain Administrator for the city. The city currently has one in place, but it will be updated to reflect the right citations to the new maps and City Ordinances.

Commissioner Keady asked if there was a map that showed the difference between the old map and the new one so they could compare the changes.

LUP Jay Harland said he didn't believe they provided the changed one yet, but his crew did thoroughly look over the map themselves and could not find any being added only taken out. He informed the commissioners that the new maps could be found on pages 124-127.

City Manager Judy Erwin asked if the new maps would be digital as well as paper or if they would just be paper maps.

LUP Jay Harland said they would be digital as well and available after February 8th on NFIP Map Viewer.

The Planning Commission had no further questions or comments.

Acting Chairperson Garo asked if there was anyone in the public that wanted to speak for or against.

There was no public comment given for or against.



Acting Chairperson Garo closed the Public Hearing at 6:15 p.m.

Commissioner Keady made a motion to forward a favorable recommendation for the new Flood Plain, Study, and associated Code of Resolution be adopted by City Council. Acting Chairperson Garo seconded the motion. All ayes.

NEW BUSINESS

1. **Professional Office Uses in Residential Zones** – Some of the Planning Commissioners and Advisory Committee had previously been concerned with the way the prior code read on professional offices being permitted without limitation in residential areas.

LUP Jay Harland said they had previously discussed maybe changing that in the new code but didn't at the time because it would have taken more time due to the Ballot 56 notices they would have had to send out. He informed them that this notice was set in place so when local governments want to make zoning changes in ways that could potentially take away uses that could devalue someone's property, the property owners would have to be notified beforehand. They wanted to know if the Planning Commission wanted them to start working on changing it or fine tuning it. They could prohibit it all together or put some significant limitations on it. If it is decided to move forward with this, they would then send out the Ballot 56 notices to everyone with properties that will be affected. He said Staff's recommendation was for a code amendment to be initiated to look at this.

Commissioner Keady asked what kind of offices would fit under the professional offices category.

LUP Jay Harland informed him it was offices such as, a dentist office, doctors office, an accounting office, and things such as that. He said there are some codes that, to some scale, allow professional office uses to be mixed into the Residential Zone, but as of now, there is no limitation at all. It hasn't been a real issue yet, but it could potentially be one at some point.

Commissioner Keady wanted to know if they were to move forward with recommending the change, if the offices that are already set up in a Residential Zone would be grandfathered in.

LUP Jay Harland said the new code has pretty good protections of none conforming uses. He also informed the Planning Commission that it was really how they and the council wanted to proceed and if they were restricting it all together or just adding limitations.

Commissioner Keady then asked if this had been an issue for code compliance or anyone else.



City Manager Judy Erwin said to her knowledge it hadn't been, but they could discuss it later and address it if it needs to be addressed.

Commissioner Keady said if City Manager Judy Erwin didn't see an issue with it and it wasn't an issue from a city standpoint currently, then he didn't feel they needed to waste any time or money on it right now.

Acting Chairperson Garo said he agreed with Commissioner Keady on not needing to invest any time or resources on it at this point. He felt it was fine being tabled.

LUP Jay Harland said that was completely fine and asked that the council be notified of the Planning Commissions recommendation and confirm that they agree with it as well.

City Manager Judy Erwin said she would notify the council.

LUP Jay Harland also wanted to make the Planning Commission aware that they will be bringing forward a new Zoning Map. With the new code they didn't change any boundaries, but they did change the labels and simplified the code a little bit. With the current Zoning Map, in a few areas, the letters on the map don't match what's in the Zoning Code, so they will bring forward a new Zoning Map that has corresponding labels that match the map. He said they could address it at the next scheduled meeting.

- 2. New Planning Application Forms** – LUP Jay Harland said Staff had about an 85% draft of the new forms for application that will line up with the new code. This way everything will be very consistent with the new code. The current forms are not very informative, and they are based off the prior code. He let them know there was nothing the Planning Commission really needed to do, but he wanted to make them aware of it. He felt the new forms would be sent to the Staff at City Hall in the next week or two. If City Manager Judy Erwin and City/Planning Clerk Tiffany Leffler are ok with them, then the old ones can be retired, and they can start using the new forms. It will make it easier for people to know exactly what the city needs from them.

Acting Chairperson Garo asked him if someone was in the middle of an application, would that then change the workflow for them or just the wording on the forms.

LUP Jay Harland said if someone has signed, paid, and submitted one of the old applications, it will be processed using the old form as they are. He said if someone was to come in after with one of the old forms and it was a Type 1 or Type 2, they would probably notify them there is a new form but choose to accept the old one. If it was a bigger project like a subdivision or something such as that, the city will want to have them fill out one of the new forms. City Manager Judy Erwin and City/Planning Clerk Tiffany Leffler can decide how



long they want to accept the old forms. He also wanted to mention that he had noticed the new code wasn't up on the City Website, and it is something that needed to be resolved.

City/Planning Clerk Tiffany Leffler said they had informed her they had but she would check into it.

Commissioner Keady asked if there were any projects or developments in the future that would call for a meeting in the first quarter of the year.

LUP Jay Harland said he was previously on a Zoom meeting with the Telos Development, and he suspected they were going to file a Plan Amendment and Zone Change sometime in the next two to three months.

Commissioner Keady asked if there was anything new received from Miller Springs.

LUP Jay Harland said he had not seen any new plans on it. He then notified City Manager Judy Erwin that Miller Springs had received money for the B Steet improvements, and he believed they had come up with a plan for what needs to happen with the B Street project and all the existing lots that will be branched off of that street. He hoped to have something drawn up for her in the next week to week and a half. He said they had done it in a way that all they needed was an agreement from the School District, the County, and the Panoramic Properties.

Commissioner Keady asked if the Telos Development was in the Flood Zone.

City Manager Judy Erwin said she wasn't sure and would have to look at the new maps to give him the correct answer on that.

LUP Jay Harland said yes it was. Even on the new maps he believed there was some that still was, but he said he thinks a lot of it was removed. He also wanted to notify the Planning Commission that Miller Springs did file an Urban Growth Boundary Swap, but he had deemed it incomplete because he needed more information to send to the State on an Urban Growth Boundary Swap. He hadn't seen anything on it since. He did inform that that he was not saying it hadn't been moving forward but he just hadn't heard anything on it since.

Commissioner Keady asked if there were any councilors that may like to be on the Planning Commission.

City Manager Judy Erwin said Chase Patterson had put in a Letter of Interest, and if appointed then she would ask him if he would like to be on the Planning Commission.



Commissioner Keady thought Councilor Hoke would possibly be interested and thought it may be a good idea to check with her on it.

OLD BUSINESS

There was no Old Business.

There was no further discussion.

If needed, the next meeting will be February 7, 2024, at 6:00 p.m.

Commissioner Keady made a motion to adjourn at 6:52 p.m. Acting Chairperson Garo seconded the motion. All ayes.

Tiffany Leffler, City Clerk

Bryan Garo, Acting Chairperson



PLANNING COMMISSION REPORT

Zoning Ordinance & Zoning Map Amendments *Planning File No. LAPF-001-2024* **STAFF REPORT**

APPLICANT: City of Burns

PLANNING FILE: LAPF-001-2024

NATURE OF APPLICATION: A proposed legislative amendment to make minor “housekeeping” corrections and additions to the City of Burns Zoning Ordinance, and to allow limited residential development within the Open Space zoning district. Additionally, an amendment of the City of Burns Zoning Map is proposed to update the zoning district labels on the adopted map to match the corresponding zoning districts in the recently adopted Zoning Ordinance. No changes to the existing zoning boundaries are proposed as part of the Zoning Map amendment.

STAFF ANALYSIS: The proposed Zoning Ordinance “housekeeping” amendments will make minor corrections and additions to the existing code text in order to provide better clarity and improve the accuracy and usability of the overall document. Such “housekeeping” amendments can and ideally should be done on an annual or somewhat regular basis. In this case the City adopted an entirely new Zoning Ordinance at the end of last September. Now that the new code has been used for a few months, staff has identified some minor edits that should be made. Additionally, the new Zoning Ordinance renamed some of the zoning districts. Thus, the City’s adopted Zoning Map also needs to be updated to simply change the various zoning district labels to match the zones used in the new Zoning Ordinance.

Finally, a Zoning Ordinance amendment to allow for limited residential development within the Open Space zoning district is being proposed. This subject was presented to the City Council on March 13, 2024, and staff was directed to prepare draft code text language for consideration.

I. AGENCY COORDINATION AND PUBLIC NOTICE

Pursuant to State legal requirements and the City of Burns Comprehensive Plan, the proposed Zoning Ordinance amendments and Zoning Map amendment were provided to the Department of Land Conservation and Development (DLCD) for review and comment. Public notice for this hearing was published in the newspaper and posted to the City’s website in accordance with requirements in Section 18.20.035 of the Zoning Ordinance. At the time this report was prepared, staff had not received any comments from DLCD or members of the public.

II. APPLICABLE CRITERIA

As a legislative amendment proposal, the Planning Commission is authorized to provide a written recommendation to the City Council. The Council will decide whether to adopt the proposed Zoning Ordinance and Zoning Map amendments.

III. KEY ISSUES & TOPICS FOR CONSIDERATION

The proposed Zoning Ordinance amendments are primarily minor in nature and consist of corrections to the Zoning Ordinance text (e.g., Scrivener's errors), along with some additions that are intended to clarify and improve a few code sections. As the code is applied to more planning applications, it can be expected there will be additional "housekeeping" edits that will need to be made. Future amendments will also be required to address changes in State law that can trigger the need to update the Zoning Ordinance.

As for the proposed Zoning Ordinance amendment to allow for limited residential development within the Open Space (OS) zoning district, staff prepared an informational memo for the City Council which is attached hereto as Exhibit C. After considering the information and discussing the subject, the Council voted to have staff prepare an amendment for consideration by the Planning Commission and ultimately, the City Council. While the proposed amendment is the staff's idea of reasonable standards, the Planning Commission can provide any recommendations it sees fit in terms of adopting, modifying, or denying this or any parts of the proposed Zoning Ordinance amendments.

The proposed Zoning Map amendment is clerical and will simply update the zoning district names and labels on the map to match the new Zoning Ordinance. The amended zoning map will have no effect on the City's current zoning district boundaries or permissible uses within the applicable zone.

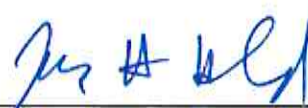
IV. CONCLUSION

The proposed Zoning Ordinance amendment was initiated by the City Council and has been prepared in accordance therewith. Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to adopt the proposed Zoning Ordinance and Zoning Map amendments, including any modifications thereto that the Planning Commission would like the City Council to consider making.

V. EXHIBITS

- A. Proposed Zoning Amendment Text
- B. Proposed Zoning Map Amendment (hard copy)
- C. Digital Shapefile of New Zoning Map
- D. Informational Memo on Residential Uses in the Open Space Zoning District
- E. Copies of Required Notice Materials

CITY OF BURNS PLANNING & ZONING DEPARTMENT



By: Jay Harland
Contract City Planner

Date: March 27, 2024

18.10.055 Non-Conforming Situations

1. Purpose and Applicability. This section provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The section contains three sections, as follows:

- A. Non-conforming uses (e.g., industrial use in residential zone) are subject to subsection 18.10.055.2.
- B. Non-conforming developments (e.g., a structure does not meet setback or height standards) are subject to subsection 18.10.055.3.
- C. Non-conforming lots (e.g., a lot is smaller than minimum area standards) are subject to subsection 18.10.055.34.

| Table 18.20.010 – Summary of Approvals by Type of Review Procedure | | | |
|--|---|---|--|
| Land Use Request* | Review Procedures | Guidance Comments | Regulation References |
| Zoning Checklist Review | Type I | Typical Reviews: utility connection permits, street access permits, plot plans for dwellings on existing lots, site development not subject Site Design Review, PUD Final Plan Review | 18.20.015.2 |
| Legal Lot Determination | Type I | Complicated property history may require discretion | 18.10.050 |
| Similar Use Determination | Noticed Type I or consolidated with Type II – IV applications | Noticed Type I | 18.10.060 |
| Expansion of a Non-conforming Use | Type I or III | Noticed Type I or Type III Conditional Use Permit | 18.10.055.2 |
| Property Line Adjustments, including Lot Consolidations | Type I | May involve lot legality as well | 18.20.160 |
| Land Use Compatibility (LUCS) Statement | Type I | To be provided on the applicable agency forms | 18.20.015.2 |
| Final Plat Review | Type I | Conditions must be met | 18.20.145 |
| Adjustment | Type II | | 18.20.520 |
| Planned Unit Development Detailed Plan Review | Type I or II | Conditions must be met | 18.20.645 18.20.650 |
| Partition or Re-plat of 2-3 lots Preliminary Plat | Type II | | 18.20.120 |

| | | | |
|--|---|---|--|
| Similar-Use Determinations | Noticed Type I or consolidated-with Type II—IV applications | | 18.10.060 |
| Site Design Review | Type II or III | | 18.20.200 |
| Variance | Type III | Cannot Does not qualify as for Adjustment | 18.20.525 |
| Expansion or Alteration of a Non-conforming Development up to 50 Percent | Type III | Conditional Use Permit | 18.10.055.3 18.20.300 |
| Conditional Use Permit | Type III | | 18.20.300 |
| Planned Unit Development Concept Plan | Type III | | 18.20.600 |
| Modification to Approval or Condition of Approval | Type I, II, III or IV | | 18.20.400 |
| Subdivision or Replat of >3 Lots Preliminary Plat | Type III | | 18.20.120 |
| Zoning Map Amendment | Type III or V | | 18.20.710 |
| Annexation | Type IV or V | | Oregon Revised Statute 222 |
| Comprehensive Plan Amendment | Type IV or V | | 18.20.715 |
| Vacation | Type IV | | Oregon Revised Statutes 271.080 to 271.170 |
| Code Text Amendment | Type V | | 18.20.720 |

18.20.170 Property Line Adjustments

A Property Line Adjustment is the modification of a lot or parcel boundary when no lot or parcel is created. The City Planning Official reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 18.20.015. The application submission and approval process for Property Line Adjustments is as follows:

- 1. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant to Section 18.20.015. The application shall include a preliminary lot line map drawn to scale by a land surveyor registered in the State of Oregon and identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures) and their distance from all proposed property lines; the location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service; the location, name, and purpose of all existing and proposed easements; the location and dimensions of driveways and public and private streets within or abutting the subject lots/parcels; the location of lands subject to the City of Burns Flood Hazard Area Overlay; existing fences and walls; a report from a title company prepared within 30 days listing the vested owners, easements, encumbrances, and other matters of record for each property; and any other information deemed necessary by the Planning Official for ensuring compliance with City codes. The application shall be signed by all the owners as appearing on the deeds of the

subject lots.

18.20.200 Site Design Review

18.20.215 Applicability

Site Design Review approval is required for all new development, except for development for which an **exception** exemption is specifically provided for herein. The Planning Official may require Site Design Review for the expansion of a non-conforming use or development during application completeness review. Except as specified by a condition of approval of a prior City decision, or unless subject to Conditional Use Permit approval, a Type II Site Design Review is not required for the following:

18.30.120 Classification of Zoning Districts

Section 18.30 establishes zoning districts, consistent with the City of Burns Comprehensive Plan. Every unit of land (parcel, lot, tract, and right-of-way) within the City of Burns is designated with a zoning district or “zone,” and may also be designated with one or more overlay zones. The use of land is limited to the uses allowed by the applicable zone(s). Zoning designations are as depicted on the City of Burns Zoning Map. The Planning Official maintains official copies of the Zoning Map and Comprehensive Plan. Where a conflict between documents arises, the Comprehensive Plan shall govern.

4. Open Space Districts (OS).

The Open Space (OS) district is to conserve and protect needed and desirable open spaces, livestock activities, wildlife resources, hazard areas, natural areas, renewable energy resource sites, surface water runoff areas, and cultural areas; to enhance the value to the public of neighboring open space; and to promote orderly urban development. Limited residential development is also permitted within the OS district, subject to special standards.

**Table 18.30.130
Uses Allowed by Zoning District**

| USE CATEGORY | SPECIFIC USE | SFR 4 | SFR 7 | MFR | GC | BP | I | OS | USES SUBJECT TO SPECIAL STANDARDS |
|---------------------------|--|----------------|----------------|----------------|----------------|----------------|-------------------------------|--------------------------------|---|
| RESIDENTIAL USES | | | | | | | | | |
| Detached Dwellings | 1 st Site Built Single-Family Dwelling on Individual Parcel | P | P | P | P _s | P _s | P_s X | X P _s | 18.30.240 (GC, BP, OS districts) |
| | Accessory Dwelling Unit | P _s | P _s | P _s | X | X | X | X P _s | 18.30.225 |
| | 1 st Manufactured Dwelling on Individual Parcel | P _s | P _s | P _s | P _s | P _s | P _s | X P _s | 18.30.240 (OS district) 18.30.260 (SFR & MFR districts) 18.30.285 (GC, BP, I districts) |
| | Manufactured Dwelling Park | X | C | P _s | X | X | X | X | 18.30.265 |
| | 2 or More Primary Dwellings (Not ADUs) on one parcel | C | C | P | X | X | X | X P _s | 18.30.240 |
| | Residential Home | P | P | P | P | X | X | X | 18.30.250 |
| Attached Dwellings | Duplex | P | P | P | P _s | X | X | X P _s | 18.30.240 |
| | Tri-plex | X | X | P | P _s | X | X | X | 18.30.240 |
| | Four or more dwelling units | X | X | P | P _s | X | X | X | 18.30.240 |

18.30.135 Similar Use Determinations

This section sets forth the process to make similar use determinations.

18.30.140 Purpose

Table 18.30.130 seeks to classify the universe of potential land uses. However, such a listing and classification will never be complete and some future land uses will end up unclassified. The purpose of this section of the code is to provide a process for the City of Burns to interpret the use table in relation to an unclassified use and make a final land use decision to determine if the use can be considered a permitted, specially permitted, or conditional use within the applicable zone.

18.30.145 Applicability

The requested land use must be distinguishable from uses classified in the use Table in 18.30.130.

18.30.150 Procedure

Requests for similar use determinations shall be based upon a specific use and not a broad category of uses. The request shall be processed under a ~~Type III~~ noticed Type I or higher application and procedure (Type II – IV). The application can also be combined with other applications, ~~but the other lower application types (i.e., Type I I or Type II) shall be elevated to a Type III when a similar use determination is concurrently requested. Similar use determinations can also be processed as a stand-alone Type III application.~~ Solely at Staff's discretion, any noticed Type I or Type II application that includes a similar use determination may be elevated to a Type III application for use determination by the Planning Commission; the applicant shall be notified in writing that the similar use will be elevated to a Type III application during the 30-day completeness review period.

18.30.200 Special Use Standards

The Special Use Standards of the code apply to uses designated with a P_s in the use Table.

18.30.230 Accessory Light Manufacture & Commercial Uses

1. **Purpose.** The following provisions are intended to encourage mixed-use development, including cottage industries and business incubators, by integrating small-scale manufacturing with commercial uses. For the purposes of this section, light manufacture uses are those that blend manufacturing and retail uses such as brewpubs, winery tasting rooms, artist studios, cabinet makers, and similar uses, on the same site.
2. **Applicability.** The following standards apply where manufacturing uses are specially permitted in commercial and business park zones and where retail uses are specially permitted in business park or industrial zones. The standards are applied through Site Design Review or Conditional Use Permit review, as applicable.
3. **Standards.**
 - A. Where a manufacturing or materials processing use is allowed in a commercial or business park zone, it shall be permitted only in conjunction with a primary commercial use and shall not exceed the floor area of the primary commercial use.
 - B. Where a manufacturing use is allowed in a commercial or business park zone, it shall be wholly enclosed in a building, unless unenclosed operations are authorized by a Conditional Use Permit.
 - C. Where a manufacturing use is allowed in a commercial zone or business park zone and the subject site is located within 100 feet of a residential zone, the City may limit the hours of

operation of the commercial or industrial uses to between 7:00 a.m. and 9:00 p.m. where it has identified concerns about noise, parking, or other impacts related to the use.

- D. Where a commercial use is allowed in an industrial zone, it shall be permitted only in conjunction with the primary industrial use and shall not exceed the floor area of the primary industrial use.

18.30.240 Dwellings in Commercial Zones and Open Space Zones.

1. **Purpose.** This section provides standards for residential uses in the GC, ~~and BP,~~ and OS zones.

2. **Standards.**

A. Residential uses in the GC and BP zones shall conform to all the following standards:

~~A.~~ (1) Residential uses may be located anywhere above the ground floor of a structure.

~~B.~~ (2) Ground-floor residential uses may not occupy any portion of the storefront, generally identified as the initial portion of the side(s) of a building fronting a street, except the ground-floor entrances or breezeways may be located on a street frontage to provide access to dwelling units.

~~C.~~ (3) Ground-floor residential uses are also limited to occupying no more than 20 percent of the area of the ground floor.

B. Residential uses in the OS zone shall conform to the all the following standards:

(1) The maximum density of dwelling units, including Accessory Dwelling units (ADUs), shall not exceed four dwelling units per 10 acres.

(2) Accessory Dwelling units shall also comply with the floor area, building design, building height, and parking standards in Section 18.30.225.

(3) Manufactured homes shall comply with the design standards in Section 18.30.260.

(4) To help ensure the character of the OS zone is maintained, all dwellings on a single parcel must be located within a rectangular area not to exceed three acres.

**Table 18.50.100.3
Lot and Development Standards for Residential Zones**

| <i>All standards are minimums unless noted as otherwise</i> | Residential Zones | | |
|---|---|--|---|
| | SFR-4 | SFR-7 | MFR |
| Lot Area | 7,500 sq. ft. | 4,800 sq. ft. | (1) 20,000 sq. ft. minimum lot area for land division without consolidated land use application review for multi-family development. (2) No minimum lot area for multi-family lots consolidated with land use application for multi-family development that complies with all other applicable multi-family development standards. |
| Lot Width | 55 ft. | 45 ft. | 40 ft. |
| Lot Depth | 80 ft. | 80 ft. | 80 ft. |
| Lot Frontage | 30 ft., except 20 ft. for flag lots | 30 ft., except 20 ft. for flag lots | 30 ft. |
| Maximum Lot Coverage | n/a | n/a | No more than 40% occupied by building footprint for conditioned habitable spaces. |
| Maximum Building Height | 35 ft. | 35 ft. | 35 ft. |
| Setbacks* | | | |
| Front Yard | 20 ft. | 20 ft. | 20 ft. |
| Side Yard | 5 ft. | 5 ft. | 10 ft. |
| Street Side Yard** | 15 ft. | 15 ft. | 15 ft. |
| Rear Yard | 5 ft. | 5 ft. | 10 ft. |
| * <i>Vision clearance areas shall be provided in accordance with subsection 18.50.220.6</i> | | | |
| ** <i>Except for any structures on a street side yard that are used for vehicle maneuvering or parking, in which case the minimum setback for said structures shall be 20 feet.</i> | | | |



ZONING MAP

Zoning Districts

SFR-4

MFR

GC

BP

I

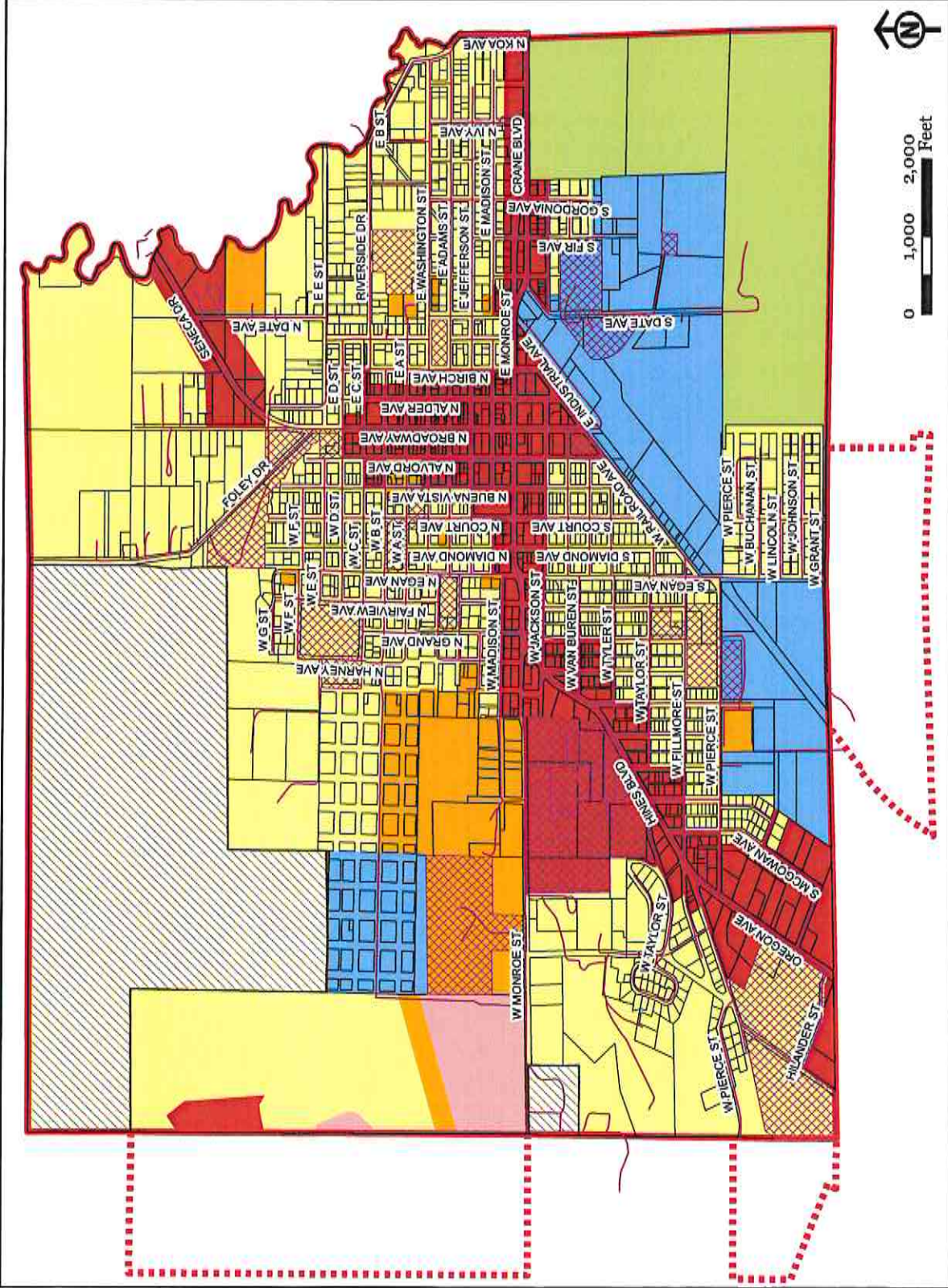
OS

IT

PF Overlay

City Limits

UGB



0 1,000 2,000 Feet

Jerry Woodfin, Mayor

Ord. No. _____

APRIL 2024

EXHIBIT C
DIGITAL SHAPEFILE
OF
NEW ZONING MAP

SEE ALSO, EXHIBIT B



CITY COUNCIL INFORMATIONAL REPORT

Residential Uses in the Open Space Zoning District

NATURE OF PROPOSAL: A legislative amendment to the City of Burns Zoning Ordinance to allow for limited residential development within the Open Space zoning district.

OPEN SPACE ZONING DISTRICT: Section 18.30.120.4 of the Zoning Ordinance defines the purpose of the Open Space zoning district as follows, and which was directly carried over from the previous zoning ordinance:

The Open Space (OS) district is to conserve and protect needed and desirable open spaces, livestock activities, wildlife resources, hazard areas, natural areas, renewable energy resource sites, surface water runoff areas, and cultural areas; to enhance the value to the public of neighboring open space; and to promote orderly urban development.

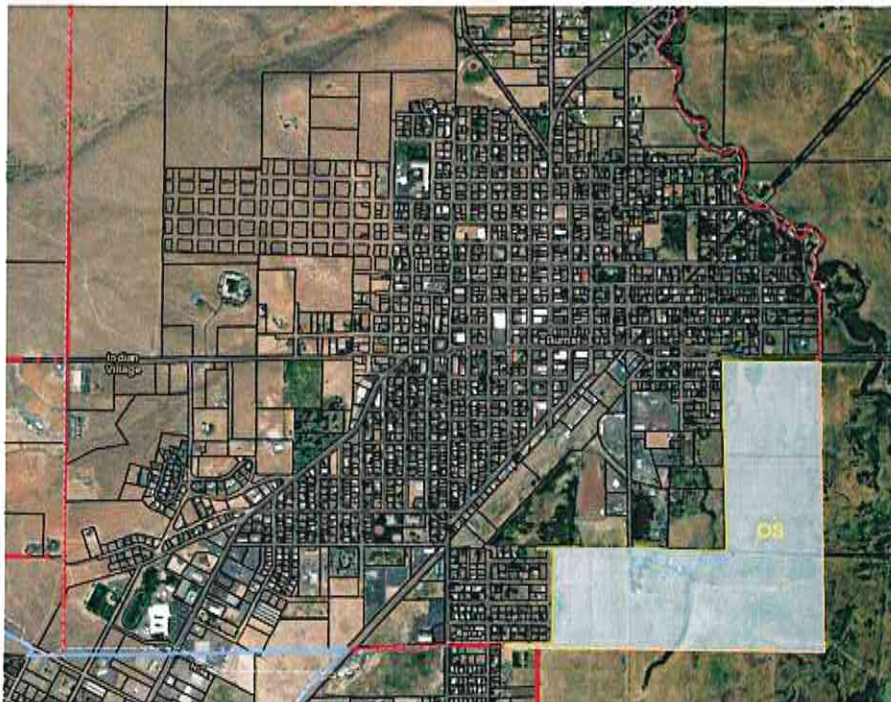
The types of uses permitted in the Open Space zone were also carried over from the previous zoning ordinance, although the permitted uses table in the new code does provide a more detailed list of use types that would fall under the broader umbrella of use categories that were listed in the prior zoning ordinance. Those prior use categories were the following:

- A. *Farm uses, as defined by ORS 215.203(2).*
- B. *Wildlife management practices, as may be recommended by the Oregon Department of Fish & Wildlife.*
- C. *Cultural resource management practices, as may be conducted by the Burns Paiute Indian Tribe and the U.S. Bureau of Indian Affairs.*
- D. *Public facilities and services.*
- E. *Commercial utility facilities for the purpose of generating power or heat for public use by sale.*

In addition to specifically listing the various uses that are permitted in the Open Space district, the new code also reduced the Open Space minimum lot area for new parcels to 10 acres whereas the prior code required a minimum of 40 acres. Through the code adoption hearings process, which included feedback from the code advisory committee, it was decided that the old 40 acre standard was simply too large and prohibitive.



OPEN SPACE WITHIN CITY LIMITS: At present there are three properties zoned Open Space within the City of Burns incorporated limits. These three properties are contiguous and located at the southeastern most corner of the city as shown on the below map.



The combined area of these three properties is approximately 192 acres, with the two northern properties (comprising ~80 acres) being owned by Donald Doverspike, et al, and the southern property (~112 acres) being owned by Clemens Land & Livestock, LLC. All three properties appear to be actively engaged in farming practices. There is no existing development on the Doverspike properties, and the Clemens property is presently developed with two dwellings and multiple farm buildings/structures. The two dwellings are a 2,026 square foot main dwelling constructed circa 1924, and an 891 square foot “bunkhouse” constructed circa 1915. From historic photos it appears there may have also been a third residential dwelling structure on the Clemens property that was removed within the last few years (the precise or approximate date of demolition is unknown to staff at this time).

The current city limits contain roughly 2,300 acres, which equates to the three Open Space zoned properties comprising approximately 8 percent of the city’s total land area. Residential uses are not permitted within the Open Space district; however, existing non-conforming residential uses are allowed to remain just as non-conforming uses in other zoning districts are allowed to remain subject to the non-conforming uses and development regulations of the Zoning Ordinance.



ISSUES AT HAND & PROPOSED AMENDMENT: Residential dwellings and accessory dwellings are permitted within the County's Exclusive Farm Use (EFU) zone, subject to certain criteria; however, new dwellings are not permitted within the City's Open Space zone, so whereas the three farm properties described above could potentially obtain approval for initial or additional farm dwellings if they were located in unincorporated Harney County, that is not an option under the City's Open Space zoning regulations.

Given the fact that all three OS zoned properties are privately held and in active farming use, the City Council may want to consider amending the Open Space zoning district regulations to allow for a limited level of residential development on OS zoned lands. If the City Council considers initiating this amendment, CSA would recommend a density standard not to exceed four dwelling units per ten acres inclusive of any accessory dwelling units (ADUs) and have a standard that requires all dwellings be located within a rectangular area that does not exceed three acres. This would ensure the open space character is maintained.

CITY OF BURNS PLANNING & ZONING DEPARTMENT

A handwritten signature in blue ink, appearing to read "Jay Harland", is written over a horizontal line.

By: Jay Harland
Contract City Planner

Date: March 11, 2024



Submitted On-line/Sent To DLCD: 02/28/2024

Local File #: LPAF-001-2024

1st Hearing: 04/03/2024 Days Difference: 35

Final Hearing: Days Difference:

Proposal Type:

- Comprehensive Plan Map Change
- Zoning Map Change
- Comprehensive Plan Map & Zoning Map Change
- Comprehensive Plan Text Change
- Land Use Regulation Change
- UGB using Simplified Method (div 38)
- UGB amendment by city with population less than 2,500 within UGB (div24)
- UGB amendment of 50 acres or less by a city with population 2,500 or more within UGB (div 24)
- UGB amendment adding more than 50 acres by city with population 2,500 or more within UGB (div 24)
- UGB amendment that adds more than 100 acres by Metro (div 24)
- Urban Reserve designation by Metro or a city with population 2,500 or more within UGB
- Urban Reserve amendment to add over 50 acres by a city with population 2,500 or more within UGB
- Urban Reserve designation or amendment by a city with population less than 2,500 within UGB
- Urban Reserve amendment by Metro
- Urban Reserve Other
- Annexation
- Other
- Periodic Review Task

Summary of Proposed Change: Zoning Ordinance amendment for "housekeeping" edits and additions to make code more accurate and user friendly. Consideration of amendment to allow limited residential development within the Open Space zoning district, and a Zoning Map amendment to update zoning district labels to match the corresponding zoning district nomenclature in the recently adopted Zoning Ordinance. No changes to any zoning district boundaries are proposed.

An exception to a statewide planning goal is proposed: No

Goals Subject to Exception:

Total Acres: 0.00

Locations:

Contacts:

Jay Harland

Documents:

| Uploaded | Document Name |
|------------|--|
| 02/28/2024 | Proposal_Code_Zoning_Map_Amendments_PC_Notice_04-03-2024_2024-02-28_08-41-10.pdf |
| 03/05/2024 | Revision_Burns_2024_Housekeeping_Amendments_2024-03-05_08-47-58.pdf |

**PUBLIC HEARING NOTICE
BURNS PLANNING COMMISSION
CITY OF BURNS**

YOU ARE HEREBY NOTIFIED that a public hearing will be held before the City of Burns Planning Commission in the Burns City Hall in Burns, Harney County, Oregon, on the 3rd day of April, 2024, at the hour of 6:00 o'clock P.M., to consider a legislative amendment to the City of Burns Zoning Ordinance, and to amend the City of Burns Zoning Map.

The proposed Zoning Ordinance amendment consists of administrative "housekeeping" corrections and additions to make the adopted code text more accurate and user-friendly. A Zoning Ordinance amendment to allow limited residential development within the Open Space zoning district will also be considered. The proposed Zoning Map amendment would be an administrative update of the zoning district labels on the adopted map to match the corresponding zoning districts in the recently adopted Zoning Ordinance. No changes to the existing zoning district boundaries are proposed. The Planning Commission will consider the proposed Zoning Ordinance and Zoning Map amendments and forward a recommendation to the City Council for consideration at a public hearing on a future date.

The applicable approval criteria are located in Section 18.20.720 of the City of Burns Zoning Ordinance, and in the Statewide Planning Goals.

Testimony may be submitted orally or in writing. If testimony is written, it shall be submitted at least two (2) days prior to the hearing. Failure to raise a specific issue at this hearing precludes appeal to the Land Use Board of Appeals (LUBA) based on this issue. Failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue.

If a Staff Report has been prepared, a copy may be available for inspection at no cost at least seven (7) days prior to the hearing. If you have further questions, you may contact City Clerk Tiffany Leffler, at Burns City Hall. (541) 573-5255.

HEARINGS PROCEDURE

Scope

Conduct of all public hearings on application by the Commission or the Council shall be governed by procedural rules. Every person entitled to notice of hearing shall be entitled to be heard in accordance with the rules as established in the Zoning Ordinance. These rules shall be interpreted to promote justice. Technical violations which do not affect substantial rights of parties or of the public shall not interfere with the hearing of an application.

General Conduct of Hearing

Each person appearing before the Commission or Council shall give their name and address in an audible tone of voice for the record. Persons may be required to be sworn prior to speaking. No person shall speak more than once without obtaining permission from the presiding officer. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing. The Commission or Council may set reasonable time limits for all presentations, and may exclude or limit cumulative, repetitious, or immaterial matters.

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**Date Posted:
March 14, 2024**

**Publish March 20,
2024**