



FINDINGS AND DECISION

- DECISION DATE:** December 6, 2023
- FILE NUMBER:** 04CU-23
- APPLICANT:** Legend Cider
55777 Wagon Master Way
Bend, OR 97707
- OWNER:** NH Oregon Properties LLC
77 King St W #2905
Toronto, ON M5K 1H1
- LOCATION:** The subject property is located at 16481 Bluewood Place, La Pine, Oregon 97739. The Tax Lot number is 803 on Deschutes County Assessor's Map 22-10-11CC.
- REQUEST:** The applicant is requesting conditional use review and a zoning permit checklist to locate Legend Cider's operations on the subject property. The cider operation would include cider making, cider retail, and a tasting room/bar. There will be no exterior work included in this proposal.
- STAFF CONTACT:** Rachel Vickers, Associate Planner
Email: rvickers@lapineoregon.gov
Phone: (541) 280-5680
- DECISION:** Approved, subject to the conditions of approval identified below

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA

City of La Pine Development Code

Article 2. Definition and Use Categories

Chapter 15.14, Use Categories

Article 3. Zoning Districts

Chapter 15.22, Commercial and Mixed-Use Zones

Article 5. Development Standards

Chapter 15.80, Development Standards, Generally

Chapter 15.82, Landscaping, Buffering and Fences

Chapter 15.86, Parking and Loading

Chapter 15.88, Access and Circulation

Chapter 15.94, Improvement Procedures and Guarantees

Article 8. Applications and Review

Chapter 15.316, Conditional Uses

II. BASIC FINDINGS

ZONING: The subject property is zoned Traditional Commercial and is within the Downtown Overlay Zone, fronting on a pedestrian friendly street.

PARCEL SIZE: The subject property is 0.44-acres in size.

LOT LEGALITY: The three parcels were originally platted as Lot 4 within the Bluewood Subdivision.

REVIEW PERIOD: The subject application was submitted on November 7, 2023, and deemed complete on November 20, 2023. The 120th day on which the City must take final action on this application is March 19, 2024.

PROPOSAL: The applicant proposes to house Legend Cider’s operations on the subject property. The cider operation would include cider making, cider retail, and a tasting room/bar. There will be no exterior work included in this proposal.

EXISTING DEVELOPMENT: The subject property is developed with a 4,890 square foot building, paved parking that includes 1 ADA space, 3 parallel parking spaces, and 10 90-degree angle parking spaces. There is landscaping on the western edge of the property between Bluewood Place and the west side of the building.

SURROUNDING LAND USES: Surrounding properties are zoned Traditional Commercial and vary in size and use. To the west of the subject property is Bluewood Place, which is developed with a sidewalk and landscaping strip. To the south and north of the subject property and similarly sized lots that are developed with small scale commercial uses and paved parking areas. To the east of the subject property is Highway 97.

PERMIT HISTORY:

- CU-02-SP-02-10 | Conditional Use Permit and Site Plan Review to establish a 4,890 square foot building for an automotive repair business.
- SP-06-44 | Site Plan Alteration for a towing and impound business.
- 03CU-22 | Conditional Use Permit for a hemp processing facility

III. AGENCY AND PUBLIC COMMENTS

PUBLIC AGENCY COMMENTS: The La Pine Community Development Department sent mailed and electronic notice on November 20, 2023, to several public agencies and received the following comments:

City of La Pine Engineer, Erik Huffman

16481 Bluewood Place

Streets and Access:

Bluewood Place

Bluewood Place is a local street in the City of La Pine TSP. Existing right of way width is 60 feet. The street corridor is fully developed with pavement, curb, sidewalks, and utilities. A concrete driveway apron exists

along the property frontage, so no additional right of way dedication or street improvements will be required.

Additional Requirements

None

Water Review:

Existing Conditions

A 6" water main exists on the west side of Bluewood Place. One water service exists to serve the subject property, connected to the 6" main line. The nearest fire hydrant is located approximately 100 feet north of the property at the north edge of the cul-de-sac.

Additional Requirements:

None

Sewer Review:

Existing Conditions

A 6" sewer main runs along the east side of Bluewood Place. One sewer service exists to serve the subject property. The property currently utilizes a septic tank and grease interceptor, located on the property.

Additional Requirements:

None

On-Site Stormwater Review:

Existing Conditions

On-site stormwater is contained by an existing swale along the east boundary of the property. This swale has been inspected on site.

Additional Requirements

None

Deschutes County Address Coordinator, Tracy Griffin

Rachel: Thank you for the notice. I have no comments for this application.

The following agencies did not respond to the notice: City of La Pine Public Works Department, La Pine Fire Department, Deschutes Building Department, Deschutes Road Department, and Midstate Electric Co-op.

PUBLIC COMMENTS: The La Pine Community Development Department mailed notice of the application to all property owners within 100 feet of the subject property on November 20, 2023. No public comments were received.

IV. FINDINGS OF FACT

PART III, CITY OF LA PINE DEVELOPMENT CODE

Article 2, Definitions and Use Categories

04CU-23, Legend Cider

Chapter 15.14 – Use Categories

Section 15.14.220, Eating and Drinking Establishments

- A. **Definition.** *Eating and drinking establishments sell food and/or beverages to the general public as the primary use, for on-site consumption and/or take-away service.*
- B. **Examples.** *Examples include cafes, coffee shops and delicatessens; dine-in restaurants with or without take-out facilities; drive-up or drive-through restaurants with or without seating; taverns, brew pubs, bars and night clubs; and mobile food unit sites, subject to special use regulations, see section 15.108.070.*
- C. **Accessory uses.** *Offices, parking for customers and employees, storage, outdoor seating, banquet facilities, on-site breweries or wineries with tasting rooms, catering facilities, and incidental retail sales.*
- D. **Exceptions.**
 - 1. *Food service that is accessory to another use, (e.g., hotel), is regulated as part of the primary use.*
 - 2. *Catering or food preparation without on-site consumption is classified as retail sales and services.*
 - 3. *Breweries or wineries where the tasting room or restaurant is smaller than the production facilities are classified as artisanal and light manufacturing.*

FINDING: The applicants submitted floor plan indicates that the production space for the building will occupy approximately 52% of the useable flood area for the existing building. Staff finds the proposed use is classified as an artisanal and light manufacturing use.

Section 15.14.300, Artisanal and Light Manufacturing

- A. **Definition.** *Artisanal and light manufacturing uses are involved in the fabrication, production, and distribution of goods that do not produce nor cause to be produced noise, glare, vibration, air pollution, fire hazard, or emissions, that is noxious, dangerous, or a nuisance to neighboring properties. The manufacturing activity takes place within an enclosed structure. Retail sales of goods may occur sold on-site, as well as instructional services for the public.*
- B. **Examples.** *Examples may include breweries, distilleries, and wineries; production of specialty foods; catering establishments; metalworking; woodworking, including cabinet makers; indoor agriculture; craftsman studios and uses providing instruction and/or retail sales related to painting, sculpting, picture framing, knitting, sewing, and other similar uses.*
- C. **Accessory uses.** *Accessory uses may include offices, retail sales, instruction studios or classrooms, indoor storage, and parking.*
- D. **Exceptions.**
 - 1. *Manufacturing uses that may produce impacts on neighboring properties, including, but not limited to, noise, glare, vibration, air pollution, fire hazard, or emissions, are classified as general manufacturing and production.*
 - 2. *Artisanal and light manufacturing does not include the cultivation, production, or processing of marijuana or marijuana products where such activities require registration, licensing, other approval with or from the state. See marijuana facilities.*

FINDING: The applicant proposes to house Legend Cider’s operation within the existing building on the subject property, with no changes to the exterior of the building or site. Operations within the building would include cider making, as well as cider retail, a tasting room and bar. The applicant expects to have up to six employees on site in

addition to the owners. Staff finds that the applicants proposal meets the definition of artisanal and light manufacturing.

Article 3, Zoning Districts

Chapter 15.22 – Commercial and Mixed-Use Zones

Section 15.22.200, Characteristics of the Commercial and Mixed-Use Zones

Commercial zones accommodate a mix of commercial services, retail, and civic uses, along with residential uses permitted in some circumstances. Four commercial zones provide for the full range of commercial land uses within the city. The zoning district regulations are intended to promote the orderly development and improvement of walkable commercial areas; facilitate compatibility between dissimilar land uses; provide employment opportunities in proximity, and with direct connections, to housing; and to ensure efficient use of land and public facilities.

...

A. Traditional Commercial Zone (C). *The C zone allows the widest range of commercial uses and limits residential uses in order to preserve land for commercial needs and maintain compatibility between adjacent uses. A portion of the C zone is located in the Downtown La Pine Overlay Zone. The overlay zone restricts some uses and establishes additional design standards to facilitate the development of a pedestrian-oriented downtown area.*

...

FINDING: The subject property is located entirely within the Traditional Commercial zone, therefore the provisions of LPDC Section 15.22.200 apply and are addressed herein.

Section 15.22.300, Use Regulations

Uses may be designated as permitted, limited, conditional, or prohibited in the commercial and mixed-use zones. As noted in Table 15.22-1, a use may also be subject to special use standards of article 6.

- A. Permitted uses (P).** *Uses allowed outright in the commercial and mixed-use zones are listed in Table 15.22-1 with a "P." In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.*
- B. Limited uses (L).** *Uses allowed in the commercial and mixed-use zones subject to limitations are listed in Table 15.22-1 with an "L." The limitations are defined below and correspond with the footnote numbers in Table 15.22-1. In the C zone, any use that emits fumes or noxious odors, requires an air quality permit from the Oregon Department of Environmental Quality (DEQ), or emits noise beyond 20 decibels (dB) is required to obtain a conditional use permit pursuant to chapter 15.316, conditional uses.*
- 1. Marijuana facilities in the C and CMX zones.** *Allowed marijuana facilities in the C and CMX zone[s] are limited to marijuana testing laboratories. Marijuana production or processing uses are prohibited.*
 - 2. Mixed use development in the CRMX zone.** *Non-residential uses noted with a (2) are allowed in combination with residential uses in the CRMX zone if the nonresidential uses are limited to a total of 60 percent of the gross floor area of all uses in the development. Business parks and funeral homes are prohibited nonresidential uses.*
 - 3. Wireless telecommunication facilities in the CRMX and CMX zones.** *Communication antennas mounted on existing buildings, structures, or public utility transmission towers*

- are permitted outright. Communication towers require a conditional use permit.
4. Retail sales and service in the CMX zone. Automobile, RV, and truck sales uses require a conditional use permit. Funeral homes are prohibited. All other retail sales and service uses are permitted outright.
 5. Commercial lodging in the CN zone. Commercial lodging uses in the CN zone are limited to bed and breakfast inns.
 6. Retail sales and service in the CN zone. Automobile, RV, and truck sales and funeral homes are prohibited in the CN zone. Veterinary clinics and kennels require a conditional use permit. All other retail sales and service uses are permitted outright.
 7. Parks and open areas in the CN zone. Cemeteries require a conditional use permit in the CN zone. All other parks and open areas uses permitted outright.
- C. Conditional uses (CU). Uses which are allowed if approved through the conditional use review process are listed in Table 15.22-1 with a "CU." These uses are allowed, provided they comply with the conditional use requirements of chapter 15.316, conditional uses. Uses listed with a "CU" that also have a footnote number in the table are subject to the regulations cited in the footnote.
- D. Prohibited uses (N). Uses listed in Table 15.22-1 with an "N" are prohibited. Existing uses in categories listed as prohibited may be subject to the regulations of chapter 15.08, non-conforming uses and structures.

Table 15.22-1. Use Regulations in the Commercial and Mixed-Use Zones					
Use Category	C	CRMX	CMX	CN	Special Use Standards
Industrial Use Categories					
Artisanal and Light Manufacturing	CU	N	N	CU	Section 15.108.010
Automotive wrecking, salvage, and junk yards	N	N	N	N	
Industrial Service	N	N	N	N	
General Manufacturing and Production	N	N	N	N	
Marijuana Facilities	L (1)	N	L (1)	N	Section 15.108.050
Wholesale Sales	N	N	N	N	
Warehouse and Freight Movement	N	N	N	N	
Waste Treatment and Recycling	N	N	N	N	

FINDING: The proposal is subject to the Conditional Use Standards and LDPC Section 15.108.010 which are addressed herein.

Section 15.22.400, Development Standards

- A. Purpose. The development standards for commercial and mixed-use zones allow development flexibility, within parameters, that supports the intended characteristics of the specific zone. In addition, the regulations provide guidance to property owners, developers, and neighbors about the limits of what is allowed.
- B. Development standards. The development standards for commercial and mixed-use zones are presented in Table 15.22-2. Development standards may be modified as provided by chapter 15.320, variances. Additional standards may apply to specific zones or uses, see section 15.22.500.

Table 15.22-2. Development Standards in the Commercial and Mixed-Use Zones				
Standard	C	CRMX	CMX	CN
Minimum Lot Width	None	None	None	25 feet
Minimum Setbacks	-	-	-	-
- Front or Street-Side Yard	20 feet	20 feet	20 feet	20 feet

- Side Yard	None	10 feet; None for Townhomes	10 feet; None for Townhomes	10 feet; None for Townhomes
- Rear Yard	None	10 feet	10 feet	15 feet
Maximum Building Height	70 feet	45 feet	45 feet	45 feet
Maximum Lot Coverage	80%	60%	60%	50%
Minimum Landscaped Area	See 15.18.500 and Chapter 15.82			
Minimum and Maximum Density	Residential; and mixed-use developments are subject to the minimum and maximum density standards of the RMF zones (see section 15.18.500)			

FINDING: The existing building on site was reviewed under land use file CU-02-16/SP-02-10. No exterior alterations or expansions are included in the applicant’s current proposal and therefore, the provisions under LPDC Table 15.22-2 are met. To ensure compliance, the following conditions of approval have been added.

Alteration or Expansion: No further alteration, expansion, or manipulation of the outside structure in terms of footprint, or current square footage is permitted without a site plan application.

Exterior Development: Any temporary or permanent surface (non-structural) development in front yard should be reviewed with City prior to development to ensure compliance with setbacks and or lot limitations, and that utility accesses are maintained.

Section 15.22.500, Additional Standards

A. Corner lot frontages. For commercial uses located on corner lots where one street is predominantly residential, and one street is predominantly commercial, any commercial structure shall front on the street that is predominantly commercial.

FINDING: The subject property is not located on a corner lot and therefore, the above criterion does not apply to this application.

B. Landscaping standard. Any portion of a lot developed for commercial uses which are not used for buildings, other structures, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas shall be planted and maintained with grass or other all-season groundcover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged. See additional landscaping and buffering standards in article 5.

FINDING: The subject property was initially reviewed under land use file CU-02-16/SP-02-10 which approved a new 4,890 square foot building that would be used for auto repair. Based on the development code at the time, 15% of the lot area was required to have been landscaped. The subject property is 18,471 square feet in area which required a minimum of 2,771 square feet of landscaping. File No CU-02-16/SP-02-16 included the following condition of approval:

2. The required landscaping shall be continuously maintained and kept alive and attractive. Maximum height of tree species shall be considered when planning overhead utilities.

Based on these factors, the required 2,771 square feet of landscaped area that was approved in 2002 must remain as is. The applicants’ current proposal does not include any exterior changes and therefore staff finds it complies with the landscaping requirements of LPDC Section 15.22.500. To ensure compliance, the following condition of approval has been added.

Landscaping: All expansions of external mobile vendor services on site will need to be reviewed with the City prior

to installation to ensure appropriate maintenance of landscaping, safety /utility corridor/access areas, surface and site suitability, and requisite licensing compliance.

C. Screening requirements.

- 1. Outdoor activities. Any business, servicing, or processing shall be conducted within a completely enclosed building, except for parking and loading facilities and for "drive-in" type establishments offering goods or services to customers waiting in parked motor vehicles.**

FINDING: The applicant's proposal will be conducted entirely within the existing building on site. This criterion is met.

- 2. Outdoor storage. All areas of a site containing or proposed to contain outdoor storage of materials, equipment, and vehicles, and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscuring fence, wall, landscape screen, or combination of screening methods. See additional buffering and fence standards in article 5.**

FINDING: The applicant's proposal does not include any outdoor storage; therefore, this criterion is not applicable.

- 3. Outdoor merchandise display. The outdoor display of merchandise for sale is not required to be screened from view, provided that all merchandise is located behind building setback lines unless otherwise approved by the city (e.g., to allow sidewalk sales).**

FINDING: The applicant's proposal does not include any outdoor display of merchandise; therefore, this criterion is not applicable.

- D. Vehicle access. Access driveways and entrances shall be permitted in a number and locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired, and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access. The city may require the permit applicant to submit engineering data and/or traffic analyses to support its proposed plan of access driveways and entrances. See additional access and circulation standards in article 5.**

FINDING: Access and circulation to the subject property was reviewed under land use file CU-02-16/SP-02-10. The applicant's proposal does not include any changes to the current vehicle access circulation. Furthermore, comments for the City Engineer did not indicate any deficiencies in the vehicle access and circulation for the subject property. This criterion is met.

- E. Emissions. No use shall emit any noxious, toxic, or corrosive fumes or gases nor shall it emit any offensive odors.**

FINDING: The applicants' proposal includes a production facility for cider making, which is not known for emitting any noxious, toxic, or corrosive fumes or gases. This criterion is met.

- F. Noise. All uses shall provide necessary shielding or other protective measures against interference occasioned by mechanical equipment or uses or processes with electrical apparatus.**

FINDING: The applicants' proposal includes a production facility for making cider. The applicant's burden of proof

provides the following statement:

The proposed use as a cidery is not known to have noises that necessitate shielding or protective measures against interference. Legend Cider currently operates in La Pine and the City has never received a complaint about this issue.

Staff concurs with the applicant's statement. This criterion is met.

- G. *Lighting. All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.***

FINDING: To ensure compliance with the above criterion, the following condition of approval has been added.

Exterior Lighting: All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.

Article 4, Overlay Zones

Chapter 15.40 – Downtown Overlay Zone

Section 15.40.010, Purpose

The purpose of the downtown overlay zone is to create a pedestrian-oriented downtown area that will serve as the center of commercial and civic activity in the community and as a destination for residents and visitors. Pedestrian-oriented places provide visual interest at eye-level, feel safe and comfortable for people walking, contain a variety of activities and services, are easy to navigate on foot, and provide open areas and amenities for gathering and resting. This overlay zone modifies the regulations of the underlying base zones to ensure pedestrian-oriented land uses and design. Within the overlay, streets have been designated as either "Storefront Streets" or "Pedestrian-Friendly Streets."

- A. *Storefront streets. Storefront streets prioritize the pedestrian experience. These streets provide places to walk that are not only safe and comfortable, but that also provide visually interesting and engaging experiences. This is achieved through placing buildings closer to the street, designing buildings with architectural detail, and encouraging storefront shopping.***
- B. *Pedestrian-friendly streets. Pedestrian-friendly streets balance the pedestrian experience with the need to accommodate a range of development types. These streets are safe and comfortable for pedestrians. Buildings are encouraged to be placed close to the street, but not required. Other standards are relaxed slightly to provide flexibility in design while maintaining a pedestrian-friendly environment.***

FINDING: The applicant's proposal does not include any exterior changes to the site; therefore, staff finds that the provisions of LDPC Chapter 15.40 do not apply to this land use application. Staff notes that at such time the applicant proposal exterior changes to the site, not limited to but including a food truck lot, new parking, outdoor seating, that proposal must be reviewed for compliance with LPDC Chapter 15.40. To ensure compliance the following condition of approval has been added.

Downtown Overlay: Any future exterior changes to the building and/or site must be reviewed for compliance with LPDC Chapter 15.40.

Article 5, Development Standards

Chapter 15.80 – Development Standards, Generally

Section 15.80.040, Exemption – Yard or Setback Requirements

The following exemptions to yard or setback requirements are authorized for a lot or use in any zone:

- A. If there is a lot where there are buildings on abutting lots, and the buildings are within 100 feet of the intervening lot, and the buildings have front yards less than the required front yard for the applicable zone, the depth of the front yard for the subject lot need not exceed the average depth of the front yards of the abutting lots.*
- B. If there is a building on only one abutting lot within 100 feet with a front yard less than the required front yard for the zone, the front yard of the subject lot need not exceed a depth one-half way between the depth of the yard on the abutting lot and the required front yard of the applicable zone.*
- C. Architectural features such as cornices, eaves, sunshades, canopies, gutters, chimneys and flues may project into a required yard two feet, provided that the projection is not closer than three feet to a property line, and, drainage or snowdrift does not flow onto abutting properties or right-of-way, and, fumes from woodstoves are not directed to other properties. Steps, terraces, platforms, patios, decks and porches having no roof covering, and fences not interfering with vision clearance requirements or drainage requirements may be permitted in required yards, except as otherwise limited or provided for by this chapter, or as otherwise approved by the city.*

FINDING: The existing building on site was reviewed under land use file CU-02-16/SP-02-10. No alteration or expansion is proposed to the exterior of the building. These criteria are met.

Section 15.0.050, Supplementary Height Regulations

The maximum height limitations shall not apply to:

- A. The following principal structures: Church, college, farm structure (other than a farm dwelling), hospital, radio or television tower, exhaust stack, emergency services structure, or public utility structure which is a permitted use and is located in any zone, provided it shall conform to the setback and yard requirements of the zone where it is located plus one additional foot horizontally for each foot over 45 feet in height.*
- B. The following appurtenances attached to or part of a principal or accessory structure: Church spire, belfry, cupola, dome, monument, smoke-stack, derrick, conveyor, flag pole, mast, antenna, aerial, roof tank; ventilating air conditioning and similar building service equipment; roof structure, chimney and/or parapet wall, provided it shall be set back in conformance with the setback and yard requirements plus one foot horizontally for each foot in which it exceeds 45 feet in height above ground level. The principal or accessory structure to which it is attached may conform to setback and yard requirements with no additional setback provided the principal or accessory structure conforms to the height limitations of the zone.*

FINDING: The existing building on site was reviewed under land use file CU-02-16/SP-02-10. No alteration or expansion is proposed to the exterior of the building. These criteria are met.

Chapter 15.82, Landscaping, Buffering and Fences

Section 15.82.010, Landscaping and Buffering Requirements

The following minimum landscape requirements are established for all developments subject to site plan approval, unless approved otherwise by the reviewing authority:

- A. Exemption. The provisions of this section may be exempted for uses existing on or before the effective date of this Development Code that are a permitted use in a specific zone in an existing building or buildings on a lot or parcel of land of the scale that there is no remaining room for landscaping; this exemption shall also apply to the exterior remodeling and/or expansion of not more than 25 percent of the total square footage of all enclosed structures on a lot or parcel existing under a unit ownership on or before the effective date of this Development Code.*
- B. Area required. Except as approved otherwise by the city, the following minimum percent of a parcel area shall be landscaped for the following uses:
...
3. Commercial uses including mixed use commercial (CMX): 15 percent.
...
5. Minimum area requirements may include landscaping around buildings, in parking and loading areas, outdoor recreational use areas, screening and buffering areas, and surface water drainage areas.*
- C. Landscaping defined. Required landscaping may include, but is not limited to, a combination of any of the following materials: living plant material such as trees, shrubs, groundcover, flowers and lawn (including native vegetation); and nonliving materials such as benches, walkways and courtyards, consisting of brick, decorative rock or other decorative materials. The total amount of nonliving materials (including bark dust, chips, aggregate, or other non-plant ground covers) shall not exceed more than 50 percent of the required landscape area.*
- D. Existing vegetation. Existing site vegetation may be utilized to the maximum extent possible consistent with building placement and the applicable proposed landscape plan.*
- E. Parking lots. Parking lots with space for ten or more vehicles must be landscaped in accordance with the following minimum requirements:
1. In commercial and residential developments, parking areas shall be divided into bays, and between or at the end of each parking bay a curbed planter containing at least 16 square feet may be required.
2. If required, each planter shall contain at least one tree or shrub and ground cover.
3. The areas shall be designed to be protected from being damaged by vehicles using the parking area.
4. Unless sidewalks are provided adjacent to a structure, customer or resident parking areas should be separated from the exterior wall of a commercial or residential structure by a minimum five-foot strip of landscaping.
5. Where a parking, loading or driveway area serving a multi-family, commercial, industrial or government use abuts a public right-of-way of a collector or arterial street or a local street across from a residential zone, or abuts a residential zone, a screen planting or other approved landscaped planter strip may be required between the parking area and the right-of-way without encroaching into a clear vision area or sidewalk.*
- F. Buffering and screening.
1. Purpose. The purpose of buffering and screening requirements are to reduce the impacts of a proposed use on adjacent uses and zones which provide for different types of uses. The city may waive or reduce the requirements where existing topography or vegetation is appropriate or otherwise negates the effectiveness or intended purpose or benefits of the buffering and screening.
2. Where any permitted principal and/or accessory use in a commercial or industrial zone abuts any land zoned RSF, RMF, RMP or TA the following buffer and screening shall be required. These requirements shall apply in instances where such use is being newly developed on vacant land, expanded in floor area by 50 percent or greater, or removed*

and a new use developed.

3. *Within commercial zones. A buffer strip at least ten feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts an RSF, RMF, RMP, or TA zone. Buffer strips shall not be used for parking, storage of vehicles, equipment, or materials, nor for any other use incompatible with their purpose as a visual, noise, dust, and pollution barrier. The buffer strip shall contain suitable screening, defined as either of the following:*
 - a. *A solid fence or wall, architecturally compatible with existing structures in the area, no less than five feet nor more than eight feet in height; or*
 - b. *A sight-obscuring planting of evergreens, not less than four feet in height at the time of planting and of a variety that will maintain full, dense growth from the ground up to a height of not less than six feet upon maturity, planted at a spacing of the lesser of eight feet or the diameter of a mature specimen of the species being planted.*
 - c. *Areas of the buffer strip not covered with a fence, wall, or screening plantings, shall be planted with appropriate ground cover vegetation, including native species. Xeriscape methods are highly encouraged.*
 - d. *Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the "C" type zone permitted use is located. Installation must be completed prior to issuance of a certificate of use and occupancy by the city. Fences or walls must be maintained in safe and structurally sound condition. Dead or diseased plants shall be removed and replaced in a timely manner. Grass shall be kept neatly mowed.*

...

- G. *Plant material installation standards. Except as otherwise approved by the city, the following standards shall apply to plant materials and the installation thereof as provided in accordance with the provisions of this section:*
 1. *Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.*
 2. *Trees shall be a minimum size of six feet in height and be fully branched at the time of planting.*
 3. *Shrubs shall be supplied in one-gallon containers or six-inch burlap balls with a minimum spread of 12 inches.*
 4. *Rows of plants should be staggered to provide for more effective coverage.*
- H. *Maintenance and plant survival. All landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.*

FINDING: The existing landscaping on site was reviewed under land use file CU-02-16/SP-02-10. The applicant's proposal does not include any exterior or site alterations to the subject property and therefore, the landscaping requirements of LPDC Chapter 15.82 are met. Staff includes this chapter as reference to the applicant, so they are aware of the landscaping requirements for future alterations or expansions to the subject property. Staff also includes the following condition of approval to ensure compliance.

Landscaping and Buffering: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Section 15.82.010 for compliance.

Section 15.82.020, Fences and Walls

The yard and setback requirements of this Development Code shall not be deemed to restrict any otherwise lawful fence, wall, or sign, provided that no fence, wall, or sign shall be located on any right-of-way of a public road.

A. Materials. *Fences and walls shall not be constructed of nor contain any material that could cause bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as provided below.*

- 1.** *Barbed wire fences intended to contain or restrict cattle, sheep, horses or other livestock, are permitted in any zone where the keeping of livestock is permitted.*
- 2.** *Electric fences are permitted in any zone where the keeping of livestock is permitted, provided the following standards are met:*
 - a.** *The fence product shall be listed by a State of Oregon approved testing laboratory.*
 - b.** *The fence shall be installed and used in accordance with the testing laboratory listing.*
 - c.** *Electrical permits and inspections shall be required for the installation.*
 - d.** *Warning signs which notify individuals of a dangerous fence shall be posted on the fence, at intervals not to exceed 50 feet. The statement, DANGER - Electrified Fence, or an equivalent statement, shall be on the warning signs.*
 - e.** *The fence must be located outside any front yard setback and required landscaping, buffering or screening areas.*

B. Standards.

- 1.** *Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning, missing sections, broken supports, non-uniform height, and uncontrolled growth of vegetation.*
- 2.** *All required swimming pool and hot tub fencing shall be a minimum of four feet in height and be equipped with a self-locking gate that closes automatically.*
- 3.** *Fences within a front or street side yard shall also conform to the clear vision requirements at intersections, which further restrict the use or height of sight-obscuring fences.*
- 4.** *In no instance shall a fence extend beyond the property line including into a public right-of-way. It is the responsibility of the property owner to determine the property line.*
- 5.** *Within residential and commercial zones, fences within the required front yard setback may not exceed four feet in height except that one incidental garden structure (e.g., arbor or gate) not exceeding eight feet in height and six feet in width is allowed within the required front yard provided it does not encroach into a required clear vision area. All other fences in all zones shall not exceed seven feet in height.*
- 6.** *Other provisions of this Development Code, or the requirements of the roadway authority, may limit allowable height of a fence or wall below the height limits of this section.*

FINDING: The applicant's proposal does not include any exterior alterations to the site, nor does it include the addition of a fence, therefore staff finds LDPC Section 15.82.020 is not applicable to this land use application. Staff includes the code section in its entirety for reference to the applicant for future alterations/expansion and includes the following condition of approval to ensure compliance.

Fences and Walls: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Section 15.82.020 for compliance.

Chapter 15.86, Parking and Loading

Section 15.86.010, Applicability

Off-street loading and vehicle and bicycle parking spaces shall be provided in accordance with the specifications of this chapter in all zones whenever any new use is established, an existing use is enlarged, or an existing use of land or structure is changed to a new use. Such new, enlarged, or changed use shall fully comply with the specifications of this chapter prior to being given a certificate of use and occupancy.

Section 15.86.020, Off-Street Loading

- A. Every commercial and industrial use which requires the receipt or distribution of material or merchandise by trucks with a 40-foot or longer wheelbase at a frequency of one or more vehicles per week shall provide off-street loading spaces in sufficient number to adequately serve the number and frequency of vehicle shipping and receiving projected for the use. The applicant shall provide supporting evidence of the projected shipping and receiving and how the number of spaces to be provided will be adequate.***
- B. Where an off-street loading space is required, it shall be large enough to accommodate the largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. Each off-street loading space shall not be less than 12 feet wide by 55 feet long unless otherwise approved by the city through site design review.***
- C. Off-street loading space(s) shall also have adequate adjacent area for vehicle maneuvering so that vehicles using the space(s) are not required to back-up onto or back-up from a public street or alley to use the space. Where parking areas are prohibited between a building and the street, loading areas are also prohibited.***
- D. Exceptions and adjustments. The city, through site design review, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.***

FINDING: While the applicants proposal includes the sale of cider, it does not include the distribution by means of commercial vehicle that is longer than 40 feet, therefore these criteria are not applicable to this land use application. To ensure compliance, the following condition of approval has been added.

Commercial Vehicle: The applicants shall not receive nor distribute materials in a truck larger than 40 feet under this permit.

Section 15.86.030, Off-Street Parking – Required

- A. Location of off-street loading and parking spaces. Except as otherwise permitted by this Development Code, required off-street loading and parking spaces shall be located on the same lot with the principal use they are intended to serve. In no case shall a required loading space be part of the area used to satisfy the parking requirements and vice versa. Also, in no case shall the required loading or parking space(s) of one use be used to satisfy the loading or parking space requirements of another use.***
- B. Encroachment or reduction. A required loading or parking space shall not be encroached upon by a structure, storage, or other use, nor shall the number of spaces be reduced without replacement of a commensurate number of spaces in accordance with this section unless a special exception***

or variance has been approved.

- C. **Calculations of amounts of required and allowed parking.**
 - 1. **When computing parking spaces based on floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.**
 - 2. **The number of parking spaces is computed based on the primary uses on the site except as stated in subsection 3, below. When there are two or more separate primary uses on a site, the minimum and maximum parking for the site is the sum of the required or allowed parking for the individual primary uses. For shared parking, see subsection I below.**
 - 3. **When more than 20 percent of the floor area on a site is in an accessory use, the required or allowed parking is calculated separately for the accessory use. An example would be a 10,000 square foot building with a 7,000 square foot warehouse and a 3,000 square foot accessory retail area. The minimum and maximum parking would be computed separately for the retail and warehouse uses.**
- D. **Use of required parking spaces. Except as otherwise provided by this section, required parking spaces must be available for residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for shared parking pursuant to subsection I.**
- E. **Improvement of parking areas. Motorized vehicle parking is allowed only on streets with an improved shoulder of sufficient width; within garages, carports, and other approved structures; and on driveways or parking lots that have been developed in conformance with this Development Code.**
- F. **Minimum number of off-street automobile parking spaces. Except as required for Americans with Disabilities Act compliance under subsection L, off-street parking shall be provided pursuant to one of the following three standards:**
 - 1. **The standards in Table 15.86-1;**
 - 2. **A standard from Table 15.86-1 for a use that the planning official determines is similar to the proposed use. For uses not specified in the table, the city shall determine parking based on submission of technical data from applicant or city sources; or**
 - 3. **Subsection (H), parking exceptions, which includes a parking demand analysis option.**
- G. **Maximum number of off-street automobile parking spaces. The following standards for maximum number of automobile parking spaces promote efficient use of land and compact development patterns.**
 - 1. **Applicability. Developments subject to site plan review must conform to the maximum parking standards.**
 - 2. **Standards. Unless otherwise approved by the city through site plan review, the maximum number of off-street automobile parking spaces allowed for a commercial development equals the minimum number of required spaces, pursuant to Table 15.86-1 times a factor of 2.0. Parking spaces that are located in snow storage areas do not count toward the maximum parking space requirements.**
- H. **Exceptions and reductions to off-street parking. An applicant may propose a parking standard that is different than the standards under subsections F or G, for review and action by the planning official through a Type II procedure. The applicant's proposal shall consist of a written request and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors. The number of required off-street parking spaces may also be reduced through the provision of shared**

- parking, pursuant to subsection I.*
- I. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and, provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through site plan review.**
 - J. Parking stall design and minimum dimensions. Where a new off-street parking area is proposed, or an existing off-street parking area is proposed for expansion, the entire parking area shall be improved in conformance with this Development Code. At a minimum the parking spaces and drive aisles shall be paved with asphalt, concrete, or other city-approved materials, provided the Americans with Disabilities Act requirements are met, and shall conform to the minimum dimensions in Table 15-86-2 and the figures below. All off-street parking areas shall contain wheel stops, perimeter curbing, bollards, or other edging as required to prevent vehicles from damaging buildings or encroaching into walkways, landscapes, or the public right-of-way. Parking areas shall also provide for surface water management.**
 - K. Adjustments to parking area dimensions. The dimensions in subsection (J) are minimum standards. The city planning official, through a Type II procedure, may adjust the dimensions based on evidence that a particular use will require more or less maneuvering area.**
 - L. Americans with Disabilities Act (ADA). Parking shall be provided consistent with ADA requirements, including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.**

FINDING: The existing parking on site includes 1 ADA space, 3 parallel parking spaces, and 10 90-degree angle parking spaces which were approved under land use decision CU-02-16/SP-02-10. The applicant’s proposal does not include any alterations to the site or expansions to the building and therefore, staff finds the parking requirements that were previously approved are sufficient for the proposed use. Staff includes LPDC Section 15.86.030 for reference to the applicant for future alterations to the site.

Section, 15.86.050, Bicycle Parking

- A. Exemptions. This section does not apply to single-family and duplex housing, home occupations, and agricultural uses. The planning official may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.**
- B. Standards. Bicycle parking spaces shall be provided with new development and, where a change of use occurs, at a minimum, shall follow the standards in Table 15.86-3. Where an application is subject to conditional use permit approval or the applicant has requested a reduction to an automobile-parking standard, the city may require bicycle parking spaces in addition to those in Table 15.86-3.**

Table 15.86-3. Minimum Required Bicycle Parking Spaces	
Use	Minimum Number of Spaces
Muli-family residential (not required for parcels with fewer than 4 dwelling units)	2 bike spaces per 4 dwelling units
Commercial	2 bike spaces per primary use or 1 per 5 vehicles spaces, whichever is greater
Industrial	2 bike spaces per primary use or 1 per 10 vehicle

	<i>spaces, whichever is greater</i>
<i>Community Service</i>	<i>2 bike spaces</i>
<i>Parks (active recreation areas only)</i>	<i>4 bike spaces</i>
<i>Schools (all types)</i>	<i>2 bike spaces per classroom</i>
<i>Institutional uses and places of worship</i>	<i>2 bike spaces per primary is or 1 per 10 vehicle spaces, whichever is greater</i>
<i>Other uses</i>	<i>2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater</i>

FINDING: The applicants proposal includes four bicycle parking spaces which complies with the above criterion.

- C. Design.** *Bicycle parking shall consist of staple-design steel racks or other city-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:*
- 1.** *All bicycle parking shall be within 100 feet from a building entrance and located within a well-lit and clearly visible area;*
 - 2.** *Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility;*
 - 3.** *Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet;*
 - 4.** *An access aisle of at least five feet shall be provided in each bicycle parking facility;*
 - 5.** *Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack," upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). Note: businesses may provide long-term, employee parking by allowing access to a secure room within a building.*

FINDING: The applicant’s proposal did not specifically address the design of the bicycle parking and therefore, staff includes the following condition of approval to ensure compliance.

Bicycle Parking: ***Prior to the issuance of building permit***, the applicant must demonstrate that bicycle parking consists of staple-design steel racks or other city-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:

- 1.** All bicycle parking shall be within 100 feet from a building entrance and located within a well-lit and clearly visible area;
- 2.** Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility;
- 3.** Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet;
- 4.** An access aisle of at least five feet shall be provided in each bicycle parking facility;
- 5.** Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack," upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). Note: businesses may provide long-term, employee parking by allowing access to a secure room within a building.

- D. Hazards.** *Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of section 15.88.040.*

FINDING: The applicants proposed bicycle parking spaces will not create a hazard to pedestrians or vehicles, nor will it conflict with the required clear vision areas. This criterion is met.

Section 15.6.060, Snow Storage Areas

- A. **Purpose.** *The purpose of these standards is to ensure that adequate space is be provided within a development for storage of snow in winter months in order to accommodate space needed for access, circulation, and off-street parking.*
- B. **Applicability.** *Snow storage standards apply to all subdivisions and to developments subject to site plan review.*
- C. **Standards.**
 - 1. **Minimum area.** *Snow storage areas must be designated on a site plan. The areas must total a minimum of 15 percent of the area to be cleared, including all access drives, parking areas, and walkways.*
 - 2. **Location.** *Snow storage is not permitted on landscaped areas, except where these areas are limited to grass or rock cover. Snow storage may be permitted in parking areas, provided that the site can still accommodate enough parking spaces to meet minimum off-street parking requirements in winter months. Parking spaces that are located in snow storage areas do not count toward the maximum parking space requirements. It is encouraged that snow storage areas be located away from public view and that additional impervious surface areas are not created for the sole purpose of snow storage.*
 - 3. **Exceptions and adjustments.** *The city may reduce or eliminate the required snow storage areas if a snow removal plan is presented which provides a continuous guarantee of removal.*

FINDING: As stated above, the applicant’s proposal required 8 spaces, which is less than the existing 14 spaces. The entire site is approx. 18, 198 square feet in size which requires 2,729 square feet to be available for snow storage. Staff finds that while the applicant did not include snow storage on their submitted site plan, 6 of the parking spaces can be used for snow storage as allowed under subsection (C)(2) above. There is also approx. 2,771 square feet of landscaping that is limited to grass and rock cover on the west side of the building. Both of these areas exceed the required 2,729 square feet of required snow storage space and therefore, these criteria are met.

Chapter 15.88, Access and Circulation

Section 15.88.010, Purpose

Chapter 15.88 contains standards for vehicular and pedestrian access, circulation, and connectivity. The standards promote safe, reasonably direct, and convenient options for walking and bicycling, while accommodating vehicle access to individual properties, as needed.

Section 15.88.020, Applicability

Chapter 15.88 applies to new development and changes in land use necessitating a new or modified street or highway connection. Except where the standards of a roadway authority other than the city supersede city standards, chapter 15.88 applies to all connections to a street or highway, and to driveways and walkways.

FINDING: The applicant’s proposal does not include any new development, nor change in land use which necessitates a new or modified street or highway connection. Therefore, LPDC Chapter 15.88 does not apply to this

land use permit, however staff includes the rest of the chapter for reference to the applicant, so they are aware of the restrictions for future development. Staff includes the following condition of approval for future compliance.

Access and Circulation: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Chapter 15.88 for compliance.

Section 15.88.030, Vehicular Access and Circulation

- A. ***Purpose and intent. Section 15.88.030 implements the street access guidelines of the City of La Pine Transportation System Plan. It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. "Safety," for the purposes of this chapter, extends to all modes of transportation.***
- B. ***Permit required. Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority.***
- C. ***Traffic study requirements. The city, in reviewing a development proposal or other action requiring an approach permit, may require a traffic impact analysis, pursuant to section 15.90.080, to determine compliance with this Development Code.***
- D. ***Approach and driveway development standards. Access management restrictions and limitations consist of provisions managing the number of access points and/or providing traffic and facility improvements that are designed to maximize the intended function of a particular street, road or highway. The intent is to achieve a balanced, comprehensive program which provides reasonable access as new development occurs while maintaining the safety and efficiency of traffic movement. Intersections, approaches and driveways shall conform to access spacing guidelines in the City of La Pine Transportation System Plan and the roadway authority's engineering standards. In the review of all new development, the reviewing authority shall consider the following techniques or considerations in providing for or restricting access to certain transportation facilities.***
 - 1. ***Access points to arterials and collectors may be restricted through the use of the following techniques:***
 - a. ***Restricting spacing between access points based on the type of development and the speed along the serving collector or arterial.***
 - b. ***Sharing of access points between adjacent properties and developments.***
 - c. ***Providing access via a local order of street; for example, using a collector for access to an arterial, and using a local street for access to a collector.***
 - d. ***Constructing frontage or marginal access roads to separate local traffic from through traffic.***
 - e. ***Providing service drives to prevent overflow of vehicle queues onto adjoining roadways.***
 - 2. ***Consideration of the following traffic and facility improvements for access management:***
 - a. ***Providing of acceleration, deceleration and right-turn-only lanes.***
 - b. ***Offsetting driveways to produce T-intersections to minimize the number of conflict points between traffic using the driveways and through traffic.***
 - c. ***Installation of median barriers to control conflicts associated with left turn movements.***
 - d. ***Installing side barriers to the property along the serving arterial or collector to restrict access width to a minimum.***
- E. ***ODOT approval. Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, the applicant is responsible for obtaining ODOT approval. The city may approve a development conditionally, requiring the applicant first obtain required***

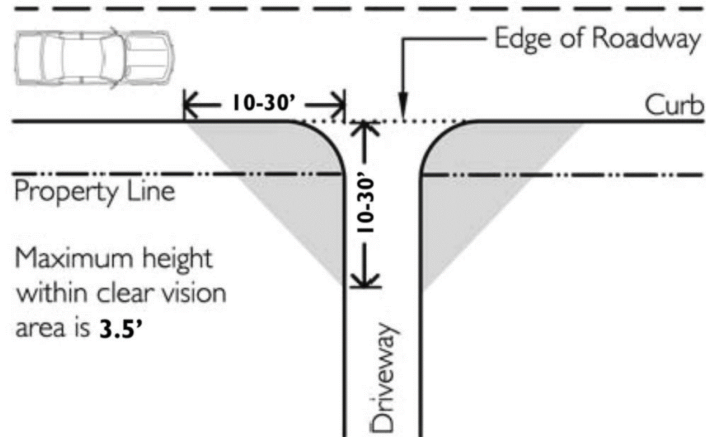
ODOT permit(s) before commencing development, in which case the city will work cooperatively with the applicant and ODOT to avoid unnecessary delays.

- F. Other agency approval. Where an approach or driveway crosses a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency, the applicant is responsible for obtaining all required approvals and permits from that agency prior to commencing development.*
- G. Exceptions and adjustments. The city may approve adjustments to the spacing standards of subsections above, where an existing connection to a city street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance.*
- H. Joint use access easement and maintenance agreement. Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.*

Section 15.88.040, Clear Vision Area (Visibility at Intersections)

- A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, wall, structure, private signage, or temporary or permanent obstruction exceeding 3½ feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.*
- B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad (see Figure 18.88-1). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the city:
 - 1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet; or at intersections including an alley, ten feet.*
 - 2. In all other zones, the minimum distance shall be in relationship to street and road right-of-way widths as follows:**

<i>Right of Way Width</i>	<i>Clear Vision</i>
<i>80 feet or more</i>	<i>20 feet</i>
<i>Less than 80 feet</i>	<i>30 feet</i>



Section 15.88.050, Pedestrian Access and Circulation

- A. **Purpose and intent.** This section implements the pedestrian access and connectivity policies of City of La Pine Transportation System Plan and the requirements of the Transportation Planning Rule (OAR 660-012). It is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.
- B. **Standards.** New subdivisions, multi-family developments, planned developments, commercial developments and institutional developments shall conform to all of the following standards for pedestrian access and circulation:
1. **Continuous walkway system.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
 2. **Safe, direct, and convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:
 - a. **The walkway is reasonably direct.** A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel.
 - b. **The walkway is designed primarily for pedestrian safety and convenience,** meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The city may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
 - c. **Vehicle/walkway separation.** Except as required for crosswalks, per subsection d., below, where a walkway abuts a driveway or street it shall be raised six inches and curbed along the edge of the driveway or street. Alternatively, the city may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
 - d. **Crosswalks.** Where a walkway crosses a parking area or driveway ("crosswalk"), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The

- crosswalk may be part of a speed table to improve driver-visibility of pedestrians.*
- e. *Walkway construction. Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other city-approved durable surface meeting ADA requirements. Walkways shall be not less than four feet in width, except that the city may require five-foot wide, or wider, sidewalks in developments where pedestrian traffic warrants walkways wider than four feet.*
 - f. *Multi-use pathways. Multi-use pathways, where approved, shall be ten feet wide and constructed of asphalt, concrete or other city-approved durable surface meeting ADA requirements consistent with the applicable city engineering standards.*

Chapter 15.90, Public Facilities

Section 15.90.010, Public Facility Improvement

Minor betterment, improvements, replacement or reconstruction of existing public facilities such as sewer and water lines, stormwater drainage facilities, sidewalks and other pedestrian ways or facilities, bikeways and similar public facilities within rights-of-ways and easements for the purposes existing on or before the effective date of this chapter, or on contiguous publicly-owned property designated, intended or utilized to support the facilities, or the facilities that are set forth within an adopted public facilities plan or other capital improvement plan duly adopted on or before the effective date of this ordinance, are exempt from permit requirements, unless specifically set forth otherwise.

FINDING: Comments from the City Engineer did not indicate that any public improvements would be needed in relation to applicants' proposal, therefore LPDC Chapter 15.90 does not apply to this land use application. Staff notes that future alterations to the site may require improvements to public facilities. To ensure compliance, the following condition of approval has been added.

Public Facility Improvements: Future alteration to the subject property must be reviewed for compliance with LPDC Chapter 15.90.

Article 6, Special Use Standards

Chapter 15.102, Special Uses – General Provisions

Section 15.102.010, Purpose

Special uses included in article 6 are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district.

Section 15.102.020, Applicability

All uses listed in chapter 15.104 and chapter 15.108 are subject to the standards of article 6. Special use standards may apply to an entire use category, as described in chapter 15.14, use categories, or a specific use within a use category. The standards of this chapter supplement the other requirements of this article. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

Chapter 15.108, Special Use Standards – Non-Residential Uses

Section 15.108.010, Artisanal and Light Manufacturing Uses

- A. Applicability.** *The following provisions are intended to encourage mixed-use development, including cottage industries and business incubators, by integrating small-scale manufacturing with commercial uses. Artisanal and light manufacturing uses are permitted in the C and CN zones as a primary use with a conditional use permit. Artisanal and light manufacturing uses may also be permitted as an accessory to a permitted use in a commercial or mixed-use zones. Whether a primary or accessory use, all artisanal and light manufacturing uses in commercial or mixed-use zones must meet the standards of this section.*
- B. Standards.**
- 1.** *Where an artisanal and light manufacturing use is allowed in a commercial or mixed-use zone, it shall be wholly enclosed in a building.*

FINDING: The applicant's proposal is located within the Traditional Commercial zone and is wholly enclosed within the existing building on site. This criterion is met.

- 2.** *Where an artisanal and light manufacturing use is allowed in a commercial or mixed-use zone and the subject site is located within 100 feet of a residential zone, the city may limit the hours of operation of the use to between 7:00 a.m. and 10:00 p.m. where it has identified concerns about noise, parking, or other impacts related to the use.*

FINDING: The subject property is not located within 100 feet of a residential zone; therefore, this criterion is not applicable.

Article 8, Applications and Reviews

Chapter 15.308, Zoning Checklist

Section 15.308.010, Applicability

A zoning checklist shall be required for any of the following (except where otherwise indicated in this Development Code):

- A.** *Commencing a use, changing a use or intensity of use, or extending or displacing the use of any building, structure, and/or land in the city.*
- B.** *Construction, erection, enlargement, reconstruction, or structural alteration of any single-family dwelling (including placement of a mobile or manufactured home on a property), duplex, or accessory dwelling unit and any other structure accessory to a residential use that requires a building permit.*

FINDING: The applicant is proposing to change the present use of the existing building on site, therefore the provisions of LPDC Chapter 15.308 are applicable to this land use application and are addressed herein.

Section 15.308.040, Approval Criteria

The review authority shall be governed by the criteria below as they evaluate and render a decision on a proposal.

- A.** *The proposed use is a permitted use in the zone in which the site is located. If the proposed use is*

a conditional use, a conditional use application has been submitted and approved by the city.

FINDING: The proposed use is classified as conditional use within the Traditional Commercial zone. The applicant submitted a conditional use application, and all applicable criteria have been reviewed within this decision. This criterion is met.

B. *The site provides the required number of bicycle and vehicle parking spaces.*

FINDING: As discussed previously, the site provides the required number of vehicle and bicycle parking spaces. This criterion is met.

C. *The proposal complies with the standards and criteria applicable to the proposed use.*

FINDING: As discussed previously, the applicant's proposal complies with the standards of the Traditional Commercial and Downtown Overlay zone. This criterion is met.

D. *The proposal does not violate applicable set back or lot coverage requirements.*

FINDING: As discussed previously, the existing building on site complies with all applicable set back and lot coverage requirements. This criterion is met.

E. *The proposal complies with any applicable conditions of approval in prior land use decisions concerning the site.*

FINDING: Staff has reviewed the conditions of approval for all three previous land use decisions for the subject property and confirmed that each condition of approval has been met. To ensure continued compliance, the following condition of approval has been added.

Previous Land Use Decision: All conditions of approval in prior land use decisions remain in effect and must be addressed by the applicant through land use review if the applicant wishes to alter the site.

Chapter 15.316, Conditional Uses

Section 15.316.010, Applicability

Conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this chapter. In the case of a use listed as conditional existing prior to the effective date of this Development Code, a change in use, enlargement or alteration of such use shall conform with the provisions of a conditional use if so classified. Any new or transferred owner or assign is required to abide by the authorized permit. An application for a conditional use permit may be approved, modified, approved with conditions or denied by the city.

Section 15.316.040, Approval Criteria

In determining whether or not a conditional use proposal shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval:

A. *The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable overlay zone, and other provisions set forth by this Development Code that are determined applicable to the subject use.*

FINDING: The applicant's burden of proof included the following response to this criterion:

The subject site is zoned traditional commercial (C) and is within the downtown overlay zone. The requirements and associated compliance of the proposed applications with the requirements of the applicable zone and overlay zone is detailed above.

Staff agrees with the applicant's statements that all applicable code criteria for the Traditional Commercial and Downtown Overlay zone have been addressed previously in this decision. Within this decision, staff has found that the applicant's proposal meets all the applicable code criteria and therefore, this criterion is met.

B. *That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.*

FINDING: The applicant's burden of proof included the following statement in response to the above criterion:

Legend Cider is currently operating under a license from the OLCC as a cidery on another site within the city limits. The company is currently in the process of licensing this new space with the OLCC, TTB, and Department of Agriculture.

Staff finds that this statement complies with the above criterion, and it is met.

C. *The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this Development Code.*

FINDING: The applicant's burden of proof included the following response to the above criterion:

The conditional use application is requested for the processing portion of the cidery, which fits into the light manufacturing category. No specific standards, conditions or limitations are required for this use in the applicable zone or in the development code.

Staff agrees with the applicant analysis and notes that as stated within this decision, all applicable land use regulations for the Traditional Commercial and Downtown Overlay zone have been met. Therefore, this criterion is met.

D. *That no approval be granted for any use which is or [is] expected to be found to exceed resource or public facility carrying capacities, including, but not limited to, transportation water, sewer, and utility systems.*

FINDING: The applicant provided the following response to the above criterion:

The proposed use (cidery) is relocating into an existing structure that is currently connected to City water, sewer and transportation services that are sized to adequately to serve the property for commercial zone purposes. Nothing about the proposed use (previous usage, industry standards, etc.) suggests that it is an unusually higher utilizer of these services. The City Engineer has visited the site and confirmed that all water and sewer (including grease trap) infrastructure is available and meets code requirements. The existing utilities have been determined to be adequate for the proposed uses.

Staff agrees with the applicant's analysis and further notes that notice of application was sent to the City Engineer

and Public Works Director for review. Staff did not receive any comments indicating that the proposed use would exceed resource or public carrying capacities. This criterion is met.

- E. *For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.***

FINDING: Staff finds that the applicant's proposal does not require compliance with air, water, land, and solid waste and/or noise pollution standards. Therefore, this criterion is not applicable.

Section 15.316.050, Permit and Improvements Assurance

An applicant for a conditional use permit may be required to furnish the city with a performance bond or other form of assurance in an amount equal to the estimated value of required improvements and other aspects of a proposed use as deemed necessary to guarantee development in compliance with the standards and conditions set forth in the approval of a conditional use.

FINDING: Comments from the City Engineer did not indicate the need for a performance bond or other form of public assurance. Therefore, this criterion is not applicable to this land use application.

V. CONCLUSION

Based on the foregoing findings, City staff concludes that the proposed use can comply with the applicable standards and criteria of the City of La Pine Development Code if the conditions of approval are met.

Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental Soils Division as well as any required state and federal permits.

VI. DECISION

APPROVAL, subject to the following conditions of approval.

VII. CONDITIONS OF APPROVAL:

AT ALL TIMES

- A. Application Materials:** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B. Additional Permit Requirements:** The applicant shall obtain necessary permits from the City of La Pine, Deschutes County Building Department, Deschutes County Onsite Wastewater Department, and any other necessary State or Federal permits.
- C. Confirmation of Conditions:** The applicant shall be responsible for confirming in detail how each specific condition of approval has been met if requested by City staff.
- D. Alteration or Expansion:** No further alteration, expansion, or manipulation of the outside structure in terms

of footprint, or current square footage is permitted without a site plan application.

- E. Exterior Development: Any temporary or permanent surface (non-structural) development in front yard should be reviewed with City prior to development to ensure compliance with setbacks and or lot limitations, and that utility accesses are maintained.
- F. Landscaping: All expansion of external mobile vendor services on site will need to be reviewed with City prior to installation to ensure appropriate maintenance of landscaping, safety /utility corridor/access areas, surface and site suitability, and requisite licensing compliance.
- G. Exterior Lighting: All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.
- H. Downtown Overlay: Any future exterior changes to the building and/or site must be reviewed for compliance with LPDC Chapter 15.40.
- I. Landscaping and Buffering: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Section 15.82.010 for compliance.
- J. Fences and Walls: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Section 15.82.020 for compliance.
- K. Commercial Vehicle: The applicants shall not receive nor distribute materials in a truck larger than 40 feet under this permit.
- L. Access and Circulation: Any future alteration or expansion to the site must be reviewed for compliance under LDPC Chapter 15.88 for compliance.
- M. Previous Land Use Decision: All conditions of approval in prior land use decisions remain in effect and must be addressed if the applicant goes through land use review if the applicant wishes to alter the site.
- N. Public Facility Improvements: Future alteration to the subject property must be reviewed for compliance with LPDC Chapter 15.90.

PRIOR TO THE ISSUANCE OF BUILDING PERMITS

- O. Bicycle Parking: ***Prior to the issuance of building permit***, the applicant must demonstrate that bicycle parking consists of staple-design steel racks or other city-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:
 1. All bicycle parking shall be within 100 feet from a building entrance and located within a well-lit and clearly visible area;
 2. Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility;
 3. Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet;
 4. An access aisle of at least five feet shall be provided in each bicycle parking facility;
 5. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack," upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary).

Note: businesses may provide long-term, employee parking by allowing access to a secure room within a building.

VIII. DURATION OF APPROVAL, NOTICE, AND APPEALS

This approval shall lapse, and a new approval shall be required, if the use approved in this permit is not initiated within two (2) years of the date that this decision becomes final, or if development of the site is in violation of the approved plan or other applicable codes.

THIS DECISION BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE MAILED, UNLESS APPEALED BY THE APPLICANT OR A PARTY OF INTEREST IN ACCORDANCE WITH ARTICLE 7, CHAPTER 15.212 OF THE CITY OF LA PINE LAND DEVELOPMENT CODE. PURSUANT TO ARTICLE 7, CHAPTER 15.212 OF THE CITY OF LA PINE LAND DEVELOPMENT CODE, APPEALS MUST BE RECEIVED BY 5:00 PM ON THE 12TH DAY FOLLOWING MAILING OF THIS DECISION.

CITY OF LA PINE COMMUNITY DEVELOPMENT DEPARTMENT

Written By: Rachel Vickers, Associate Planner