



LA VERKIN CITY PLANNING COMMISSION AGENDA

Regular Meeting

Wednesday, March 27, 2024, 6:00 pm.

Gym, 111 South Main Street

La Verkin, Utah 84745

A. Call to Order: Chair Allen Bice

Invocation by Invitation; Pledge of Allegiance

B. Approval of Agenda:

C. Approval of Minutes: March 13, 2024, regular meeting

D. Reports:

City Council and Director of Operations will present updates on meetings and activities.

E. Business:

1. Discussion and possible action to set a public hearing for Wednesday, April 24, 2024, for an ordinance amending the provisions of Section 10-2-9 of the La Verkin City Code relating to the procedures and standards for approving amendments to the general plan and amendments to the zoning map and text of the zoning ordinance.

F. Adjourn:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Christy Ballard, City Recorder, (435) 635-2581, at least 48 hours in advance.

Certificate of Posting

The undersigned City Recorder does hereby certify that the agenda was sent to each member of the governing body, sent to the Spectrum newspaper, posted on the State website at <http://pmn.utah.gov>, posted on the La Verkin City website at www.laverkin.org, and at the city office buildings

111 S. Main and 435 N. Main on March 22, 2024

Christy Ballard, City Recorder

Memo

To: LaVerkin Planning Commission

From: Fay Reber

Date: March 27, 2024

Re: Proposed Amendment to Land Use Ordinance

At last planning commission meeting, I passed out a proposed ordinance to amend the land use ordinance by "beefing up" our current ordinance provisions relating to general plan or changes to zoning.

Our current ordinance gives virtually no guidance to the planning commission and city council on the procedure or factors to be considered in making decisions relating to general plan amendments or changes to zoning. The proposed ordinance incorporates elements of the Utah Land Use Management Act and Utah Case law that planning commission members and city council members can use as a road map whenever we receive a request for an amendment to the general plan or zone change.

Specifically, here's what the proposed ordinance does:

1. Clarifies the distinction between legislative decisions as opposed to administrative decisions.
2. Reiterates that general plan and zoning change are legislative decisions, and, as such, need only be "reasonably debatable" to withstand any challenge in court.
3. Spells out procedure for submitting an application for general plan amendment or zone change.
4. Lists factors for consideration by planning commission and city council in determining what's in the best interest of the city:
 - a. Whether proposed amendment is consistent with general plan
 - b. Whether proposed amendment is harmonious with character of existing development in the area
 - c. The extent to which the proposed amendment may adversely affect adjacent property.
 - d. Whether facilities and services in the area are adequate
 - e. The extent to which legitimate concerns can be mitigated with a development agreement.
 - f. Other factors deemed relevant by planning commission or city council.
5. By listing factors for consideration, it helps guide the discussion at planning commission or city council meetings so that the minutes will reflect that discussion and help establish that the city did not act arbitrarily, capriciously or in violation of law.
6. Makes it easier for court to conclude that decision was "reasonably debatable."
7. Clarifies that except for publicly owned property, the general plan is meant as an advisory guide

12.2.2013

Ordinance No. _____

AN ORDINANCE OF THE CITY COUNCIL OF LAVERKIN, UTAH,
AMENDING THE PROVISIONS OF SECTION 10-2-9 OF THE LAVERKIN CITY
CODE RELATING TO PROCEDURES AND STANDARDS FOR APPROVING
AMENDMENTS TO THE GENERAL PLAN, AND AMENDMENTS TO THE
ZONING MAP AND TEXT OF THE ZONING ORDINANCE

WHEREAS the LaVerkin City Council has previously adopted the LaVerkin City
Land Use Code as contained in Title 10 of the LaVerkin City Code; and

WHEREAS said City Council desires to amend said Land Use Code to establish
and/or clarify the procedures for consideration of applications for an amendment to the
general plan and/or amendments to the text or map of the zoning ordinance;

WHEREAS a public hearing regarding this matter has been held after public
notice in accordance with the requirements of Utah state law; and

WHEREAS said City Council deems it necessary and desirable for the
preservation and protection of the general health, safety and welfare of the residents of
the City of LaVerkin,

BE IT HEREBY ORDAINED by the City Council of LaVerkin, Utah that §10-2-
9 of the LaVerkin City Code shall be, and is hereby, amended in its entirety to read as
follows:

10-2-9. AMENDMENT OF GENERAL PLAN, ZONING MAP AND ZONING

TEXT. *The city council may amend the general plan and the number, shape,
boundaries, or area of any zoning district, any regulation of or within the zoning
district, or any other provision of the land use ordinance, including the map, in
accordance with the following:*

A. General Decision-Making Standards. *The decision-making standards set forth
in this section are based on the fundamental distinction between legislative and
administrative proceedings: Legislative proceedings establish public law and policy
applicable generally, while administrative proceedings apply such law and policy to
factually distinct, individual circumstances.*

1. Legislative proceedings. *The following shall apply to legislative
decisions:*

a. *Decisions regarding a legislative application shall be based on the
"reasonably debatable" standard, as follows: the decision-making
authority shall determine what action, in its judgment, will reasonably
promote the public interest, conserve the values of other properties,*

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avoid incompatible development, encourage appropriate use and development, and promote the general welfare. In making such determination, the decision-making authority may consider the following:

i. Testimony and evidence presented at a public hearing or meeting; and

ii. Personal knowledge of various conditions and activities bearing on the issue at hand, such as, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the City.

b. The following types of applications are declared to be legislative proceedings:

i. General plan amendment

ii. Zoning map amendment

iii. Land use or zoning text amendment

iv. Annexation

iv. Temporary regulations.

c. The decision-making body should state on the record the basis for its decision.

2. Administrative proceedings. The following shall apply to administrative decisions:

a. Decisions regarding an administrative application shall be based on the "substantial evidence" standard and shall include at least the following elements:

i. A statement of the standards for approval of the application;

ii. A summary of evidence presented to the decision-making body or official;

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iii. *A statement of findings of fact or other factors considered, including the basis upon which such facts were determined and specific references to applicable standards set forth in this title or other provisions of this Code; and*

iv. *A statement of approval, approval with conditions, or disapproval, as the case may be.*

b. *The following types of applications are hereby declared to be administrative proceedings:*

i. *Permitted use review*

ii. *Conditional use permit*

iii. *Site plan review*

iv. *Special exception*

v. *Variance*

vi. *Building permit*

vii. *Nonconformities*

viii. *Sign permit*

ix. *Temporary use permit*

x. *Routine and uncontested matter*

xi. *Administrative interpretation*

xii. *Appeal of administrative decision*

xiii. *Subdivision approval*

B. Amendment of General Plan. *Subject to the procedures set forth herein, the City Council may from time to time amend the general plan in accordance with the following:*

1. *Persons wishing to propose a general plan amendment shall file their proposals and shall pay the fee established by the fee schedule adopted by the City Council. Proposed general plan amendments will be considered by the Planning Commission twice a year, at the February and August meetings. Notwithstanding the foregoing, the City Council or*

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Planning Commission may, at any time by majority vote, authorize preparation and consideration of proposed general plan amendments.

2. *Persons proposing general plan amendments shall do the survey and analysis work necessary to support the proposed amendment. To ensure that the Planning Commission and City Council have sufficient information to evaluate each proposal, an applicant shall submit the following information:*

3. *For map amendments:*

a. *Eight and one-half inch by 11-inch map showing the area of the proposed amendment;*

b. *Current copy of county assessor's parcel map showing the area of the proposed amendment;*

c. *Mapped inventory of existing land uses within the area of the proposed amendment and extending one-half mile beyond such area;*

d. *Correct property addresses of parcels included within the area of the proposed amendment;*

e. *Written statement specifying the potential use of property within the area of the proposed amendment;*

f. *Written statement explaining why the existing general plan designation for the area is no longer appropriate or feasible;*

g. *Analysis of the potential impacts of the proposed amendment on existing infrastructure and public services such as traffic, streets, intersections, water and sewer, storm drains, electrical power, fire protection, garbage collection, etc.; and*

h. *As part of the general plan map amendment process, the applicant shall attempt to collect the signature of the property owner or authorized agent, or, in the case of amendments affecting multiple properties, the signatures of a majority of the persons who own property within the area proposed for the general plan map amendment.*

4. *For text amendments:*

a. *Written statement showing the desired language change;*

b. *Written statement explaining why existing general plan language is no longer appropriate or feasible;*

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- c. *Analysis of the potential impacts of the proposed amendment; and*
 - d. *Map showing affected areas if text changes will affect specific geographic areas.*

5. *Planning Commission Consideration of General Plan Amendment.* After receipt of a complete application for an amendment to the General Plan for all or part of the City, the Planning Commission shall schedule and hold a public hearing on the proposed plan as provided in Utah Code Ann. §10-9a-404 and Utah Code Ann. §10-9a-204 at least ten (10) days before the date of the hearing. After the public hearing, the Planning Commission may recommend approval of the general plan amendments as is, recommend approval of the general plan amendment with changes, or recommend denial of the general plan amendment. The Planning Commission shall then forward the proposed general plan amendment to the General Plan to the City Council with the recommendation of the Planning Commission.

6. *City Council Consideration of General Plan Amendment.* The City Council shall schedule and hold a public hearing on the proposed general plan amendment recommended to it by the Planning Commission as provided in Utah Code Ann. §10-9a-404 and Utah Code Ann. §10-9a-204 at least ten (10) days before the date of the hearing. After the public hearing, the City Council may make any modifications to the proposed general plan amendment that it considers appropriate. The City Council may adopt the proposed general plan amendments to the general plan without further amendment, amend the proposed general plan and adopt or reject it as amended, or reject the proposed amendments to the general plan.

7. *Except as provided in Utah Code Ann. §10-9a-406, the general plan and any amendments thereto shall be considered only as an advisory guide for growth and development of the land within the City of LaVerkin. After the City Council has adopted a general plan, or any amendments thereto, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the general plan as amended.*

C. **Amendment of Zoning Map and Text of Zoning Ordinance.** Subject to the procedures set forth herein, the City Council may from time to time amend the text of this title and the zoning map, which may include changes in the number, shape, boundaries, or area of any zoning district, zoning district regulations or any other provision of this title. The provisions set forth herein shall not apply to temporary land use regulations which may be enacted without public hearing in accordance with Utah Code Ann. §10-9a-504. The use of development

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agreements in connection with a zone change to achieve the purposes of this chapter, as permitted by Utah Code Ann. §10-9a-532(1) is hereby authorized.

1. *Initiation:* Proposed amendments to the text of this title and the zoning map may be initiated by the City Council, Planning Commission, a property owner, or the duly authorized agent for a property owner.

2. *Procedure:* Zoning text and map amendments shall be considered and processed in accordance with the following:

a. *An application shall be submitted to the Zoning Administrator in a form established by the administrator along with any fee established by the City's schedule of fees. The application shall include at least the following information:*

i. *The name, address, telephone number and email address of the applicant and the applicant's agent, if any;*

ii. *The name and address of every person or company the applicant represents;*

iii. *The requested amendment and reasons supporting the request;*

iv. *If the proposed amendment requires a change in the zoning map, the application shall include an accurate property map showing present and proposed zoning classifications, all abutting properties with present zoning classifications, and an accurate legal description and approximate address of the area proposed to be rezoned;*

v. *the names and addresses of all affected entities;*

vi. *the names of property owners within or immediately adjacent to the area to be rezoned who support the application for amending the zone; and*

vii. *If the proposed amendment requires a change in the text of this title, the application shall include chapter and section references and a draft of the proposed text.*

b. *After the application is determined to be complete, the Zoning Administrator shall prepare and submit to the Planning Commission a staff report evaluating the application.*

c. After receipt of the staff report, the Planning Commission shall hold a public meeting, which shall include a public hearing, on the application for which notice is given as follows:

i. For a public meeting, notice shall be given as a class A notice under Utah Code Ann. §63G-30-102 for at least 24 hours before the meeting.

ii. For a public hearing, notice of the date, time and place of the public hearing shall be: (1) given as a class B notice under Utah Code Ann. §63G-30-102 for the area directly affected by the proposed amendment for at least ten (10) calendar days before the public hearing, (2) mailed to each affected entity at least 10 days before the public hearing.

iii. In addition to the foregoing, the City shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing. The notice shall: (1) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments, (2) state the current zone in which the property is located, (3) state the proposed new zone for the real property, (4) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted, (5) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment, (6) state the address where the property owner should file the protest, and (7) notify the property owner that each written objection filed with the municipality will be provided to the LaVerkin City Council.

d. Following a public hearing, the Planning Commission may make a recommendation to the City Council for approval, approval with modifications, or denial of the proposed zoning map or text amendment.

e. Following receipt of a recommendation from the Planning Commission, the City Council shall hold a public meeting on the application as provided in Utah Code Ann. §10-9a-205. The City Council may, but shall not be required to, hold a public hearing on the proposed amendment. If the City Council elects to hold a public hearing on the proposed amendment, it shall follow the notice requirements set forth above for public hearings. At the conclusion of all hearings, The

City Council may approve, approve with modifications, or deny the proposed amendment in accordance with the following approval standards:

i. *Approval standards. A decision to amend the text of this title or the zoning map is a matter within the legislative discretion of the City Council as described herein. In considering such amendment, the following factors should be considered:*

(1) *Whether the proposed amendment is consistent with goals, objectives and policies of the City's general plan;*

(2) *Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;*

(3) *The extent to which the proposed amendment may adversely affect adjacent property;*

(4) *The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection;*

(5) *The extent to which any concerns with the proposed amendment can be ameliorated with a development agreement; and*

(6) *Other factors deemed relevant by the City Council*

e. *Appeal of decision. Any party adversely affected by a decision of the City Council to amend the text of this title or the zoning map may, within 30 days after such decision, appeal to the district court subject to the provisions of Utah Code Ann. §10-9a-801.*

f. *Effect of approval. Approval of an application to amend the provisions of this title or the zoning map shall not be deemed an approval of any conditional use permit, site plan or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.*

g. *Effect of disapproval. City Council denial of an application to amend the provisions of this title or the zoning map shall preclude the filing of another application covering substantially the same subject or property, or any portion thereof, for one (1) year from the date of the disapproval,*

except that another application for a change of zone may be made sooner if the Planning Commission determines that a substantial change in circumstances has occurred to merit consideration of the application. Substantial change may include:

- i. A significant change in the affected land area,
 - ii. An agreement with the applicant reducing overall density and incorporating significant design changes including reduced building height, increased setbacks, or other changes resulting in reduced impact on adjacent land uses,
 - iii. Changes in the neighborhood including recent zone changes or land use amendments and/or new roads or other infrastructure to serve the area proposed for the change, or
 - iv. The application is for a change to a different zone.
- h. The City Council or Planning Commission may propose any text or zoning map amendment at any time.

BE IT FURTHER ORDAINED that to the extent that there is or may be a conflict between the provisions of this Ordinance and any other provision of the LaVerkin City Code, the provisions of this Ordinance shall control and shall supersede the provisions of any other conflicting provision.

BE IT FURTHER ORDAINED that the subject matter of this Ordinance shall be deemed to be an emergency or of an urgent nature and shall take effect immediately upon publication and posting as required by law.

PASSED AND APPROVED on this _____ day of _____, 2024.

CITY OF LAVERKIN

Kelly B. Wilson, Mayor

Attest:

Christy Ballard, City Recorder

The foregoing Ordinance was presented at a regular meeting of the LaVerkin City Council held in the LaVerkin City Council Chambers, located at 111 South Main Street, LaVerkin, Utah, on the ____ day of _____, 2024, whereupon, a motion to adopt said Ordinance was made by _____ and seconded by _____.

A roll call vote was then taken with the following results:

NAME	VOTE
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Christy Ballard, Recorder