



CITY OF LA PINE, OREGON PLANNING COMMISSION

Wednesday, May 17, 2023 at 5:30 PM

La Pine City Hall: 16345 Sixth Street, La Pine, Oregon 97739

Online access via Zoom: <https://us02web.zoom.us/j/87127381359>

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY.

AGENDA

CALL TO ORDER

ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

ADDED AGENDA ITEMS

Any matters added at this time will be discussed during the “Other Matter” portion of this agenda.

APPROVAL OF PRIOR MEETING MINUTES

- 1. 04.11.23 Planning Commission Meeting Minutes.....3.

OLD BUSINESS

- 1. None

PUBLIC HEARING

All public hearings will follow the following procedure:

- A. Open Public Hearing
- B. Staff Report / Applicant testimony
- C. Open Public Testimony
- D. Close Hearing

- 1. 01TA-23 City initiated Text Amendment
 - a. Hearing
 - i. Hearing Script.....6.
 - b. Application Documents
 - i. Text Amendment Application.....10.
 - ii. Burden of Proof / Staff Report.....14.

CLOSE OF PUBLIC HEARING 1.

NEW BUSINESS

1. Deliberations on 01TA-2023

OTHER MATTERS

Only Items that were previously added above in the Added Agenda Items will be discussed.

PUBLIC COMMENTS

STAFF AND COMMITTEE COMMENTS

ADJOURN

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission - Canceled to consider or discuss additional subjects. This meeting is subject to cancellation without notice. The regular meeting is open to the public and interested citizens are invited to attend.



CITY OF LA PINE, OREGON
PLANNING COMMISSION SPECIAL MEETING

Tuesday, April 11, 2023, at 5:30 PM

La Pine City Hall: 16345 Sixth Street, La Pine, Oregon 97739

Online access via Zoom: <https://us02web.zoom.us/j/88916752256>

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY.

AGENDA

CALL TO ORDER

Chair Hatler opened the meeting at 5:25 p.m.

ESTABLISH QUORUM

Commissioners:

Chair Hatler

Commissioner Hatfield

Commissioner Myers

Commissioner Bauman

Commissioner Cameron

Staff Members:

Geoff Wullschlager, City Manager

Amanda Metcalf, Administrative Assistant

PLEDGE OF ALLEGIANCE

Chair Hatler led the Pledge of Allegiance

ADDED AGENDA ITEMS

Any matters added at this time will be discussed during the "Other Matter" portion of this agenda.

There were no added Agenda Items

APPROVAL OF PRIOR MEETING MINUTES

1. 03.15.2023 Planning Commission Meeting Minutes

Motion made by Commissioner Meyers to approve the minutes. *Seconded by Commissioner Hatfield.*
 Motion approved unanimously.

PUBLIC HEARINGS:

None

OLD BUSINESS:

None

NEW BUSINESS

1. Request for initiation of Code Amendment Process

Mr. Wullschlager went over the associated Staff Report.

City staff presented to the Agency a proposed text amendment. The purpose of this proposal is to provide clear guidance on the Minor Variance procedure and applicable criteria under Sec. 15.320.010 B., and as associated, Sec. 15.320.040, in the La Pine Development Code.

Mr. Wullschlager discussed the amended minor variance process. If approved the following procedures will be implemented:

1. 35 Day Post-acknowledgement plan amendment (PAPA) notice to the State of Oregon Department of Land Conservation and Development.
2. Applicable public notice made of the proposed amendment and hearing date of the first public hearing on May 17th, 2023, in which public testimony will be received.
3. If approved by the Planning Commission after testimony is received, applicable public notice will be made of the proposed amendment and hearing date of the second public hearing to be held by the City Council at the June 21st, meeting in which public testimony will be received in addition to the Planning Commission’s recommendation.
4. If the Council approves, the text amendment will be passed by Ordinance at one or more City Council meetings, initiated on June 21st, 2023.

Commissioner Myers made a motion to Initiate an amendment to the La Pine Development Code Sec. 15.320.010 B., without prejudice towards the outcome. Commissioner Bauman seconded. Roll Call vote as follows:

Chair Hatler-Aye

Commissioner Hatfield-Aye

Commissioner Myers-Aye

Commissioner Bauman-Aye

Commissioner Cameron-Aye

A unanimous voting of the Planning Commission approves the initiation of an amendment to the La Pine Development Code Sec. 15.320.010 B., without prejudice towards the outcome.

OTHER MATTERS

Only Items that were previously added above in the Added Agenda Items will be discussed.

None

PUBLIC COMMENTS

None

STAFF AND COMMITTEE COMMENTS

None

ADJOURN

Chair Hatler closed the meeting at 5:40 p.m.

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission to consider or discuss additional subjects. This meeting is subject to cancellation without notice. The regular meeting is open to the public and interested citizens are invited to attend.

Date: _____

Bea Hatler, Chair

ATTEST:

Date: _____

Geoff Wullschlager, City Manager



PLANNING COMMISSION MEETING AND PUBLIC HEARING SCRIPT FOR HEARINGS

Wednesday May 17– 5:30 p.m.

La Pine City Hall

16345 6th Street, La Pine OR, 97739

I. **CALL TO ORDER** Commission Chair should call the meeting to order. Please note the time for the record.

II. **(FOLLOW LEAD FROM REGULAR AGENA UNTIL “PUBLIC HEARING SECTION”**

III. **PUBLIC HEARING OF AN APPLICATION FOR 01TA-23** The chair should start by opening the public hearing and saying following:

“This is a legislative public hearing of the La Pine Planning Commission to consider an application for a text amendment to the La Pine City Code. The decision that will be made here tonight is going to be whether or not the Planning Commission should approve the requested text amendment.

*“A copy of the staff report describing the proposed use has been available to the public since **Wednesday, May 10, 2023**, and City staff has been available for questions and comments regarding the proposed use since DLCD was noticed on April 12, 2023. Notice of the hearing tonight has been provided to the public through publication in the **Bend Bulletin** on **May 7, 2023**, and through public posting at various locations in town on **May 10**, 2021.*

*“This hearing is an opportunity for the public to comment on the proposed text amendments. I would like to ask those present if there is any objection to the jurisdiction of this commission or any of its members? This question is specific to the authority of the La Pine City Planning Commission in approving or denying a request for a **text amendment** within the City of La Pine.”*

Wait to see if there is a response. If there is, advise the person making the response that they have to address the question that was just asked. If they get off topic, stop the comments, and ask the question again. There can’t be any confusion about what the issue is, so ensure that any public present understands what is being asked. If someone raises a point, staff will try and address it. The rest of these notes assume that there isn’t a legitimate objection to the jurisdiction of the commission.

“Hearing no objections to the jurisdiction of this commission, I would like to ask if any member of this commission has any conflict of interest or bias regarding the matter before the commission tonight.”

There shouldn't be any issue, but if you have any questions about what you think is a conflict of interest or a bias, now is the time to ask. If any member of the commission has spoken to the applicant or a member of the public about the application, you should mention that and summarize the conversation. You don't need to recuse yourself for conversations about the application, but you should mention them before proceeding. Depending on what is stated, we'll proceed with the public hearing. I don't think there will be any issues, so the next statements assume that the commission will be able to make a decision tonight.

*"At this time, I'll have the City Manager, summarize the City's application and staff report (**PAGES 14.-25.**) .*

The City Manager will go through the report, and make any other comments on the application relevant to the commission's consideration. if there are any questions, please ask so we can address them during the hearing. I will also relay any correspondence, or written testimony received. Once we are done the Chair should ask if there are any other questions of the commission before proceeding.

"At this time, I'll have the City Manager relay and correspondence and written testimony or inquiry received to date since the notice of the public hearing on May 7, 2023."

I will relay any correspondence, or written testimony received. Once we're done the Chair should ask if there are any other questions of the commission before proceeding.

"The decision that will be made tonight is whether or not the Planning Commission will approve the submitted text amendment. The decision to approve or deny the use will be adopted through a final order that staff will prepare after the meeting tonight (If there is no continuance requested by a party to the hearing or the Planning Commission itself). Any appeal to the decision made here tonight must be submitted to the City Recorder within ten days of the date that the final order is signed. Once staff has prepared the final order and I have signed it, the applicant will be notified along with anyone else that requests or is required to be notified. Notification will be provided within five days of the date that the order is signed. Are there any questions about this process?"

You may receive questions at this point. You may let staff address any of these questions.

PUBLIC COMMENT - *"The Planning Commission will now call for public testimony. The City Administration also called for participants to submit written testimony in the public notice as posted on May 7, 2023, if they could not participate this evening. First, we will hear from Proponents, then Opponents, then people neither in support nor in opposition to the application.*

If there are any comments on the proposed amendment, please keep those comments brief and to the point. If there is an objection to a proposed amendment, the objection needs to address relevant facts or information from the City's municipal code, the City's comprehensive plan, the Planner's staff report or relevant State law. Any material produced in relation to, support or opposition of, the proposed amendment must be submitted to the Recorder to be included in the record. Failure to address a pertinent criterion at this hearing will preclude an appeal based on that criterion. Any party may request that the record for this hearing be held open for at least seven days; however, this request must be made prior to the close of this hearing and is subject to the requirements of ORS 227.178 which requires the governing body of a city or its designee to take final action on an application for a permit, including

resolution of all appeals within 120 days after the application is deemed complete. The City received and deemed the application complete on **April 12, 2023**.

Comments are limited to three minutes. Persons wishing to speak must first be recognized by the chair and the meeting administrator and must state their name and address. If you are representing another person or entity, please state who that is and what your connection to that person or entity is.

I will be calling for public comment in following fashion:

1. *Proponents or supporters of the application*
2. *Opponents or those who do not support the application*
3. *Neutral parties neither in support or opposition of the application”*

I'll hand the sign-in sheet (if we are conducting an in-person meeting or will recognize participants that elect to be recognized by virtual means) to the chair and he/she can begin going through the names. I will keep a list as well to ensure that we follow the order of testimony correctly. You'll want to take proponents comments first, opponents second and neutral testimony last.

The City gets three minutes to respond to each opponent. Once someone starts talking, you'll want to make sure they don't get interrupted. If a person has a specific objection to the proposed use, they need to make that objection at this time.

“I will take any Proponents' testimony first.”

Please re-indicate that it is important for those wishing to speak, to only identify themselves if they are proponents at this time.

“I will now take any Opponents testimony. Please keep in mind that the City gets three minutes to respond to each opponent.”

Let anyone who has been identified by the meeting administrator in opposition to the application make public comment at this time. Please follow the standards as described above in the proponent's category.

“I will now take any Neutral testimony.”

Let anyone who has been identified by the meeting administrator as neutral to the application make public comment at this time. Please follow the standards as described above in the proponent's category.

“Are there any questions from the commission about comments received at this time?”

This gives the commissioners a chance to clarify anything they have heard. Since we are still in the public hearing, I would suggest that the commission stay on topic with what has been said during the public comment.

“Is there a request to keep the record open?”

If such a request is made, the commission needs to leave the record open for at least seven days. If this happens, the chair should set a date to reconvene, and the hearing will be concluded at that time. There are no special noticing requirements for reconvening.

“This public hearing of the planning commission will re-convene on XXXX,XX, 2023.”

Make sure no deliberation or decisions by the Commission are made while in the public hearing. This needs to take place during the regular session of the Planning Commission, under business, once the regular meeting is reconvened.

Once this is done the commission chair can close the public hearing. Please state the time for the record.

“I know close this public hearing at XX:XX and will open the regular meeting of the La Pine Planning Commission at XX:XX.”

Enter into new business in the regular meeting as indicated on the agenda.



Community Development Department
PO Box 2460 16345 Sixth Street
La Pine, Oregon 97739
Phone: (541) 536-1432 Fax: (541) 536-1462
Email: info@lapineoregon.gov

Text Amendment Application

Development Code Text Amendment Fee \$ 500.00

Zoning Map Amendment Fee \$ _____

File Number # 01TA-23

Applicant Name City of La Pine / Attn: Geoff Wullschlager Phone 541-536-1432 Fax _____
 Address PO Box 2460 City La Pine State OR Zip Code 97739
 Email gwullschlager@lapineoregon.gov
 Property Owner N/A Phone _____ Fax _____
 Address _____ City _____ State _____ Zip Code _____
 Email (optional) _____

ZONE CHANGE DESCRIPTION

Property Location (address, intersection of cross street, general area)

The City of La Pine has proposed legislative text amendments to the City of La Pine Development Code. The proposal is to clarify the application of La Pine Development Code Article 8., Chapter 15.320., Section 15.320.010 B. – Minor Variance, to Article 8., Chapter 15.320., Section 15.320.040. Further details can be found in the City's Burden of Proof / Staff Report Document



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Assessors Parcel Number T-15, R-13, Section _____ Tax Lot(s) _____
 Present Zoning _____ Total Land Area _____ (Square Ft.) _____ (acres)
 Present Land Use _____ **Not applicable** _____
 Proposed Zoning _____ Total Land Area _____ (Square Ft.) _____ (acres)

Attach a statement explaining evidence you plan to present to the Planning Commission to enable them to make a decision (See Attached). Applications will not be accepted without a detailed preliminary site plan drawn to scale. I understand that false statements made on this application may cause subsequent approval to be NULL AND VOID.

FOR OFFICE USE ONLY

Received By: AKI 4-12-2023
 Amendment Fee Paid: NA - City initiated
 Receipt #: _____

AMENDMENTS

Authorization to Initiate Amendments. An amendment to the text of these standards, or to a zoning or plan map may be initiated by either City Council or the Planning Commission. A property owner may initiate a request for a map or text amendment by filing an application with the City using the form(s) prescribed.



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Zone/Plan Map Amendments. The City shall, within 45 days after filing of a petition by a property owner for a zone change/plan amendment hold a public hearing in accordance with the provisions of the procedures. Prior to the hearing the City shall refer the proposed amendment to the Planning Commission for their review and a recommendation; the recommendation of the Commission shall be made a part of the record at the hearing.

Justifying the zone change or plan amendment. The burden of proof is upon the applicant to show how the proposed zone change or plan amendment is:

- (1) In conformity with all applicable State statutes
- (2) In conformity with the State-wide planning goals where applicable
- (3) In conformity with the Comprehensive Plan, land use requirements and policies;
- (4) Needed due to a change of circumstances or a mistake in the original zoning .

Tentative Approval. Based on the facts presented at the hearing and the recommendation of the Planning Commission, if the City determines that the applicant has met all applicable criteria for the proposed change, the City shall give tentative approval of the proposed change. Such approval shall include any conditions, stipulations or limitations which the City determines to be necessary to meet the criteria. An appeal of the City's decision shall be effected in the manner provided for in the standards. Upon completion of hearings process, the council shall, by order, effect the zone reclassification of the property. Provided, however, if the applicant fails to abide by the conditions attached to the rezoning the Council may, at a later date, rezone the affected property to its original zoning by order.

Public Hearing on Amendments. If a map change is initiated by the Planning Commission or

**CITY OF LA PINE PLANNING DIVISION
Staff Report to Planning Commission**

FILE NO. 01TA-2023

CASE FILE: 01TA-2023

APPLICANT: City of La Pine

HEARING DATES: May 17, 5:30 pm, Planning Commission

REQUEST: Text Amendment to Article 8. Applications And Reviews, Chapter 15.320, including Section 15.320.010 B. – Minor Variance.

STAFF CONTACT: Geoff Wullschlager, City Manager, (541) 536-1432

I. INTRODUCTION

The City of La Pine has proposed legislative text amendments to the City of La Pine Development Code. The proposal is to clarify the application of La Pine Development Code Article 8., Chapter 15.320., Section 15.320.010 B. – Minor Variance, to Article 8., Chapter 15.320., Section 15.320.040 - Approval Criteria (except for riparian variances). The proposed amendments are listed in Exhibit A.

II. APPLICABLE CRITERIA

City of La Pine Development Code

- Article 7 - Procedures – Chapter 15.204.040 Type IV (Legislative Decisions)
- Article 8 – Applications and Reviews – Chapter 15.334 – Text and Map Amendments

City of La Pine Comprehensive Plan

- a. 660-015, Oregon Statewide Planning Goals

III. PROPOSED AMENDED SECTIONS

Proposed Amendments to La Pine Development Code:

Amendment 1: Article 8 – Applications And Reviews, Chapter 15.320 – Variances, Section 15.320.010 Applicability, Subsection B. Minor Variance.

IV. FINDINGS OF FACT

Proposed Amendments: The Amendment in Exhibit A is proposed to update the City of La Pine Development Code Article 8 – Applications And Reviews, Chapter 15.320 – Variances, Section 15.320.010 Applicability, Subsection B. Minor Variance. More specifically, the proposed

amendment includes language clarifying the application of and between La Pine Development Code Article 8., Chapter 15.320., Section 15.320.010 B. – Minor Variance, and Article 8., Chapter 15.320., Section 15.320.040 - Approval Criteria (except for riparian variances).

Posted and Published Notice: The Department of Land Conservation and Development (DLCD) was noticed on April 12, 2023. No Measure 56 Notice was required for this application. Public notices for the Planning Commission hearing were posted on May 10, 2023, at the La Pine City Hall, and on the City’s website. Notice for the Planning Commission hearing was published in the local newspaper, *Bend Bulletin*, in their May 7th publication.

The notices state the time and place of hearings, as well as a general description of the nature of the proposed changes.

V. CONCLUSIONARY FINDINGS

1. Conformance with City of La Pine Development Code

Article 7 – 15.204.040 Type IV (Legislative Decisions)

A. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.

FINDING: The City of La Pine does not have an established schedule for accepting legislative reviews. The applicant has been notified through this staff report that the 120-day review period does not apply to this application. This criterion is met.

B. Application Requirements

- 1. Application forms. Legislative applications shall be made on forms provided by the City Planning Official.**
- 2. Submittal Information. The application shall contain all of the following information:**
 - a. The information requested on the application form;**
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);**
 - c. The required fee, except when City of La Pine initiates request;**
 - d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards; and**
 - e. Evidence of neighborhood contact, if applicable pursuant to Section 15.202.050.**

FINDING: The City approved application form, and accompanying narrative was submitted by applicant on April 12, 2023. 15.204.040 (B)(2)(b) does not apply as this application does not propose a change that is applicable to any particular parcel or designation of land. Furthermore, the plan addressing the appropriate criteria and standards are measured under the submission of 15.204.040 (B)(2)(d) with the accompanying narrative. 15.204.040 (B)(2)(c) does not apply as the City of La Pine initiated the request. 15.204.040 (B)(2)(e) does not apply as this application is not applicable to Section 15.202.050 of the La Pine Development Code as it is not a master plan, subdivision with more than ten lots, major variance, nor an owner-initiated zone change application.

C. Procedure. Hearings on Type IV applications are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Type IV applications must conform to state land use laws (ORS 227.175), as follows:

- 1. The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.**

FINDING: Notice was sent to DLCD on April 12, 2023. The first public hearing before the Planning Commission is scheduled for May 17, 2023. The City complied with this procedure.

- 2. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:**
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;**
 - b. Any affected governmental agency;**
 - c. Any person who requests notice in writing; and**
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.**

FINDING: This application does not propose a zone change or a Comprehensive Plan designation change, there is no other affected governmental agency other than the City of La Pine, and no person(s) made a request for notice in writing.

- 3. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.**

FINDING: Notice for the Planning Commission hearing was published in the local newspaper, *Bend Bulletin*, in their May 7th, 2023, publication.

D. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or, if not approved, upon mailing of the notice of decision to the applicant. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

FINDING: The amendment, if approved, will be done so through Ordinance adoption by the City Council. Notification will be mailed to the applicant, participants of the record, and DLCD by the City Recorder or Planning Official. The Ordinance in its entirety will be available on the City's website, www.lapineoregon.gov. The City will comply with these procedures.

Article 8 – Applications, Chapter 15.334 – Text & Map Amendments

Sections

15.334.010 Purpose

15.334.020 Applicability

15.334.030 Procedure Type

15.334.040 Criteria

15.334.050 Transportation Planning Rule Compliance

15.334.010 Purpose

The purpose of this chapter is to provide standards and procedures for legislative amendments to the Comprehensive Plan and Map and to this Code and Zoning Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

FINDING: This is an applicant-initiated request for a text amendment to the La Pine Development Code.

15.334.020 Applicability

A. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, development code, or changes in zoning maps not directed at a small number of property owners. The following amendments are considered generally considered legislative.

- 1. All text amendments to Development Code or Comprehensive Plan (except for corrections).**
- 2. Amendments to the Comprehensive Plan Map and/or Zoning Map that affect more than a limited group of property owners.**

B. Amendments to the Comprehensive Plan and/or Zoning Map (Zone Change) that do not meet the criteria under subsection A may be processed as Quasi-Judicial amendments. However, the distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.

C. Requests for Text and Map amendments may be initiated by an applicant, the Planning Commission, or the City Council. The City Planning Official may request the Planning Commission to initiate an amendment. Initiations by a review body are made without prejudice towards the outcome.

FINDING: This proposed amendment is a text amendment to the Development Code and is therefore a legislative amendment. This request for a text amendment was requested by the applicant (The City Planning Official) to the La Pine Planning Commission at their April 11, 2023, meeting, and initiated by that body, without prejudice towards the outcome following the request. As such, a legislative process is required. The process for Legislative Amendments was addressed above in the criteria for Article 7 and compliance with procedures was demonstrated.

15.334.030 Procedure Type

- A. Legislative amendments are subject to Type IV review in accordance with the procedures in Article 7.**
- B. Quasi-judicial amendments are subject to Type III review in accordance with the procedures in Article 7 except that quasi-judicial Comprehensive Plan amendments and Zone changes which must be adopted by the City Council before becoming effective.**

FINDING: This amendment is being processed legislatively. Compliance with legislative amendment procedures are addressed above in the findings for Article 7.

15.334.040 – Text & Map Amendments, Approval Criteria

Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

- A. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning). If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules.**

FINDING: Application consistencies and inconsistencies with the City of La Pine Comprehensive Plan are addressed below in the Comprehensive Plan findings.

B. The proposal must be found to:

- 1. Be in the public interest with regard to community conditions; or**
- 2. Respond to changes in the community, or**
- 3. Correct a mistake or inconsistency in the subject plan or code; and**

FINDING: The original code language in LPDC Article 8, Chapter 15.320 – Variances, Sec. 15.320.010 B. (Minor Variance) does not designate adherence to criteria by which to measure a Minor Variance application. Sec. 15.320.0410 lists approval criteria for variances, except for riparian variances, thereby showing intent for application to all other forms of variance application, including a Minor Variance. The amendment would designate the applicability of a Minor Variance to the criteria in Sec. 15.320.040 thereby correcting any inconsistency with the intent of the code, or the applicability of measurable criteria for a Minor Variance procedure.

C. The amendment must conform to Section 15.344.060, Transportation Planning Rule Compliance; and

D. For a Quasi-Judicial Zone Change the applicant must also provide evidence substantiating that the following criteria are met:

FINDING: The proposed amendment does not include development, amendments to the Comprehensive Plan, or a zone change. This is a Type IV (Legislative) procedure. These criteria do not apply.

15.334.050 Transportation Planning Rule Compliance

Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon

Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

FINDING: The proposed text amendments do not include development, amendments to the Comprehensive Plan, or a zone change. This criterion does not apply.

2. Conformance with the La Pine Comprehensive Plan

Chapter 2, Citizen Involvement Program

This chapter identifies State rules related to citizen involvement, along with the community's purpose and intent with regard to citizen involvement. This chapter identifies issues and goals, policies and programs, it establishes roles and responsibilities, and establishes specific Citizen Advisory Committees (CACs). One of the CACs that are identified in this chapter is a Planning Commission, which the City has established for planning and land use purposes.

FINDING: This application and request has been processed and reviewed in accordance with the public notification procedures that have been established in Article 7 – Procedures of the La Pine Development Code, and a hearing will be held before the Planning Commission on May 17, 2023. As such, the application will be reviewed by the appropriately established citizen advisory committee, in accordance with the adopted notification procedures, and will be consistent with this chapter.

Chapter 3, Agricultural Lands

This chapter addresses agricultural lands within counties. Although La Pine is not required to plan for agricultural lands in the City, there continues to be agricultural uses in some areas within the city limits and the City's Comprehensive Plan sets out goals and policies related to agriculture.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 4, Forest Lands

Chapter 4 implements State Planning Goal 4, which defines "forest lands" and requires counties to inventory and conserve such lands. However, planning for forest lands is not required within city limits.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 5, Natural Resources and Environment

This Comprehensive Plan chapter is intended to address Oregon Statewide Planning Goals 5, 6, and 7 which address natural resources, historic area, and open spaces, air water and land resources and protection from natural hazards.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 6, Parks, Recreation and Open Space

This Chapter is intended to carry out Statewide Planning Goal 8, Parks, Recreation and Open Space. Recognizing that quality of life is impacted by the location and function of area parks, natural areas and open spaces, this chapter encourages cooperation between

the City, the La Pine Park and Recreation District, County, State and Federal Agencies, in an effort to develop an appropriate park system for the City.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 7, Public Facilities and Services

This chapter is intended to carry out Statewide Planning Goal 11 to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 8, Transportation

This chapter is intended to carry out Statewide Planning Goal 12. This chapter provides details of the transportation elements of La Pine, including roads, bicycle ways, pedestrian routes, and public transit. Additionally, this chapter addresses long range planning needs, air and rail, pipelines, and funding.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 9, Economy

This Chapter is intended to carry out Statewide Planning Goal 9, Economic Development, which requires local jurisdictions to plan for and provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of its citizens. The overall intent is to ensure that there are adequate lands and infrastructure for new business and industry, as well as identifying any obstacles. This Chapter includes an analysis of the La Pine economy, noting that “La Pine’s focus on economic development is a key component of its vision to be a ‘complete’ community.”.

FINDING: The proposed amendment does not impact the availability of adequate lands and/or infrastructure for new business and industry. The proposed policy does intend to provide for orderly development to ensure the continued success of the community through economic development.

Chapter 10, Housing

This chapter addresses housing and Statewide Planning Goal 10 to ensure the provision of appropriate types and amounts of land within the La Pine urban growth boundary - UGB (city limits in this case) to support a range of housing types necessary to meet current and future needs.

Applicable Chapter 10 Goals:

Applicable Policies:

- It is essential to develop strategies that increase the variety of housing choices in the community. These strategies must include an inventory and analysis of needed housing types, existing housing supplies, and strategies for meeting the changing community demographics.
- It is necessary to provide adequate buildable residential land for the 20-year planning horizon. The La Pine community needs a full range of housing types to sustain a healthy community.

- It is necessary to accommodate growth and provide mechanisms to ensure that a variety of housing options for all income levels are available in both existing neighborhoods and new residential areas.
- It is necessary to encourage development and redevelopment of residential areas to make them safe, convenient, and attractive places to live and located close to schools, services, parks, shopping, and employment centers.
- The community should maintain the feel of a small community through careful design of new and redeveloping residential areas. Mixed-use and “Complete Neighborhood” design techniques can accomplish this objective.

FINDING: The proposed amendment does not reduce the application or allowance of a variety of housing choices in the community, the provision of adequate buildable residential land for the 20-year planning horizon, nor work in opposition to the accommodation of growth or the availability of mechanisms that would ensure a variety of housing options for all income levels in both existing neighborhoods and new residential areas. Conversely, the proposed amendments encourage orderly development and redevelopment with measurable standards to promote consistency, safety, and the feel of a small community through adherence to equitable and measurable development requirements.

Chapter 11, Energy Conservation

This chapter carries out Oregon State Planning Goal 13. This chapter identifies issues with travel, existing development patterns, and energy supply opportunities. The policies of this chapter encourage increased residential density, along with development and design desires, aimed to reduce energy usage throughout the city.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Chapter 12, Urbanization

This chapter addresses Statewide Planning Goal 14 to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The chapter highlights the City’s desire to create live-work neighborhoods within the mixed use commercial residential districts.

FINDING: The policies of this chapter do not apply to the proposed amendments.

Conformance with the State Administrative Rules (OARs)

OAR 660-015, Statewide Planning Goals

Goal 1 - Citizen Involvement

Statewide planning Goal 1 requires that the City provide the opportunity for citizens to be involved in the planning process.

FINDING: Notice of the public hearing to consider the proposed zoning ordinance amendments was posted on May 10, 2023, at La Pine City Hall and on the City’s website. Notice was also published in the local newspaper, *Bend Bulletin*, in their May 7th, 2023 publication. Citizens are provided the opportunity to comment on the proposed amendments at the public hearings before the Planning Commission and the City Council, or in writing in advance of the hearings.

Goal 2 - Land Use Planning

Goal 2 outlines the basic procedures of Oregon's statewide planning program. Land use decisions are to be made in accordance with a comprehensive plan, and suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; and that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed.

FINDING: As required by Goal 2, the City has adopted criteria and procedures (La Pine Development Code) to evaluate and make land use decisions. Goal 2 requires periodic review and amendments to ordinances as needed and in accordance with the Comprehensive Plan. The proposed amendments meet the requirements of Goal 2 by following the appropriate procedures for amendments and by considering the goals and policies outlined in the Comprehensive Plan.

Goal 3 - Agricultural Lands

Goal 3 requires counties to inventory agricultural lands and to "preserve and maintain" them through farm zoning outside of urban growth boundaries.

FINDING: The proposed amendments do not adversely impact the ability of the City to plan for agricultural transition opportunities within the City.

Goal 4 - Forest Lands

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses".

FINDING: The proposed amendments do not adversely impact the ability of the City to plan for the appropriate transition of forest lands within the City of La Pine.

Goal 5 - Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

FINDING: The proposed amendments do not adversely impact the ability of the City to protect the important natural resources and environmental elements within the City.

Goal 7 - Natural Hazards

Goal 7 focuses on local government planning to protect people and property from natural hazards.

FINDING: The proposed amendments do not relate directly to natural hazards, but the intent of ascribing measurable criteria to the Minor Variance process indirectly ensures that orderly and measurable development occurs within the City that can have an effect on the goal of planning to protect people and property from the imposition and dangers of natural hazards.

Goal 8 - Recreational Needs

This goal calls for each community to satisfy the recreational needs of the citizens and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The proposed amendments do not impact the City's ability to plan for the recreational needs of the citizens and visitors.

Goal 9 - Economic Development

Goal 9 calls for diversification and improvement of the economy. It requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

FINDING: The proposed amendment does not impact the availability of adequate lands and/or infrastructure for new business and industry. The proposed policy does intend to provide for orderly development to ensure the continued success of the community through economic development.

Goal 10 - Housing

This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

FINDING: The proposed amendments do not change the amount of land available for housing or discriminate against any particular housing type. Conversely, the proposed amendments encourage orderly development and redevelopment with measurable standards to promote consistency, and safety, through adherence to equitable and measurable development requirements.

Goal 11 - Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

FINDING: The proposed amendments do not adversely impact the City's ability to plan and develop a timely, orderly, and efficient arrangement of roadways, water, and sewer.

Goal 12 - Transportation

The goal aims to provide "a safe, convenient and economic transportation system.". It requires communities to address the needs of the "transportation disadvantaged".

FINDING: The proposed amendments do not adversely impact the City's ability to provide a safe convenient and economic transportation system. The proposed amendments are not site specific and therefore do not affect the functional classification of any street. The proposed amendments will not have measurable impacts on the amount of traffic on the existing transportation system; therefore, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060. As such, compliance with Goal 12 is maintained.

Goal 13 - Energy Conservation

Goal 13 requires that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles".

FINDING: The proposed amendments do not adversely impact the City’s ability to create an arrangement and density of land uses to encourage energy conservation.

Goal 14 - Urbanization

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land.". It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

FINDING: The proposed amendments do not adversely impact the City’s ability to accommodate urban populations and employment inside the urban growth boundary. The management of the City’s land use inventories is unaffected by the proposed amendments and therefore compliance with Goal 14 is maintained.

Goals 15-19

FINDING: These goals pertain only to areas in western Oregon and are not applicable to these amendments.

VI. CONCLUSION AND RECOMMENDATION

Based on the above findings, the proposed amendment to the City of La Pine Development Code is consistent with applicable City Development Code, the City Comprehensive Plan and State Administrative Rules and land use laws. Staff recommends that the La Pine Planning Commission recommend the text amendments as proposed to the La Pine City Council, for adoption by enacting ordinance as commensurate with LPDC Sec. 15.204.040 – Type IV (legislative decisions).

END of STAFF REPORT

Proposed Motion:

“I move the La Pine Planning Commission after consideration of the criteria and relevant standards of the La Pine City Development Code, the La Pine Comprehensive Plan, and Oregon State Administrative Rules and land use laws, recommend the City Council Approve/Deny the Proposed Text Amendment to the La Pine Development Code.

This decision is based on the evidence, records, and testimony”.

This motion should be followed by a second, and a roll call vote of the Planning Commission.

EXHIBIT A

Legislative Format:

Added language is italicized and highlighted.

Stricken language is bolded and has strikethrough.

Proposed Amendment(s):

Sec. 15.320.010. - Applicability.

A. Variance. Variances from the provisions and requirements of this chapter may be approved in accordance with the provisions of this section.

B. Minor variance. A minor variance is a variance to an area or dimensional standard of this Development Code that *complies with Section 15.320.040 and* meets one of the following conditions. Only one such variance may be granted for any one lot, parcel or tract of land.

1. Involves a deviation from a minimum lot size requirement of not more than ten percent.
2. Involves a deviation from a yard or setback requirement of not more than 25 percent.
3. Involves a request for the expansion of a non-conforming use by not more than ten percent.

C. Riparian variance. In cases where the limitations on activities within the significant riparian corridor unduly restricts the development of a lot or parcel legally created before the effective date of this Development Code, a property owner may request a riparian variance.

Sec. 15.320.040. Approval criteria (except for riparian variances).

A variance may be granted unqualifiedly, or may be subject to prescribed conditions and limitations, provided that the following findings are evident:

A. That the literal application of specific provisions of the Development Code would create practical difficulties for the applicant resulting in greater private expense than public benefit. However, a variance is not to be granted simply because it would afford the owner a higher profit or prevent a mere inconvenience.

B. That the condition creating the difficulty is not general throughout the surrounding area, but is unique to the applicant's site or property; therefore, the granting of the requested variance will not set a precedent for future applications.

C. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the specific restriction or provision at the time the site was purchased. Self-created hardship also results when an owner and/or developer negligently or knowingly violates a provision of this Development Code.

D. No variance shall be granted that would allow the use of property for a purpose not authorized within the zone in which the proposed use or development is located.

E. In granting a variance, conditions may be attached that are found necessary to protect the best interests of the adjoining or surrounding properties or the vicinity, and to otherwise achieve the purposes of this Development Code, including the specific applicable zone, and the objectives and policies of the city's comprehensive plan.