



Oregon

John A. Kitzhaber, M.D., Governor

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May 12, 2011

Honorable Ken Mullenex Mayor
City of La Pine - City Hall
PO Box 3055
51340 Hwy 97
La Pine, OR 97739

Dear Mayor Mullenex:

I am pleased to notify the City of La Pine that Oregon's Land Conservation and Development Commission (LCDC) and the Department of Land Conservation and Development (DLCD) has released the attached order acknowledging that the City of La Pine's comprehensive plan complies with Oregon's Statewide Planning Goals 1, 3, 4, 6, 8, 9, 11, and 13.

I am also pleased to confirm the department's continued commitment to work with the City of La Pine as you complete remaining work toward compliance with Statewide Planning Goals 2, 5, 7, 10, 12, and 14. Completing the comprehensive plan is an important step in preparing your city for a successful future and protecting the unique features that make La Pine a great Oregon community.

Thank you again for the community's commitment and partnership in developing La Pine's first comprehensive plan and congratulations on passing this important milestone. Please feel free to contact me directly if you have any questions about the acknowledgment process or about our role in Oregon's statewide planning program.

Our regional representative, Karen Swirsky, is also ready to work with your staff and city officials as you complete the planning process. Please contact Karen at 541.325.6927 or Karen.Swirsky@state.or.us.

With warm regards,

Jerry Lidz
Acting Director

Attachment: LCDC Continuance and Compliance Order

cc: Senator Chris Telfer
Representative Gene Whisnant
Rick Allen, City of La Pine Manager
Commenter List

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

IN THE MATTER OF THE)	CONTINUANCE ORDER AND
ACKNOWLEDGEMENT OF)	COMPLIANCE SCHEDULE
THE CITY OF LA PINE)	
COMPREHENSIVE PLAN)	ORDER 11- CONT-COMPLY-001804

This matter came before the Land Conservation and Development Commission (Commission) on March 3, 2011, as a referral of the City of La Pine’s request for acknowledgment of compliance with Oregon’s Statewide Planning Goals pursuant to ORS 197.251 and OAR chapter 660, division 3. Pursuant to ORS 197.251(4), the Commission confined its review of the City’s acknowledgement request to the record of the proceedings before the City of La Pine and the report of the director of the Department of Land Conservation and Development (department) prepared pursuant to ORS 197.251(2). The director did not receive any comments, objections, or exceptions as authorized by ORS 197.251(2) and (3). The Commission entertained oral argument from the department and the City of La Pine, but did not consider any new evidence. The Commission issues the following order:

FINDINGS OF FACT

1. On December 7, 2006, the City of La Pine (city) incorporated.
2. On March 10, 2010, the city adopted Ordinance No. 2010-02 “AN ORDINANCE ADOPTING THE COMPREHENSIVE PLAN TEXT AND MAP OF THE CITY OF LA PINE AND ADOPTING AN URBAN GROWTH BOUNDARY TO INCLUDE LAND FOR HOUSING, EMPLOYMENT, AND RELATED USES; AND DECLARING AN EMERGENCY.”
3. On April 5, 2010, Deschutes County (county) adopted Ordinance No. 2010-008, amending Title 23 of the Deschutes County Code to establish the city’s urban growth boundary.
4. On April 8, 2010, the county submitted notice of adoption to the department.
5. On August 14, 2010, the city submitted notice of adoption to the department.
6. On September 14, 2010, pursuant to OAR 660-003-0010 the department provided a completeness letter to the city and pursuant to OAR 660-003-0015 the department mailed a Notice of Opportunity to Comment and File Objections.
7. On October 20, 2010, the Commission, at the request of the department and with the city’s agreement, found that due to extenuating circumstances a period of time greater than 90 days from the date of the city’s request would be required to enter an order on this matter pursuant to ORS 197.251(1). The circumstances include compliance with the comment periods on the submittal and the department’s report provided in OAR chapter 660, division 3 and

avoiding the need to have a special meeting of the Commission in late December when achieving a quorum may prove difficult.

8. On October 29, 2010, the deadline to submit comments and objections passed; the department did not receive any timely objections or comments.

9. On December 2, 2010, the Commission, with the city's agreement, decided to hear the request at its regularly scheduled meeting on March 3-4, 2011 in order to give the city and the department an adequate opportunity to prepare for the hearing.

10. On February 10, 2011, the department provided copies of its report to the Commission, the City of La Pine, Deschutes County, and persons who requested a copy of the report in writing and notified the recipients of the opportunity to file written exceptions to the report. No exceptions were filed.

11. On April 12, 2011, the State Citizen Involvement Advisory Committee (CIAC) met to review the city's proposed Goal 1 element and determined that the proposed program adequately provides for public involvement in the planning process, as required by ORS 197.160(1)(c).¹

12. On April 21, 2011, the CIAC reported to the Commission that the city's proposed programs adequately provides for public involvement in the planning process.

CONCLUSIONS OF LAW

1. ORS 197.015(1) defines "acknowledgment" in pertinent part to mean "a commission order that certifies that a comprehensive plan and land use regulations * * * complies with the goals[.]" ORS 197.251(5)(a) requires the Commission to identify the goals applicable to the request for acknowledgment. For the City of La Pine's acknowledgement request, the Commission identifies Statewide Planning Goals 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 as the applicable goals.

2. ORS 197.251(5)(b) requires a clear statement of findings in support of the determinations of compliance. The Commission's statement of findings related to each applicable Statewide Planning Goal are provided below and incorporate the reasons set forth in Section IV of the director's report, which is attached hereto and incorporated herein and in the Commission's deliberation on the matter.

3. Goal 1

Goal 1 is "[t]o develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." Goal 1 mandates six components that a local government must include in a citizen involvement program. The department concluded that the plan complies with Goal 1. Additionally, pursuant to ORS 197.160(1)(c), the CIAC reviewed the city's proposed Goal 1 element to determine whether the proposed programs

¹ Pursuant to ORS 197.160(1)(c), the Citizen Involvement Advisory Committee is required to review proposed citizen involvement programs and report on "whether or not the proposed programs adequately provide for public involvement in the planning process, and if it does not so provide, in what respects it is inadequate."

adequately provide for public involvement in the planning process. The CIAC review determined that the La Pine Comprehensive Plan submittal adequately provides for public involvement in the planning process.

The Commission adopts the findings of the staff report and considers the recommendation of the CIAC in concluding that the La Pine Comprehensive Plan is in compliance with Statewide Planning Goal 1 – Citizen Involvement.

4. Goal 2

Goal 2 is “[t]o establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.” The department determined that the city’s comprehensive plan establishes a legal basis for future land use regulations, identifies important local values and creates overarching principles to guide planning and investment decisions that will influence the city’s future, and provides the overall basic structure that will enable compliance with Goal 2. However, the department determined that specific sections of the plan, particularly relating to Goals 2, 5, 7, 10, 12, and 14, require additional support, findings, and conclusions. Further, for the other goals, including Goals 5 and 9, the City of La Pine must adopt land use codes to meet those goals and the requirements of Goal 2.

The Commission accepts the department recommendation that the La Pine Comprehensive Plan is not yet in compliance with Statewide Planning Goal 2 – Land Use Planning.

5. Goal 3

Goal 3 is “[t]o preserve and maintain agricultural lands.” Goal 3 requires *counties* to maintain an inventory of land suitable for farming and ranching activities and to protect commercial agriculture by establishing minimum parcel sizes and limiting the conflicting uses on those lands. Goal 3 does not require cities to plan for agricultural lands, and lands inside urban growth boundaries (UGB) are specifically excluded from the definition of agricultural lands found in Goal 3 and OAR chapter 660, division 33. Goal 3 does not directly apply to acknowledgment or to the establishment of a UGB. OAR 660-024-0020(1)(b). As such, Goal 3 does not require the city to establish compliance with Goal 3 for purposes of acknowledgement. The city acknowledgment request nevertheless recognizes the transitional nature of much of its land, and addressed Goal 3 by describing traditional and surrounding land use activities and the original zoning arrangement for some lands now included within the city’s corporate territory and provides guidance for the transition from agricultural use to urban use, but does not give preference to agriculture over urban uses.

The Commission accepts the La Pine Comprehensive Plan as in compliance with Statewide Planning Goal 3 – Agricultural Lands.

6. Goal 4

Goal 4 is “[t]o conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land

consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.” Because Goal 4 is implemented by *counties* outside of urban growth boundaries, the city is not required to demonstrate compliance with Goal 4 to achieve acknowledgment. OAR 660-024-0020(1)(b). However, the city’s plan includes a Goal 4 element that describes traditional land use activities and the original zoning arrangement for lands now included within the city’s corporate limits in recognition that forestland has been an important component in the development of the community’s economy and culture, as well as an identifying community feature. The plan does not give preference to forest practices over urban activities, but instead provides guidance for the transition from forest use to urban use and recognizes that some areas, particularly public lands inside the city boundary, may serve to buffer the community from threats of wildland fire.

The Commission accepts the La Pine Comprehensive Plan as in compliance with Statewide Planning Goal 4 – Forest Lands.

7. Goal 5

Goal 5 is “[t]o protect natural resources and conserve scenic and historic areas and open spaces.” OAR chapter 660, division 23 implements Goal 5 by requiring local jurisdictions to inventory *inter alia* riparian corridors, wetlands, and wildlife habitat. Inventories provide the information necessary to locate and evaluate resources and develop programs to protect such resources. OAR 660-023-0030(1). To streamline Goal 5 compliance, division 23 provides “safe harbors” that may replace the standard inventory process for riparian areas and wildlife habitat and program protection for riparian corridors and wetlands.

For the remaining required inventories, local jurisdictions may rely on inventories compiled by other agencies. For all inventoried significant Goal 5 resources, a local government must develop and implement appropriate protection measures. OAR 660-023-0050.

Riparian Corridors are a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. OAR 660-023-0090(1)(c). For riparian corridors, the city relies on the applicable portions of the Deschutes County inventory and applies the safe harbor provisions of OAR 660-023-0090(5) and (8). However, the department concluded that the plan does not specify protections for all of the required riparian resources protections.

To comply with Goal 5, the City of La Pine is also required to conduct a local wetlands inventory for areas inside its urban growth boundary. OAR 660-023-0100. A 1997 local wetlands inventory adopted by Deschutes County covers certain areas inside the city’s urban growth boundary. For the Commission to find the plan to be in compliance with Goal 5, the city must complete a local wetlands inventory for all areas within its urban growth boundary.

Wildlife habitat – an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction – is a resource that Goal 5 requires local governments to inventory and determine that which is significant. OAR 660-023-0110. The City of La Pine relied on the Deschutes County Comprehensive Plan for wildlife inventories and utilized the safe harbor inventory provisions to identify significant wildlife habitat under OAR 660-023-0110(4). None of the inventoried habitat within La Pine is significant wildlife habitat under the safe harbor provisions. However, because riparian corridors and wetlands within the urban growth

boundary potentially include significant wildlife habitat, the Commission cannot find the plan to be in compliance with Goal 5 prior to the completion of those necessary inventories and development of any corresponding protection programs.

The department reviewed the city's plan and agreed that for purposes of Goal 5 compliance, the following resources were not found within the La Pine urban area: Federal Wild and Scenic Rivers (OAR 660-023-0120), Oregon Scenic Waterways (OAR 660-023-0130), Groundwater Resources (OAR 660-023-0140), Approved Oregon Recreation Trails (OAR 660-023-0150), Natural Areas (OAR 660-023-0160), Wilderness Areas (OAR 660-023-0170), Mineral and Aggregate Resources (OAR 660-023-0180). Further, the city determined that there are no significant energy sources under OAR 660-023-0190(1)(a), but did recognize the potential for and anticipated solar energy generation within its boundaries.

The plan submittal includes a placeholder for cultural resources. To comply with Goal 5 in that regard, the city must follow the process and requirements for Goal 5 cultural resources provided in OAR chapter 660, division 16. OAR 660-023-0250(1).

Goal 5 provides that local governments "are encouraged to maintain current inventories" of Historic Resources, Open Space, and Scenic Views and Sites. Division 23 provides implementing rules for those resources at OAR 660-023-0200, 660-023-0220, and 660-023-0230 respectively. The Commission will consider Goal 5 compliance should the city inventory any of these resources pursuant to this continuance order.

The department recommends and the Commission finds that a continuance is required in order for the city to bring the plan into compliance with Goal 5 and OAR chapter 660, division 23. The specific actions the city must complete are to amend the Goal 5 element to complete a Local Wetland Inventory, to develop a work program to protect significant riparian corridors and wetlands, to address cultural resources, and to identify interim Goal 5 resource protection measures.

8. Goal 6

Goal 6 is "[to] maintain and improve the quality of air, water and land resources of the state." The Commission has not adopted administrative rules to implement Goal 6. Compliance with Goal 6 may be established through meeting state or federal environmental quality standards. Chapter 5 of the City of La Pine Comprehensive Plan addresses air and water quality standards, particularly acknowledging air quality and ground water contamination challenges. The plan includes drinking water aquifer protection and sewage treatment facility expansion provisions.

The Commission accepts the La Pine Comprehensive Plan as being in compliance with Statewide Planning Goal 6 – Air, Water and Land Resources Quality.

9. Goal 7

Goal 7 is "[t]o protect people and property from natural hazards" and requires local governments to "adopt comprehensive plans (inventories, policies, and implementing measures) to reduce risk" from specific natural hazards including floods, landslides, earthquakes and related hazards, and wildfires. The plan submittal includes discussion of flooding and wildfire and

identification of a “Fire Protection Overlay Zone” and floodplain areas on the plan map. However, the plan submittal does not include policies and implementing measures to reduce risk to people and property of wildfire and flooding hazards. The department recommends that the city should consider incorporating applicable provisions of Deschutes County’s Community Wildfire Protection Plan for Greater La Pine.

The Commission finds that a continuance is necessary to achieve compliance with Statewide Planning Goal 7 – Areas Subject to Natural Hazards; specifically by including policies and implementing measures to reduce risk to people and property from wildfires and floods.

10. Goal 8

Goal 8 is “[t]o satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.” Goal 8 encourages cities and counties to coordinate with other private and public entities to offer outdoor recreation amenities commensurate with the needs and desires of the community. The submittal complies with the goal because the proposed comprehensive plan includes a description of local outdoor amenities important to the citizens of La Pine, and discusses the city’s coordination with, and the planning efforts of, the La Pine Park and Recreation District (LPRD). The plan also includes an inventory of existing and planned facilities owned and managed by LPRD, the State of Oregon, the Federal Government, and private property owners. Further, the department report describes how the framework of policy and programs to implement the plan assure compliance with Goal 8.

The Commission accepts the La Pine Comprehensive Plan as being in compliance with Statewide Planning Goal 8 – Recreational Needs.

11. Goal 9

Goal 9 is “[t]o provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” The Commission identifies Goals 9 and 14, the respective implementing administrative rules, OAR chapter 660, divisions 9 and 24, and ORS 197.712 as legal requirements applicable to considering compliance with Goal 9. The department report describes the applicable provisions in detail. Generally, Goal 9 requires that comprehensive plans provide for a variety of economic opportunities, based on inventories of areas suitable for increased economic growth, and taking into consideration current economic factors. The goal requires that comprehensive plans provide for at least an adequate supply of suitable sites, plan for adequate public facilities to serve these sites, and limit incompatible uses to protect those sites for their intended function.

The plan contains an Economic Opportunities Analysis that includes an analysis of trends as the principal determinant of the employment land supply, along with an inventory of employment land and a determination of economic development potential as required by OAR 660-009-0015. The department found and the Commission concurs that the Economic Opportunities Analysis complies with OAR chapter 660, division 9. The plan provides general policy statements; ultimately full compliance with Goal 9 entails developing implementing regulations and land development codes.

The Commission accepts the La Pine Comprehensive Plan as being in compliance with Statewide Planning Goal 9 – Economic Development.

12. Goal 10

Goal 10 is “[t]o provide for the housing needs of citizens of the state.” Goal 10 requires local governments to inventory buildable lands for residential use and document the amount of buildable land in each residential plan designation. OAR 660-008-0010. Goal 10 and its implementing rule further require an analysis of housing needs in order to enable local governments to designate sufficient buildable lands to encourage the availability of adequate numbers of needed housing units. OAR 660-008-0010.

The City of La Pine Buildable Land Analysis (2009) describes the amount of buildable land in each residential plan designation. Although the plan submittal contains a summary of the city’s housing needs analysis, the department determined that the analysis is not sufficient to comply with Goal 10 and OAR chapter 660, division 8. Specifically, although OAR 660-008-0005(4) (a) requires future housing mix and densities to be “commensurate with the financial capabilities of present and future area residents of all income levels during the planning period[,]” the plan neither describes the financial capability of future residents nor ties that capability to the projected housing mix, the projected overall average density, and the projected minimum residential zoning densities. Also, the plan does not yet specify the total number of needed housing units, the number of units needed for each housing type, the assumed densities for each housing type; and the data, calculations, and analysis for each. Because the Residential Land Need Analysis is derived from the housing needs analysis, the department could not find compliance with Goal 10 in several respects: the plan does not provide the calculation for the total amount of residential land need, including a sub-total of the amount just for dwelling units; the plan does not provide the projected need for non-residential uses permitted in residential zones, and the amount of land required for that need; and the plan does not demonstrate how the total number of needed housing units, the number of units needed for each housing type, and the assumed densities for each housing type were converted to acres of land need. The department did find that the city and the county have conducted a coordinated population forecast as required by ORS 195.036 and OAR 660-008-0030.

The Commission concludes that the plan submittal does not comply with Statewide Planning Goal 10 – Housing. Pursuant to ORS 197.251(11)(a) (B), the Commission specifies the following actions for the City of La Pine to comply with Goal 10:

- (1) Provide a housing needs analysis consistent with Goal 10 and OAR chapter 660, division 8, including:
 - A. Update the current housing mix based on building permit data.
 - B. Provide the total number of needed housing units, the number of units needed for each housing type, the assumed densities for each housing type; and the data, calculations, and analysis for each.
 - C. Provide the financial capability of future residents, and demonstrate how that capability is tied to the projected housing mix, the projected overall average density, and the projected minimum residential zoning densities.
- (2) Amend the Residential Land Need Analysis:

- A. Demonstrate how the total number of needed housing units, the number of units needed for each housing type, and the assumed densities for each housing type were converted to acres of land need;
 - B. Provide the calculation for the total amount of residential land need, including a sub-total of the amount just for dwelling units; and
 - C. Provide the projected need for non-residential uses permitted in residential zones, and the amount of land required for that need.
- (3) Provide a zoning map for the UGB consistent with Goal 10, Goal 14, OAR chapter 660, divisions 8 and 24, and the city's comprehensive plan and plan map and adopt land use regulations consistent with its plan policies, Goal 10, and the needed housing statutes.

13. Goal 11

Goal 11 is “[t]o plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” Goal 11 requires cities to adopt a public facilities plan for areas within an urban growth boundary containing a population greater than 2,500 persons as prescribed in OAR chapter 660, division 11. Because the population within La Pine’s adopted UGB is less than 2,500, the city is not required to prepare a public facility plan. In this circumstance, Goal 11 compliance is established by demonstrating that the city has adequately planned for urban facilities and services within the UGB for the next 20 years. The department reported that the plan provides a detailed description of the public facilities and services available to city residents, particularly of transportation, water and sewer, and anticipated facility needs for the next 20 years. The plan policies and implementing programs direct planning for needed infrastructure in consideration of funding sources and conservation measures.

The Commission accepts the La Pine Comprehensive Plan as being in compliance with Statewide Planning Goal 11 – Public Facilities and Services.

14. Goal 12

Goal 12, Transportation, is “[t]o provide and encourage a safe, convenient and economic transportation system.” Goal 12 provides that comprehensive plans must treat transportation as a “key facility” *i.e.*, those basic facilities planned by local government that are essential to the support of more intensive development. To comply with Goal 12, a transportation plan must:

- “(1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans.”

The Transportation Planning Rule, OAR chapter 660, division 12, implements Goal 12 as well as provisions of other goals that implicate transportation planning. OAR 660-012-0000.

The rule prescribes the manner for preparing and the contents of a Transportation System Plan (TSP). The City of La Pine submitted a Goal 12 comprehensive plan element, but not a TSP. Compliance with the Transportation Planning Rule and Goal 12 will be determined upon review of the TSP and implementing land use regulations. The department recommended that the City of La Pine provide findings for compliance with OAR 660-012-0060 for lands that were not contained within the La Pine Urban Unincorporated Community (UUC) prior to city incorporation and clarification that uses on those lands cannot be intensified prior to the adoption of the City of La Pine Transportation System Plan, including lands described above. Although lands that were not part of the previous UUC may be designated as “future urbanizable” lands consistent with Goal 12, they must retain current Deschutes County zoning or another interim “non-urban” zoning until the city adopts a TSP.

The Commission concludes that the plan submittal does not comply with Statewide Planning Goal 12 – Transportation. Pursuant to ORS 197.251(11)(a) (B), the Commission specifies the actions recommended by the department for the City of La Pine to comply with Goal 12, including adoption of TSP and implementing regulations and the application of OAR 660-012-0060 to urbanization of certain lands prior thereto.

15. Goal 13

Goal 13 is “[t]o conserve energy.” The goal provides planning guidelines to conserve energy resources through land use planning. The department determined that Chapter 11 of the La Pine Comprehensive Plan complies with Goal 13 by comprehensively discussing energy conservation relevant to current and long range planning for the city, particularly focusing on the relationship between energy use, development patterns, transportation needs and construction practices.

The Commission accepts the La Pine Comprehensive Plan as being in compliance with Statewide Planning Goal 13 – Energy Conservation.

16. Goal 14

Goal 14 is “[t]o 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.” Goal 14 focuses urban development inside urban growth boundaries (UGB), requires land-efficient urbanization inside UGBs, and protects rural lands outside UGBs from inefficient urban development. In establishing a UGB, Goal 14 requires cities to provide for urban development needs in a cooperative process with other local governments. Goal 14 is interrelated to the urbanization provisions in Goals 9-12, and compliance with Goal 14 is dependent upon compliance with those goals.

OAR chapter 660, division 24 implements Goal 14 and provides clarification of the procedures and requirements for adopting an urban growth boundary. The department reviewed the city’s submittal against the requirements of Goal 14 as implemented by division 24. The department found that the submittal had complied with OAR 660-024-0020(2), which requires the UGB to be shown on the city and county plan and zone maps. Regarding compliance with the 20-year coordinated population forecast required by Goal 14, need factor 1 and OAR 660-024-0030, the department determined that the city must adopt Deschutes County’s 2029

population projection of 2,566 for La Pine and recommends the Commission direct the city to amend the submittal to do so.

Goal 14 requires lands within a newly established UGB to provide a 20-year land supply for housing, employment, and other urban uses. Because the assumptions, data, analysis, and findings for the 20-year population forecast used to establish the UGB are not in the comprehensive plan, the department concluded it was not possible to determine whether the 20-year residential need is based on the adopted 20-year population forecast as required by Goal 14 and OAR 660-024-0040. Regarding employment land, based on the city's Goal 9 comprehensive plan provisions discussed above, the department recommended that the plan adequately establishes the city's 20-year employment land needs.

Identifying and accommodating the need for public facilities and other urban land needs within an urban growth boundary are governed by Goal 14, need factor 2 and OAR 660-024-0040(7). Compliance with the determination of 20-year land needs for transportation and public facilities for an urban area is measured against applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. Because the population in La Pine's proposed UGB is under 2,500, the plan is not required to include a public facilities plan, as discussed above under Goal 11. The department also determined that ORS 197.768 is inapplicable to this acknowledgement request. However, because land need for public facilities is not addressed in Chapter 7 "Public Facilities and Services" or elsewhere in the city's comprehensive plan submittal, the department recommended that the urban land use provisions of the submittal do not comply with Goal 14. Similarly, the department determined that land need for transportation facilities is not addressed in Chapter 8 "Transportation" or elsewhere in the city's comprehensive plan submittal.

For the determination of school facility needs, certain local governments are required to comply with ORS 195.110 and ORS 197.296. The Bend-La Pine School District and the City of La Pine are subject to ORS 195.110; the Bend-La Pine Schools' 2005 Sites and Facilities Plan indicates that the district does not anticipate a need for additional schools in La Pine within the next 20 years. Although the plan submittal plan is consistent with ORS 195.110, because the findings in Chapter 7 "Public Facilities and Services" regarding public schools do not address land need for future school facilities, the department determined that the submittal does not comply with Goal 14 in that respect.

For the city's identified urban recreation and open space land need, the department found that the Goal 8 elements of the plan comply with Goal 8 and likewise found that the city complied with this aspect of Goal 14.

Turning to the location of the urban growth boundary, Goal 14 requires an evaluation of alternative boundary locations consistent with ORS 197.298 and consideration and balancing of four interdependent locational factors utilizing the methodology provided in OAR 660-024-0060. The department reported that the City of La Pine determined the UGB location by making it co-terminus with the city limits. Because the comprehensive plan does not contain a boundary location analysis, with the data, assumptions, findings and conclusion that support it, the submittal lacks the necessary components to establish compliance with Goal 14 and OAR chapter 660, division 24.

Land within an urban growth boundary must have an urban plan designation and appropriate zoning. To maintain the potential of land within an urban growth boundary for planned urban development, Goal 14 and OAR 660-024-0050 require comprehensive plans and implementing measures to manage the use and division of urbanizable land. The department determined that the La Pine plan and zoning maps do not comply with the goal and rule, due to the inclusion of land designated and zoned "Forest," which is a rural use and designation.

The Commission concludes that the plan submittal does not comply with Statewide Planning Goal 14 – Urbanization. Pursuant to ORS 197.251(11)(a) (B), the Commission specifies the following actions for the City of La Pine to comply with Goal 14:

Amend the comprehensive plan to:

- A. Demonstrate with findings supported by an adequate factual base that the determination of 20-year residential land needs is based on the adopted 20-year population forecast. If a 20-year residential lands need based on the adopted 20-year population forecast requires less land than is currently included in the proposed UGB the city must:
 - a. Remove a sufficient amount of residential land from the proposed UGB to ensure consistency with the adopted 20-year population forecast; or
 - b. Work with the department to develop findings to justify exceptions from the applicable provisions of Goal 14 and OAR chapter 660, division 24;
- B. Provide the data, assumptions, findings, and conclusions regarding land need for water, sanitary sewer, and storm drainage facilities for the 20-year planning period, including a demonstration that the UGB includes the amount of land needed for this urban use;
- C. Provide the data, assumptions, findings, and conclusions regarding the amount of land needed for school facilities for the 20-year planning period, including a demonstration that the UGB includes the amount of land needed for this urban use;
- D. Adopt a school facility plan consistent with ORS 195.110. If that facility plan is not the same as the 2005 Bend-La Pine Schools Sites and Facilities Plan listed as an appendix to the city's comprehensive plan, then the city shall amend the comprehensive plan to incorporate or refer to the compliant school facilities plan;
- E. Determine land need for transportation facilities for the 20-year planning period consistent with Goal 12, Goal 14, OAR 660-024-0040, and OAR chapter 660, division 12;
- F. Demonstrate with findings supported by an adequate factual base that the determination of 20-year land need for urban uses other than residential and employment lands is based on A-D above. If a 20-year lands need based on A-D above requires less land than is currently included in the proposed UGB the city shall:
 - a. Remove a sufficient amount of residential land from the proposed UGB to ensure consistency with A-E above; or
 - b. Work with the department to develop findings to justify exceptions from the applicable provisions of Goal 14 and OAR chapter 660, division 24;

- G. Provide a boundary location analysis consistent with Goal 14, ORS 197.298, OAR chapter 660, division 24, and OAR chapter 660, division 9;
- H. Revise the plan map so that all parcels in the UGB have an urban plan designation;
- I. Revise the zoning map so that all parcels within the UGB that are not in an area previously designated as an unincorporated urban community on the Deschutes County comprehensive plan map either retain rural zoning or receive a holding zone that manages the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned;
- J. Regarding the large area east of Highway 97 that is labeled as “BLM transfer to County” on the plan map and designated “Sewage Treatment”: Consider re-designating and re-zoning this land for consistency with a sanitary sewer facilities plan that is compliant with Goal 11 and Goal 14;
- K. Explain the applicability of the following designations on the plan and zoning maps located outside the city and the UGB: “Future Employment Lands,” “Neighborhood 1,” “Neighborhood 2,” “Neighborhood 3,” “Rosland Crossing neighborhood,” “Ranchside Neighborhood,” and “Prairie Meadow Neighborhood”; or, in the alternative, delete these designations from the maps; and
- L. Regarding the area east of Highway 97 that is currently designated and zoned “Forest”: Designate this land for urban use on the plan map to the extent justified by the city’s land need determinations. Either retain the rural resource zoning for this land or apply an interim urban holding zone.

17. Goals 15, 16, 17, 18, and 19

Goals 15 through 19 are not applicable to the City of La Pine acknowledgment request related to the adoption of its urban growth boundary. OAR 660-024-0020(1)(e) through (g). Pursuant to ORS 197.251(5)(a), the Commission concludes that Goals 15 to 19 are not otherwise applicable to the request for acknowledgment.

18. Comments and Objections

Under ORS 197.251(4) and OAR 660-003-0020, the Commission is to consider comments and objections to an acknowledgment request that allege that the plan, ordinances or land use regulations do or do not conform with one or more of the goals. The department received no objections or comments.

19. Response to Acknowledgment Request and Conclusion

ORS 197.251(1) requires the Commission to respond to the City of La Pine’s acknowledgment request by order and to “grant, deny or continue acknowledgment of compliance of comprehensive plan and land use regulations with the goals.” ORS 197.015(1) defines “Acknowledgment” to mean “a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies

with the goals[.]” In addition, OAR 660-003-0005(1) defines “Acknowledgment of Compliance” to mean “an order of the commission issued pursuant to ORS 197.251(1) that certifies that a comprehensive plan and land use regulation, land use regulations or plan or regulation amendment complies with the goals.” ORS 197.747 provides that “compliance with the goals” for the purposes of acknowledgment under ORS 197.251 means “the comprehensive plan and regulations, on the whole, conform with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature.” Under that standard, the Commission must consider whether a submittal conforms with the purpose of each goal and whether it meets individual goal requirements. The “acknowledgment” referred to in ORS 197.251(1) contemplates an approval granted only after the comprehensive plan and implementing ordinances meet all of the requirements for acknowledgment. 40 Op Atty Gen 274, 276 (1980). Where, as here, the Commission concludes that a submittal does not comply with all of the applicable goals as defined in ORS 197.747, the Commission may either deny or continue acknowledgment review. ORS 197.251(11)(a) provides:

“‘Continuance’ means a commission orders that:
“(A) Certifies that all or part of a comprehensive plan, land use regulations or both a comprehensive plan and land use regulations do not comply with one or more goals;
“(B) Specifies amendments or other action that must be completed within a specified time period for acknowledgment to occur; and
“(C) Is a final order for purposes of judicial review of the comprehensive plan, land use regulations or both the comprehensive plan and land use regulations as to the parts found consistent or in compliance with the goals.”

The Commission concludes that continuance of the City of La Pine’s request for acknowledgement is the appropriate response. Therefore, the Commission ultimately concludes that:

1. The City of La Pine’s comprehensive plan as submitted complies with Statewide Planning Goals 1, 3, 4, 6, 8, 9, 11, and 13 for the reasons set forth above and in Section IV of the director’s report, which is attached hereto and incorporated herein.
2. The City of La Pine’s comprehensive plan does not yet comply with Statewide Planning Goals 2, 5, 7, 10, 12, and 14 for reasons set forth above and in Section IV of the director’s report and in the Commission’s deliberation on the matter.
3. A continuance of the Commission’s consideration will enable the city to obtain an acknowledgment of compliance more expeditiously than would a denial of acknowledgment because the nature of the revisions needed will not require extensive department analysis or notice actions which are initiated when a jurisdiction resubmits its plan and implementing measures following denial.
4. The department and the City of La Pine agree that the additional work toward compliance with Statewide Planning Goals 2, 5, 7, 10, 12, and 14 can be completed as detailed in the attached compliance schedule.
5. The City of La Pine consents to a continuance of its acknowledgment request and agrees to work with the department to collaboratively resolve outstanding work on the comprehensive plan and implementing ordinances.

THEREFORE, IT IS HEREBY ORDERED THAT:

In accordance with ORS 197.251 and OAR chapter 660, division 3, the acknowledgment request of the City of La Pine is continued and the City is to adhere to the compliance schedule agreed to and attached hereto in completing the additional work set forth herein.

DATED THIS 12th DAY OF MAY 2011



FOR THE COMMISSION:

Jerry Lidz, Acting Director

Oregon Department of Land Conservation & Development

NOTE: You may be entitled to judicial review of this continuance order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all exhibits are available for review at the department's office at 635 Capitol Street NE, Suite 150, Salem.

WORK PROGRAM FOR LA PINE ACKNOWLEDGEMENT

<u>Goal</u>	<u>Compliance Tasks</u>	<u>Completion Date</u>
Goal 2	Adopt development standards and implementing ordinance for the La Pine Comprehensive Plan. Once La Pine adopts implementing ordinances and adequately addresses Goals 5, 7, 10, 12, and 14 (listed below), the La Pine comprehensive plan will comply with Goal 2.	June 30, 2011
Goal 5	Include within the La Pine comprehensive plan policies and programs that commit the City to complete a Local Wetland Inventory for areas along the Little Deschutes River.	Within two years of acknowledgment
	Include within the La Pine comprehensive plan policies and programs to protect significant riparian corridors and wetlands, as well as wetland and riparian wildlife habitat.	Within two years of acknowledgment or immediately following Deschutes County plan update.
	Recommended action: Consider adding a separate plan element to identify and protect La Pine's cultural and historic resources.	
Goal 7	Include specific policies and programs to protect people and property from wild fire and flood hazards.	June 30, 2011
Goal 10	Update La Pine's current housing mix based on building permit data.	June 30, 2011
	Provide the total number of needed housing units, the number of units needed for each housing type, the assumed development density for each housing type; and include the data, calculations, and analysis for each.	June 30, 2011
	Provide an estimate of the financial capability of future residents and demonstrate how that capability is tied to the city's projected housing mix, the projected overall average density(ies), and the projected minimum density for each residential zone.	June 30, 2011
	Demonstrate how the total number of needed housing units, the number of units needed for each housing type, and the assumed density for each housing type were converted to acres of residential land need.	June 30, 2011
	Provide the calculation for the total amount of residential and non-residential land need, including a sub-total of the amount of land needed for dwelling units alone.	June 30, 2011
	Adopt implementing land use/development ordinances, & zoning map to designate city lands for specific uses and residential housing types no later than October 31, 2011.	October 31, 2011

<u>Goal</u>	<u>Compliance Tasks</u>	<u>Completion Date</u>
Goal 12	Provide findings for compliance with OAR 660-012-0060 for City of La Pine lands that were not contained within the La Pine Urban Unincorporated Community (UUC) prior to city incorporation; clarify that uses on those lands cannot be intensified until the city adopts a Transportation System Plan (TSP) for the City of La Pine, including lands described above. City and UGB lands that were not part of the previous UUC may be designated as “future urbanizable” lands but must retain current Deschutes County zoning or another interim “non-urban” zoning until La Pine adopts a TSP.	Prior to applying urban zones or permitting urban development on lands not included within the prior La Pine Urban Unincorporated Community boundary.
Goal 14	Include in the La Pine comprehensive plan adequate data, findings, and conclusions to establish La Pine’s 20-year population forecast.	June 30, 2011
	Demonstrate with findings, supported by an adequate factual base, that the determination of La Pine’s 20-year residential land need is based on the adopted 20-year population forecast. If a 20-year residential land need, based on the adopted 20-year population forecast, requires less land than is currently included in the proposed UGB, the city must take one of the following steps: <ul style="list-style-type: none"> • Remove a sufficient amount of land from the proposed UGB to ensure consistency with the adopted 20-year population forecast; OR • Provide additional findings in support of the current UGB; OR • Remove a sufficient amount of land from the proposed UGB to ensure consistency with the adopted 20-year population forecast AND establish an Urban Reserve Area (URA) consistent with Goal 14 and OAR chapter 660, division 24, on lands removed from the UGB. 	June 30, 2011
	Provide data, assumptions, findings, and conclusions regarding land needs for water, sanitary sewer, and storm drainage facilities for the 20-year planning period, including a demonstration that the UGB includes the amount of land needed for this urban use.	June 30, 2011
	Provide data, assumptions, findings, and conclusions regarding the amount of land needed for school facilities for the 20-year planning period, including a demonstration that the UGB includes the amount of land needed for this urban use. Adopt the 2005 Bend-La Pine Schools Sites and Facilities Plan as part of La Pine’s comprehensive plan and include any City of La Pine policies for maintaining school facilities consistent with city and school district needs.	June 30, 2011

<u>Goal</u>	<u>Compliance Tasks</u>	<u>Completion Date</u>
Goal 14 Continued	Determine land need for transportation facilities for the 20-year planning period based on La Pine’s Buildable Lands Inventory (BLI), and include a policy(ies) committing the city to update this inventory as needed once the TSP is adopted.	June 30, 2011
	If the city’s 20 year land needs for water, sanitary sewer, and storm drainage facilities, school facilities and transportation facilities requires less land than is currently included in the proposed UGB, then take one of the following steps: <ul style="list-style-type: none"> • Remove a sufficient amount of land from the proposed UGB to ensure consistency with the adopted 20-year population forecast; OR • Provide additional findings in support of the current UGB; OR • Remove a sufficient amount of land from the proposed UGB to ensure consistency with the adopted 20-year population forecast AND establish an Urban Reserve Area (URA) consistent with Goal 14 and OAR chapter 660, division 24, on lands removed from the UGB. 	June 30, 2011
	Adopt a boundary location analysis consistent with Goal 14, ORS 197.298, OAR chapter 660, division 24, and OAR chapter 660, division 9, that results in a UGB that contains a supply of land to meet the city’s 20-year employment land needs.	June 30, 2011
	Revise the comprehensive plan map so that all parcels in the UGB have an urban or urbanizable plan designation.	June 30, 2011
	Lands east of Highway 97 labeled “BLM transfer to County” on the plan map and designated for “Sewage Treatment” should retain rural resource zoning or another interim urban holding zone (<i>i.e.</i> Future Public Facilities).	June 30, 2011
	Clarify or delete the following designations on the plan and zoning maps: “Future Employment Lands,” “Neighborhood 1,” “Neighborhood 2,” “Neighborhood 3,” “Rosland Crossing neighborhood,” “Ranchside Neighborhood,” and “Prairie Meadow Neighborhood.”	June 30, 2011
	Designate lands east of Highway 97 currently designated “Forest” under current rural resource zoning or with an interim urban holding zone or in an URA.	June 30, 2011