

**City of La Pine**  
**Comprehensive Plan Map Amendment and Zone Change**  
Burden of Proof Narrative

**Applicant:** Oregon 97 Investments LLC  
C/O MAA Group LLC  
2095 Fairmont Blvd  
Eugene, OR 97403

**Owner:** Oregon 97 Investments LLC  
Rajinder Singh Dhote  
2368 Kokanee Way  
Lebanon, OR 97355

**Engineer:** Ashley and Vance Engineering, Inc.  
Jack Mitchell  
33 NW Franklin Avenue, Suite 110  
Bend, OR 97703

**Traffic Engineer:** Transight Consulting, LLC  
Joe Bessman  
61271 Splendor Lane  
Bend, OR

**Planner:** Blackmore Planning and Development Services, LLC  
Greg Blackmore  
19454 Sunshine Way  
Bend, OR 97702

**Location:** The property is located in the northeast quadrant of the City of La Pine, east of Hwy 97 and south of Rosland Road. The western (triangular) portion of the site has been assigned the address of 17125 Rosland Road and the properties are identified by the Deschutes County Tax Assessor as 211036DC00100 and 2110360000107.

**Request:** The proposal is for a Comprehensive Plan Map Amendment and Zone Change to convert the 2.88-acre strip of land from an Industrial (I) Designation and Zone, to a Mixed Use Commercial (CMX) Designation and Zone.

## I. Applicable Criteria and Procedures:

### 1. City of La Pine Development Code

- ARTICLE 3 – ZONING DISTRICTS
  - Chapter 15.22 - Commercial and Mixed-Use Zones
  - Chapter 15.24 – Industrial and Public Facilities Zones
- ARTICLE 7 - PROCEDURES
- ARTICLE 8 – APPLICATIONS AND REVIEWS
  - Chapter 15.334 – Text and Map Amendments

### 2. Oregon Administrative Rules (OAR)

- 660-012 Transportation Planning Rule (TPR)
- 660-015 Oregon Statewide Planning Rule

## II. General Facts:

1. **LOCATION:** The property is located in the northeast quadrant of the City of La Pine, east of Hwy 97 and south of Rosland Road. The property has not been assigned the address; it is identified by the Deschutes County Tax Assessor as 2110360000107.

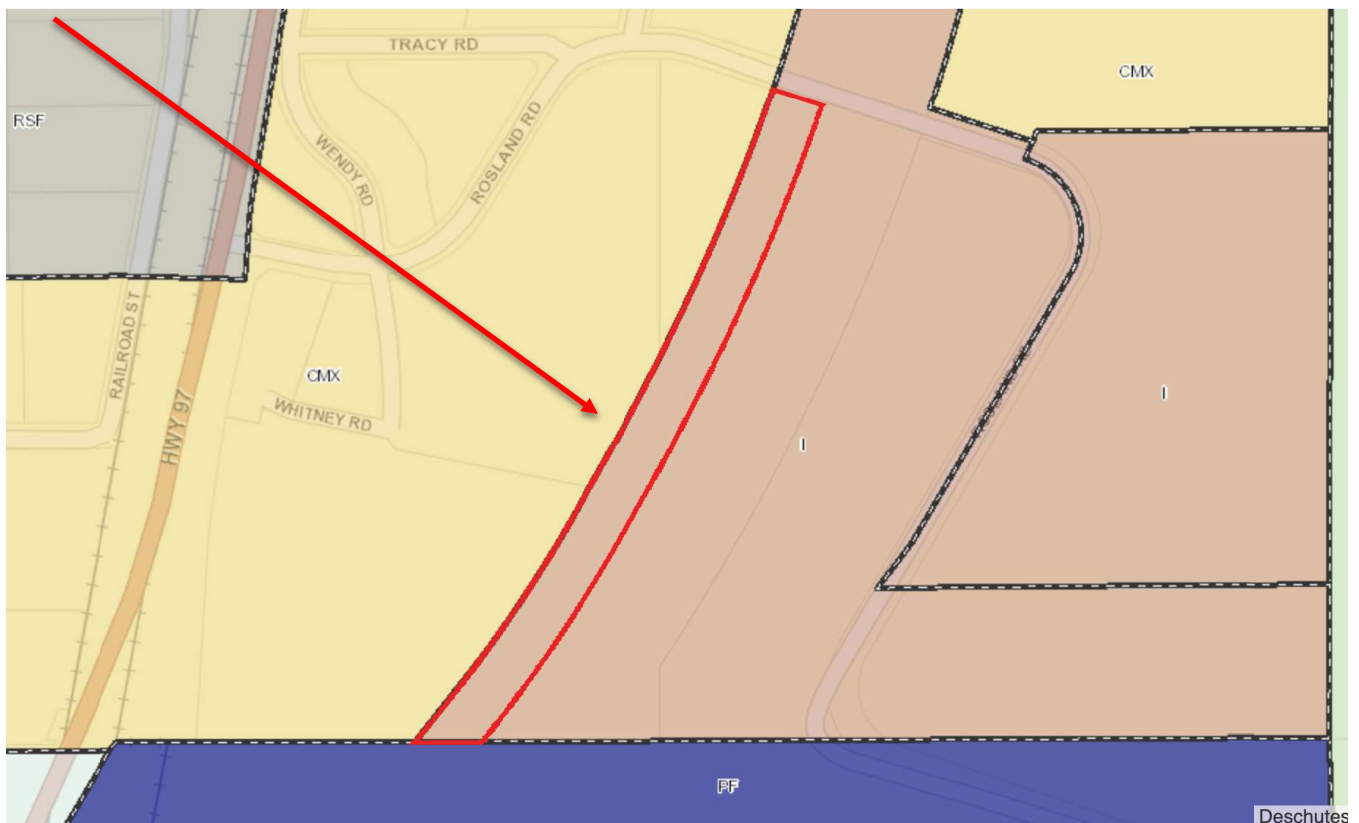


**2. EXISTING ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:** The property is zoned and designed Industrial (I). With this application the applicant proposes to change the Industrial (I) zone and designation to Commercial Mixed Use (CMX).

**3. SITE DESCRIPTION & SURROUNDING USES:** The property is 2.88 acres in size and irregular in shape. The overall property is vacant and vegetated with native vegetation including antelope bitterbrush and Idaho fescue, along with lodge pole pine trees. Soils consist of NRCS 115A Soil – Shananan loamy coarse sand. The property generally level and unimproved; it is intersected by a couple informal trails. The property is located outside of any FEMA designated floodway and/or floodplain.

Surrounding Zoning -

An excerpt from the La Pine Zoning Map is included below:



As shown on the map, the properties to the west and northeast are zone CMX, an area to the north (ODOT property) is zoned I, the properties to the east are zoned I, and the properties to the south are zoned Public Facilities (PF).

Surrounding Development –

An aerial image documenting the surrounding development is included below:



The property to the northwest is developed with the Moose Lodge. The remaining properties to the north, east, and south are vacant and undisturbed. The area to the northwest is vacant but has previously been cleared and the area to the southwest is developed with the La Pine Travel Center, including fuel stations, a convenience store, and a restaurant.

Rosland Road (abutting the property to the north) is classified as a local road and developed within 60 feet of right-of-way. It contains travel lanes without curbs, sidewalks or bike lanes. Water and sewer mains are located within Rosland Road, west of Drafter Road.





4. **PROPOSAL:** The proposal consists a Comprehensive Plan Map Amendment and Zone Change that will convert the 2.88-acre area of land property from an Industrial (I) Designation and Zone, to a Mixed Use Commercial (CMX) Designation and Zone.

5. **EXHIBITS:** In addition to this burden of proof statement, the applicant submits the following exhibits in support of this proposal:

- Application Form and Fee
- Ownership Deed
- Title Report
- Existing and Proposed Comprehensive Plan and Zoning Map
- Transportation Planning Rule (TPR) Analysis

6. **APPLICATIONS:** The applicant plans to entitle the property for future development.

Comprehensive Plan Map Amendment and Zone Change– Current application for the eastern 2.88 acre unit of land, changing the zone and designation from I to CMX. Details of conformance with applicable standard and criteria are addressed herein.

Site Plan/Design Review & CUP – Future application for the combined 1.53 and 2.88 acre unit of land.

Property Line Adjustment / Consolidation – Separate from this application, but prior to submittal of the Site Plan and CUP, the applicant intends on submitting an application for a Property Line Adjustment / Consolidation, to reconfigure the property into the single unit of land, consistent with the configuration noted on the Plan Set.

### III. Conformance with Procedures, Standards, and Approval Criteria that are Applicable to the Comprehensive Plan Map Amendment and Zone Change

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#### Article 7 - PROCEDURES

#### CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS

##### Sec. 15.202.010. - Purpose and applicability.

**A. Purpose.** The purpose of this chapter is to establish decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 15.202-1 provides a key for determining the review procedure and the decision-making body for particular applications.

**Applicant Response:** This section establishes a purposes statement and does not contain any measurable development standards or approval criteria.

**B. Applicability of review procedures.** All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this article as modified by any applicable application-specific procedures identified in articles 8 and 9. The procedure "type" assigned to each application governs the decision-making process for that application. There are four types of review procedures as described in subsections 1—4 below. Table 15.202-1 lists the city's land use and development applications and corresponding review procedure(s).

- 1. Type I procedure (ministerial staff review with no notice).** Type I decisions are made by the city planning official, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying city standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). The city planning official may elect to process a Type I application under a Type II procedure.
- 2. Type II procedure (administrative/staff review with notice).** Type II decisions are made by the city planning official, with public notice and an opportunity for appeal to the planning commission. Alternatively, the city planning official may refer a Type II application to the planning commission for its review and decision in a public meeting.

3. **Type III procedure (quasi-judicial review - public hearing).** Type III decisions are made by the planning commission after a public hearing, with an opportunity for appeal to the city council except for decisions on all quasi-judicial comprehensive plan amendments and zone changes which must be adopted by the city council before becoming effective. Quasi-judicial decisions involve discretion but implement established policy. They involve the application of existing law or policy to a specific factual situation.
4. **Type IV procedure (legislative review).** The Type IV procedure applies to the adoption of law or policy applicable citywide or to a broad geographical area of the city. Legislative actions provide for the establishment and modification of land use plans, policies, regulations, and guidelines. Type IV reviews are considered by the planning commission, which makes a recommendation to city council. City council makes the final decision on a legislative proposal through the enactment of an ordinance.

*Table 15.202-1. Summary of Approvals by Type of Review Procedure*

<i>Application*</i>	<i>Review Procedures</i>	<i>Applicable Regulations</i>
Map amendment (quasi-judicial zone change)	Type III	Chapter 15.344 [15.334]

**Applicant Response:** Changing the designation and zone from Industrial (I) to Commercial Mixed Use (CMX) is a quasi-judicial Map Amendment / Zone Change, which is processed as a Type III review.

**Sec. 15.202.020. - Time limit and consolidated review.**

**A. Time limits.**

1. **Determination of completeness.**
  - a. **Upon receipt of an application, the city planning official shall review the application for completeness.**
    - i. **Incomplete applications shall not be reviewed until all required information has been submitted by the applicant;**
    - ii. **If incomplete, the applicant shall be notified and shall have 180 days from the date the application was first submitted to supply the missing information or notify the city planning official in writing to process the application without missing information.**
  - b. **The application shall be deemed complete either:**
    - i. **Upon receipt of the additional information; or**

- ii. **[When]the applicant provides written notice to the city planning official to process the application without the missing information.**
  - c. **Applications may be forwarded to affected agencies and departments for review and comment. If a county road or state highway might be impacted, referrals should be sent to Deschutes County public works and/or ODOT. Developments on any land illustrated on the NWI/LWI maps shall be referred within five days of receipt to the Oregon Division of State Lands.**
  - d. **An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under subsection**
    - a. **Any other evidence submitted by an applicant will not be considered in determining whether the application is complete and will be returned to the applicant.**
- 2. 120-day rule. The city shall take final action on administrative and quasi-judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the city planning official deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to legislative land use decisions.)**
- 3. 100-day rule. The city must take final action, including resolution of all local appeals on qualifying applications under ORS 227.180, within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:**
- a. **The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;**
  - b. **At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and**
  - c. **The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in [paragraph] b of this section [3] as housing that is not affordable housing**



for a period of 60 years from the date of the certificate of occupancy.

4. The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the applicant, but total of all extensions, except as provided in subsection ORS 227.178(11) for mediation, may not exceed 245 days.

**B. *Time periods.*** In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

**C. *Consolidated review of applications.*** When an applicant applies for more than one type of application for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.

**State Law reference—** Applications for permits, etc., ORS 22.175; final action, ORS 117.178; application review, ORS 227.180.

**Applicant Response:** The applicant understands the time limit provisions of these sections and anticipates that the application will be processed in accordance with the applicable time limitations of this section<sup>1</sup>.

#### **Sec. 15.202.030. - City planning official's duties and development review committee.**

**A. *City planning official's duties.*** The city planning official, or his or her designee, shall perform all of the following duties with regard to administration of this Development Code:

1. Prepare application forms based on the provisions of this Development Code and applicable state law;
2. Prepare required notices and process applications for review and action;
3. Assist the planning commission and city council in administering the hearings process;
4. Answer questions from the public regarding the city's land use regulations;
5. Prepare staff reports summarizing pending applications, including applicable decision criteria;

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<sup>1</sup> The development does not include residential units, therefore Sec. 15.202.020.3 does not apply.

6. Prepare findings consistent with city decisions on land use and development applications;
7. Prepare notices of final decisions, file the notices in the city's records, and mail a copy of the notices to all parties entitled to notice under this Development Code; and
8. Maintain and preserve the file and record for each application.

**B. *Development review committee.*** The development review committee may assist the city planning official in the review of proposed development and preparation of staff reports.

1. The following persons, parties and agencies shall constitute the membership of the city development review committee:
  - a. Public works official.
  - b. Engineering official.
  - c. Police and/or county sheriff as applicable.
  - d. Fire and rescue.
  - e. Public utility representatives (water and sewer districts).
  - f. School district representatives.
  - g. Parks and recreation district director.
  - h. Building official.
  - i. Any other person, party or agency deemed by city staff to be affected by the land use proposal or to have specific knowledge or expertise in regard to the specific proposal.

**Applicant Response:** These sections establish duties of the Planning Department and the reviewing bodies. The applicant anticipates that the duties will be carried out as noted in these sections.

**Sec. 15.202.040. - Pre-application conference.**

- A.** A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the land use process and is required for all Type III applications. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use codes, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning code or land division code and to identify issues likely to arise in processing an application. The applicable zoning code may require that a pre-application conference be held for particular types of applications.
- B.** Required pre-application conferences must be held no more than one year prior to the submittal of a Type III land use application. Requests for pre-application conferences shall be made on a form provided by the city.

**State Law reference—** Planning and zoning hearings and review, ORS 227.160 et seq.

**Applicant Response:** A pre-application meeting was held with the City on May 17, 2023, in conformance with these provisions.

**Sec. 15.202.050. - Neighborhood contact.**

- A. Purpose and applicability.** Unless waived by the city planning official, applicants for master plans, subdivisions with more than ten lots, major variances and property owner-initiated for zone changes are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the city, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.
- B. Notice.** Notice of the meeting must be given in writing to all property owners whose property is located within 100 feet of the site, at their addresses of record at the Deschutes County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the city. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.
- C. Meeting place, date, and time.** The meeting must be held within the city limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.
- D. Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, shall complete a form prescribed by the city to certify the occurrence of the meeting.
- E. Filing requirements.** The meeting certification form, even if no affected property owners attend, is required and must be submitted to the city with a land use application for the application to be deemed complete. Copies of the following information must accompany the meeting certification form: a copy of the notice mailed, all addresses for which notice was mailed (e.g., copy of mailing labels), and copies of all other written materials provided prior to or distributed at the meeting.

**Applicant Response:** As documented in the record, the applicant noticed and held a "Neighborhood Contact" meeting as prescribed in the above provisions. Notice was mailed on October 9, 2023, the meeting was held on October 25, 2023 (over 14 days from the notice), and the formal submittal is occurring more than 21 days from the date of the mailing.

## CHAPTER 15.204. - APPLICATION PROCEDURES

### Sec. 15.204.030. - Type III procedure (quasi-judicial review - public hearing).

Type III decisions are made by the planning commission after a public hearing, with an opportunity for appeal to the city council. Except that prior to becoming effective, all quasi-judicial comprehensive plan amendments and zone changes shall be adopted by the city council. In considering all quasi-judicial comprehensive plan amendments and zone changes on which the planning commission has authority to make a decision, the city council shall, in the absence of an appeal or review initiated by the council, adopt the planning commission decision. No argument or further testimony will be taken by the council.

#### A. *Application requirements.*

1. *Application forms.* Applications requiring quasi-judicial review shall be made on forms provided by the city planning official.
2. *Submittal information.* The city planning official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
  - a. The information requested on the application form;
  - b. Plans and exhibits required for the specific approval(s) being sought;
  - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
  - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
  - e. The required fee; and
  - f. Evidence of neighborhood contact, as applicable, pursuant to [section 15.202.050](#).

**Applicant Response:** As detailed in the submittal materials, the application packet contains all of the requirements of this section.

#### B. *Mailed and posted notice of a public hearing.*

1. The city shall mail public notice of a public hearing on a quasi-judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The city planning official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. However, the failure of a property owner to receive mailed notice shall not invalidate

any land use approval if the planning official can show by affidavit that such notice was given. Notice shall be mailed to:

- a. The applicant;
  - b. Owners of record of property as shown on the most recent property tax assessment roll of property located within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
  - c. The owner of a public use airport if the airport is located within 10,000 feet of the subject property;
  - d. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park;
  - e. The planning commission;
  - f. Any neighborhood or community organization formally recognized by the city council, whose boundaries include the site;
  - g. Any person who submits a written request to receive a notice; and
  - h. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city and any other affected agencies. At a minimum, the city planning official shall notify the road authority if different than the City of La Pine. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the city under this Development Code.
2. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the county at least ten days prior to the hearing.
  3. At least 14 days before the first hearing, the city shall post notice of the hearing on the project site in clear view from a public right-of-way.
  4. Notice of a quasi-judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:
    - a. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable Development Code requirements;
    - b. The date, time, and location of the scheduled hearing;
    - c. The street address or other clear reference to the location of the proposed use or development;
    - d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the city



council, land use board of appeals, or circuit court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;

- e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the city planning official, and that copies shall be provided at a reasonable cost;
- f. A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- h. A statement that after the public hearing closes, the city will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

**C. *Setting the hearing.***

- A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the city staff, or the hearings body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with subsection G.
- B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120-day time limit set forth in [section 15.202.020](#).

**D. *Ex parte contact, personal knowledge and bias.***

- 1. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to

the parties in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

Prior to making a decision, the hearings body or any member thereof shall not communicate directly or indirectly with any party or his representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication whether written or oral occur, the hearings body member shall:

- a. Publicly announce for the record the substance of such communication; and
  - b. Announce the parties' right to rebut the substance of the ex parte communication during the hearing. Communication between city staff and the hearings body shall not be considered to be an ex parte contact.
2. If the hearings body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the hearings body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record. For the purposes of this section, a site visit by the hearings body shall be deemed to fall within this rule. After the site visit has concluded, the hearings body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.
  3. Prior to or at the commencement of a hearing, any party may challenge the qualification of the hearings body, or a member thereof, for bias, prejudice or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the hearings body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear.
- E. *Conduct of a quasi-judicial public hearing.* A hearing shall be conducted as follows:
1. The hearings body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
  2. A statement by the hearings body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
  3. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.

4. Challenges to the hearings body's qualifications to hear the matter shall be stated and challenges entertained.
5. The hearings body shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue.
6. Order of presentation:
  1. Open the hearing.
  2. Staff report.
  3. Proponents' presentation.
  4. Opponents' presentation.
  5. Proponents' rebuttal.
  6. Opponents' rebuttal may be allowed at the hearings body's discretion.
  7. Staff comment.
  8. Questions from or to the chair may be entertained at any time at the hearings body's discretion.
  9. Close the hearing.
  7. [10.]The record shall be available for public review at the hearing.
  8. [11.]At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the record.
  9. [12.]Throughout all local land use proceedings, the burden of proof rests on the applicant.
  10. [13.]Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous hearing on the subject application. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.
- F. *Close of the record.*
  1. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the hearings body.
  2. If the hearing is continued or the record is held open under subsection G, further evidence or testimony shall

be taken only in accordance with the provisions of subsection G.

3. Otherwise, further testimony or evidence will be allowed only if the record is reopened under subsection H.
4. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the hearings body shall set. The hearings body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day time limit for decision.

**G. *Continuances or record extensions.***

**1. *Grounds.***

- a. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding suspension of the 120-day limit for decision. If a continuance request is made after the published or mailed notice has been provided by the city, the hearings body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.
- b. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:
  - i. Where additional documents or evidence are submitted by any party; or
  - ii. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony. For the purposes of subsection i, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.
- c. The grant of a continuance or record extension in any other circumstance shall be at the discretion of the hearings body.

**2. *Continuances.***

- a. If the hearings body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.





2. The hearings body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.
- I. ***Notice of quasi-judicial decision.*** A hearings body's decision shall be in writing and mailed to all parties; however, one person may be designated by the hearings body to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants. The notice of quasi-judicial decision shall contain all of the following information:
    - a. A description of the applicant's proposal and the city's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the record;
    - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
    - c. A statement of where the city's decision can be obtained;
    - d. The date the decision shall become final, unless appealed; and
    - e. A statement that all persons entitled to notice may appeal the planning commission's decision to city council pursuant to subsection K or may appeal the city council's decision to the state land use board of appeals, as applicable.
  - J. ***Effective date of decision.*** Unless the conditions of approval specify otherwise, a quasi-judicial decision becomes effective 12 days after the city mails the decision notice, unless the decision is appealed pursuant to subsection K or unless the decision is called up for review by the city council pursuant to section 15.204.020.G. No building permit shall be issued until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision at the local level for purposes of issuing building permits, but any development that occurs during the pendency of appeals beyond the local level are at the sole risk of the applicant and the city may require execution of an instrument acknowledging such fact prior to issuance of any building permits.
  - K. ***Appeal of planning commission decision.*** The planning commission's decision may be appealed to the city council as follows:
    1. ***Who may appeal.*** The following people have legal standing to appeal:
      - a. The applicant or owner of the subject property; and



does not affect more than a single property owner; therefore the Comprehensive Plan Map Amendment and Zone Change need not be processed as a Legislative Amendment.

- B. Amendments to the comprehensive plan and/or zoning map (zone change) that do not meet the criteria under subsection A may be processed as quasi-judicial amendments. However, the distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.**

**Applicant Response:** The proposed Comprehensive Plan Map Amendment and Zone Change does not meet the criteria of subsection A. The proposal will change the Comprehensive Plan Designation and Zoning of a privately owned 2.88 acre area from Industrial (I) to Commercial Mixed Use (CMX); therefore the proposal can be processed as a quasi-judicial amendment.

- C. Requests for text and map amendments may be initiated by an applicant, the planning commission, or the city council. The city planning official may request the planning commission to initiate an amendment. Initiations by a review body are made without prejudice towards the outcome.**

**Applicant Response:** The map amendment application is being requested by an applicant (the property owner), which is allowed by this section.

**Sec. 15.334.030. - Procedure type.**

- A. Legislative amendments are subject to Type IV review in accordance with the procedures in [article 7](#)**
- B. Quasi-judicial amendments are subject to Type III review in accordance with the procedures in [article 7](#), except that quasi-judicial comprehensive plan amendments and zone changes which must be adopted by the city council before becoming effective.**

**Applicant Response:** As noted above, the application is appropriately processed via the Type III review procedures. A complete review of article 7 was included above and as detailed therein, to date, the application has, and will (through City processing) conform to all procedural requirements of article 7. Therefore, the review can and will conform to the requirements of this section, by the City processing it in accordance with the established procedures.

**Sec. 15.334.040. - Approval criteria.**

**Planning commission review and recommendation, and city council approval, of an ordinance amending the zoning map, Development Code, or comprehensive plan shall be based on all of the following criteria:**

- A. The proposal must be consistent with the comprehensive plan (the comprehensive plan may be amended concurrently with proposed changes**

**in zoning). If the proposal involves an amendment to the comprehensive plan, the amendment must be consistent with the statewide planning goals and relevant Oregon Administrative Rules; and**

**Applicant Response:** The proposal does not include an amendment to the Comprehensive Plan document (only the map); therefore while consistency with Statewide Planning Rules applies (detailed below), consistency with other Oregon Administrative rules do not directly apply to the review. A complete review of consistency with the Comprehensive Plan and Statewide Planning Goals is included below.

**B. The proposal must be found to:**

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

**Applicant Response:** As written in this section, the proposal only needs to meet one of these criteria. The criterion that the proposal most broadly adheres to is #2. Historically, the I Zone has extended to the western edge of ODOT controlled land and planned facility; such a zoning condition would have allowed for the area to the west of the ODOT facility to be CMX and the area to the east of the ODOT facility be I. Differing zones and uses in these distinctly different (and separated) areas would have been divided by a substantial ODOT facility. When considering facility needs in the area, ODOT has recently determined that the land needed for their facility is less than originally planned. As such, in 2016, ODOT sold the 100 foot wide strip of property (west side of the planned facility), retaining the eastern 200 feet. With the sale of the property, there now is a narrow (100 foot wide) strip of I zoned land that abuts the CMX Zone to the west and a future ODOT facility to the east. However, this I zoned land is separated from other developable I zoned land by over 200 feet, which is anticipated to accommodate a rather large ODOT facility. This change in and of itself ensures conformance with this provision (#2).

Furthermore, it could also be argued that changing the 100 foot wide strip of I zoned land to CMX would also be in the public interest (#1). With an I zone, the employment opportunities provided on the property are less than those in the CMX Zone. Furthermore, with an I zone, the allowed uses often necessitate larger piece of land, so that larger uses and buildings can occupy the space. Development of larger uses and buildings on the narrow strip of land is challenging, given the need for access (possibly a road), parking, and building space requirements.

Changing the designation and zone to CMX will provide greater development options (in terms of uses) and also allow for uses that could effectively and efficiently be developed on the otherwise restricted property (due to location and shape). The proposed Comprehensive Plan Map Amendment and Zone Change will allow for development, which will provide employment opportunities in the City of La Pine, it will increase the tax base, it will enhance the tourist opportunities in the City (which the Comprehensive

Plan establishes as a Target Industry), and the added tourists will have in indirect (multiplier) economic effect, by shopping at local stores, eating at local restaurants, buying fuel, etc. Overall, approving the Comprehensive Plan Map Amendment and Zone Change, will allow for future development to occur, which will benefit the public in multiple ways, and thus be in the public's interest.

**C. The amendment must conform to section 15.344.060 [15.334.050], transportation planning rule compliance; and**

**Applicant Response:** Section 15.334.050 is addressed below. As detailed in the TPR Analysis and Traffic Report, and the referenced section, the proposal conforms to the Transportation Planning Rule; therefore the proposal conforms to this reference provision.

**D. For a quasi-judicial zone change the applicant must also provide evidence substantiating that the following criteria are met:**

**1. Approval of the request is consistent with applicable statewide planning goals;**

**Applicant Response:** There are 19 Statewide Planning Goals that express Oregon's land use desires. Each local government throughout the State of Oregon, including the City of La Pine, must adopt a Comprehensive Plan to implement the Statewide Planning Goals. The City of La Pine has adopted the La Pine Comprehensive Plan and as detailed below, the proposed Comprehensive Plan Map Amendment and Zone Change conforms to all applicable policies and other elements of that plan. Additionally, the City of La Pine has adopted local land use regulations, including the Development Code, to implement the goals, policies, and overall intent of the Comprehensive Plan. As documented throughout this Burden of Proof narrative, the proposal conforms to the approval criteria of the applicable Development Code, and it is consistent with the relevant policies and provisions of the Comprehensive Plan; therefore the proposal is consistent with the relevant Statewide Planning Goals.

The applicant understands that of the 19 Statewide Planning goals that have been enacted, goals 1, 2, 9, 11, and 12 are relevant for additional discussion in this Comprehensive Plan Map Amendment and Zone Change Application. All other Statewide Planning goals have been determined to either not apply to this application, or are clearly satisfied through the City's acknowledged comprehensive plan, local land use regulations, and/or functional plans.

**Goal 1 - Citizen Involvement, "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."**



**Applicant Response:** A discussion of Goal 1 is relevant because the proposal includes a quasi-judicial review; thus ensuring the opportunity for citizen involvement is necessary.

Conformance with Goal 1 is achieved in La Pine through *Chapter 2, Citizen Involvement Program* of the Comprehensive Plan and through the implementation procedures that have been adopted in the Development Code. Chapter 2 of the Comprehensive Plan identifies various Citizen Involvement Committees for the City, including the Planning Commission and the City Council. The City Council adopted the procedures in the Development Code, and the procedures have been acknowledged by the Land Conservation and Development Commission (LCDC). The adopted procedures of the Development Code contain provisions to ensure an appropriate level of citizen involvement is achieved for the application type, including the Type III procedures for Quasi-judicial Comprehensive Plan Map Amendment / Zone Change applications, which require hearings before both the Planning Commission and the City Council.

Also, prior to submittal of the application, the applicant is required to notify and hold a Neighborhood Meeting, which (as documented in the record) has been completed. Upon submittal, it is anticipated that the City will hold hearings before the Planning Commission and the City Council. Prior to the public hearings, the City will send notice to all property owners within 500 feet of the property, along with interested agencies. In addition to mailed notices, it is anticipated that public notice will be published in a local newspaper. The published and posted notices inform citizens about the hearings and indicate that any interested parties may participate by submitting written or verbal testimony. The applicant held the required Neighborhood Meeting and submitted an application form; the applicant understands that public hearings, before the Planning Commission and the City Council, will be noticed and held in conformance with the public involvement procedures of the Development Code. The adopted procedures will therefore ensure consistency with Statewide Planning Goal 1.

**Goal 2 – Land Use Planning, “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”**

**Applicant Response:** A discussion of Goal 2 is relevant because the proposal includes a planning review, which must be based on a factual basis.

The proposal includes a plan to amend the Comprehensive Plan Map and Zoning Map. The proposal will be reviewed in accordance with the planning processes and policy framework that have been established in the adopted La Pine Comprehensive Plan, along with the Development Code (an acknowledged local land use regulation). It is anticipated that the proposed Comprehensive Plan Map Amendment and Zoning Map Amendment will follow the established local planning processes, and will neither alter the process for administration of the local land use regulations, nor the acknowledged procedural requirements (which ensure a factual base for all decisions). By following

the adopted procedures of the Development Code, the review of the proposal will be consistent with Statewide Planning Goal 2.

### **Goal 3, Agricultural Lands**

**Applicant Response:** Goals 3 is not applicable because the subject property is within the La Pine Urban Growth Boundary and intended for urban development. It is not agriculture land that requires additional protection pursuant to Goal 3.

### **Goal 4, Forest Lands**

**Applicant Response:** Goals 4 is not applicable because the subject property is within the La Pine Urban Growth Boundary and intended for urban development. It is not forestland that requires additional protection pursuant to Goal 4.

### **Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces**

**Applicant Response:** Pursuant to Goal 5, cities are required to establish inventories and adopt protections for natural, scenic, and historic areas along with open spaces. The City of La Pine has conducted the required process and the subject property has not been identified as being a Goal 5 resource or containing a Goal 5 resource; therefore Goal 5 is not applicable to the current proposal.

### **Goal 6, Air, Water and Land Resources**

**Applicant Response:** Goal 6 is not applicable because the proposed Comprehensive Plan Map Amendment and Zone Change only amend a map; it does not include development and will not have any impacts on air, water or land resources. In association with Map Amendments, the applicant has begun to plan anticipated development on the property. With submittal of a future project, it will be required to be shown that sewage treatment and water supply can and will be supplied in accordance with the adopted design standards, thus maintaining water and land resource quality on and around the property. Also, there are no streams or other water resources in the vicinity that would be adversely affected by the associated development. For the above stated reasons, the Goal 6 is not applicable to the current proposal.

### **Goal 7, Areas Subject to Natural Hazards**

**Applicant Response:** The intent of Goal 7 is to protect people and property from the dangers of natural disasters. The Comprehensive Plan Map Amendment and Zone Change elements of the proposal do not include the development and property is not subject to any significant natural hazards, including those identified under Goal 7. The site is not within the 100-year flood plain of the Little Deschutes (or another waterway), there are no known geologic faults in the area, and the earthquake hazard is considered to be moderate. There is no designation of the property that make it more of a hazard

that other properties in the area, thus the proposal is consistent with this goal and additional assessment is not necessary.

**Goa 8, Recreational Needs**

**Applicant Response:** The property is not designated for a recreational purpose or a destination resort within the Comprehensive Plan, other community plans, or any implementing ordinances. Through adopted long range planning efforts, the property has not been identified as necessary to meet recreational needs of the City of La Pine, thus the planned amendments do not conflict with this statewide planning goal and additional assessment is not required.

**Goal 9 – Economic Development, “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”**

**Applicant Response:** The proposal will change the Comprehensive Plan designation and zone of the property from its current Industrial (I) designation and zone to Mixed Use Commercial (CMX). As I zoned and designated land, the property is extremely challenging to develop, because it is narrow, not able to support uses to the west, not able to accommodate needed drives (or roads), parking, building sizes and other design requirements of the I Zone, whereas the CMX Zone is consistent with the zoning of the properties to the west, it allows the property to be combined / consolidated with the property to the northwest, and for the combined property to be developed with a use that is needed and desired in the community (namely tourism supportive). The Comprehensive Plan Map Amendment and Zone Change element of the proposal is the first step to entitle the property for a commercial use. The proposal and future Development review, will ultimately result in development occurring on the site, it will add economic opportunities to the City, will draw in and serve tourist, who will benefit the local economy and employment sector (visiting restaurants, retail store, etc.), which will ultimately improve economic opportunities in La Pine, in conformance with this goal.

**Goal 10 – Housing, “To provide for the housing needs of Citizens of the state.”**

**Applicant Response:** The proposal does not add or remove any residential lands from the La Pine Urban Growth Boundary, thus will not impact the availability of residential lands or Goal 10. Therefore this goal is not applicable.

**Goal 11- Public Facilities and Services, “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”**

**Applicant Response:** OAR 660-11 implements Goal 11, and notes, “Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons...” The most recent 2022 Portland State University population forecast for La Pine documents a population of 2,838. While

the population is over 2,500; the City has not yet developed Water or Sewer Public Facilities Plans (PFPs). Even though the City does not have water and sewer PFPs to analyze consistency with, the future Site Plan and CUP will include Utility Plans that assess public facility availability in the area, and the future plans will be required to document how public facilities can and will be extended to the site in a timely, orderly and efficient manner.

**Goal 12 – Transportation, “To provide and encourage a safe, convenient and economic transportation system.”**

**Applicant Response:** Goal 12 is implemented through the Transportation Planning Rule, OAR 660-12-0060, in addition to local land use regulations. The proposal includes a TPR analysis (attached as an Exhibit), which has been prepared by Transight Consulting LLC; detailed findings of the TPR analysis are included below and in the attached Exhibit. As detailed therein, with the proposed limit on PM peak hour trips, the proposed Comprehensive Plan Map Amendment and Zone Change will not significantly impact any transportation facility and thus will comply with the TPR (OAR 660-12-0060). In regards to the local land use regulations, the City of La Pine has adopted a Transportation System Plan (TSP) and a Development Code; conformance with these documents ensures compliance with Goal 12. The Development Code includes requirements that transportation capacity exist, or be provided, in association with new developments and/or land division, and that improvements be consistent with the TSP. The application and review processes that will occur in association with Site Plan and CUP review (below) ensure compliance with Goal 12.

The detailed review of the TPR and associated development’s compliance with the transportation section of the Development Code therefore provide consistency with this statewide planning goal.

**Goal 13 Energy – “To conserve energy.”**

**Applicant Response:** The proposal includes an amendment to the Comprehensive Plan Map and Zoning Map, thus this goal is addressed. Development will be reviewed in the future (Site Plan and CUP) and with said review, the design will be required to conform to the applicable Development Code standards. The Development Code has been designed and acknowledged to be consistent with this Goal, thus the Comprehensive Plan Map Amendment and Zone Change is consistent with this Goal.

**Goal 14 Urbanization – “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”**

**Applicant Response:** Goal 14 requires local governments to provide for an orderly and efficient transition from rural to urban land uses, and to accommodate urban population and employment inside urban growth boundaries, while ensuring efficient use of land. The subject property is located within the urbanized city limits and the

proposal will facilitate future development, which will use existing public facilities and services (which are reviewed with the future site development and CUP applications below) in an efficient and functional land use patterned. Given that the proposal does not expand the urban growth boundary, this goal is not relevant to the proposed amendment.

### **Goals 15 through 19 –**

**Applicant Response:** These goals are not applicable because they only pertain to areas in western Oregon.

Based upon the projects conformance with the procedural requirements of this land use review process and based upon the projects conformance with the TPR, the proposed Comprehensive Plan Map Amendment and Zone Change is consistent with the relevant Statewide Planning Goals. Should City Staff, or an interested party, identify other Goals or Administrative Rules that warrant discussion, the applicant will address accordingly at, or before the public hearing.

#### **2. Approval of the request is consistent with the relevant policies of the comprehensive plan;**

**Applicant Response:** The Applicant has reviewed past land use decisions and consulted with City Staff in the design of the project and the preparation of this application, including the identification of the relevant Comprehensive Plan elements. As described below, the proposed Comprehensive Plan Map Amendment and Zone Change conforms to all applicable Comprehensive Plan Policies and relevant elements of the Plan. In the event that Staff or another interested party believes that additional policies, goals, or overview sections are relevant, the Applicant will supplement the record with written documentation of conformance, as needed.

### ***Introduction***

This chapter takes a reader through basic information related to comprehensive plans, including the history of La Pine, what a comprehensive plan is, a summary of Oregon's Statewide Planning Goals (addressed above), the purpose and intent of the Comprehensive Plan, the process and the methodology, along with a summary, recommendations, and a process for amending the plan. This Introduction section of the Plan does not include any policy directives, thus does not include any elements to measure the proposals conformance with.

### ***Chapter 1 – Community Characteristics***

After detailing the history of the City of La Pine, from demographics, to development groups, and land use patterns, this chapter goes on note that, "These historic types of land uses do not currently support sustainability and the reduction of vehicle miles travels." (Page 19 – La Pine Comprehensive Plan). The chapter ends with a series of bullet points, identifying imbalances that the community wants to correct, to improve

neighborhoods. The stated imbalances that relate to the current proposal include the following:

- ***Planned growth with commensurate infill policies that permit increased density but recognize that compatibility is an essential feature of maintaining and improving La Pine's livability***
- ***Opportunities for additional tourism support services and activities***

The area around this development contain the La Pine Travel Center and is generally focused around tourism services. Allowing a Comprehensive Plan Map Amendment and Zone Change from I to CMX is the first step to entitle the property for development, so that it can be developed with a use that is consistent with the surrounding area and a desire of the community. If the entitlement process is successful, the applicant will be proceeding with the development on the property. The future development will result in facilities and services provided to and through the property, including access and pedestrian ways, in accordance with adopted development standards. Furthermore, the planned CMX zone allows for the future development, which will provide additional employment and commercial opportunities in the area, allow for efficient infill development, consistent with the nearby uses and provide opportunities for tourist to stay in La Pine. The proposal is consistent with the applicable elements of this chapter.

### ***Chapter 2 – Citizen Involvement Program***

This chapter identifies State rules related to citizen involvement, along with the community's purpose and intent with regard to citizen involvement. Furthermore, this chapter identifies issues and goals, policies and programs, it establishes roles and responsibilities, and establishes specific Citizen Advisory Committees (CACs). One of the CACs that are identified in this chapter is a Planning Commission, which the City has established for Planning and Land Use purposes. It is understood that the proposal will be processed and reviewed in accordance with the public notification procedures that have been established in the Development Code, and that hearings will be held before both the Planning Commission and the City Council. Ultimately, it is anticipated that the application will be review by the City established citizen advisory committees, and in accordance with the adopted notification procedures, thus will be consistent with this chapter.

### ***Chapter 3 – Agricultural Lands***

This chapter addresses agricultural lands. The property is within the Urban Growth Boundary and not considered Agricultural Land; this chapter does not apply.

### ***Chapter 4 – Forest Lands***

This chapter addresses forest lands. The property is within the Urban Growth Boundary and not considered Forest Land; this chapter does not apply.

### ***Chapter 5 – Natural Resources and Environment***

This Comprehensive Plan chapter is intended to address Oregon Statewide Planning Goals 5, 6, and 7 which address natural resources, historic area, and open spaces, air water and land resources and protection from natural hazards. The subject property is a vacant 2.88 acre area that has not been identified as having any protected natural resources, historic elements, or designated open spaces. Furthermore, the proposal changes the Comprehensive Plan Map and Zoning Map, and the associated development (not directly subject to this chapter) will not result in any impacts to air, water or land resources. Also, the property is not subject to any significant natural hazards, including those identified under Goal 7. The site is not within the 100-year flood plain of the Little Deschutes (or another waterway) and there are no known geologic faults in the area, and the earthquake hazard is considered to be moderate. There is no designation of the property that make it more of a hazard than other properties in the area and the City, thus the proposal is consistent with this chapter.

### ***Chapter 6 - Parks, Recreation, and Open Space***

This Chapter is intended to carry out Statewide Planning Goal 8, Parks, Recreation and Open Space. Recognizing that quality of life is impacted by the location and function of area parks, natural areas and open spaces, this chapter encourages corporation between the City, the La Pine Park and Recreation District, County, State and Federal Agencies, in an effort to develop an appropriate park system for the City. In the La Pine area, the La Pine Park District has existed since 1990. This district has an adopted Master Plan, which identifies park needs, locational needs, desires and deficiencies. The Park District does not identify a park need on or around the subject property. Because the property has not been identified as being needed to meet recreational needs of the City, the planned map amendments do not conflict with this chapter.

Additional vehicular, bicycle and pedestrian connections, and development standards will be reviewed in association with land development (Site Plan Review and CUP) below. Given that there are no identified park, recreation or open space needs on the property and given that development will be required to make connections as established in the Development Code, the applicant concludes that the policies in this section do not apply to Comprehensive Plan Map Amendment and Zone Change.

### ***Chapter 7 – Public Facilities and Services***

This chapter is intended to carry out Statewide Planning Goal 11. While the City has not yet developed Water or Sewer Public Facilities Plans, it is anticipated that water and sewer availability will be reviewed through the subsequent Site Plan/CUP review. The policies of this Chapter are directed at development and are carried out through the implementing Development standards (which apply to Site Plan and CUP review). The policies of this section do not apply to Comprehensive Plan Map Amendment and Zone Change, and instead only apply to development, via the adopted Development Code provisions. It is anticipated that the elements of this chapter that have been



incorporated into the Development Code will be imposed upon development review, which will ensure consistency with this Chapter.

### ***Chapter 8 – Transportation***

This chapter is intended to carry out Statewide Planning Goal 12. This chapter provides details of the transportation elements in the City of La Pine, including roads, bicycle ways, pedestrian routes, and public transit. Furthermore, this chapter addresses long range planning needs, air and rail, pipelines, and funding. The majority of the policies of this section have been incorporated into the Development Code and implementing regulations, which will be imposed upon development, via the applicable Site Plan and CUP provisions (addressed in the future). The Comprehensive Plan Map Amendment and Zone Change are not themselves development. Therefore, the policies of this chapter do not apply to the Comprehensive Plan Map Amendment and Zone Change portion of the proposal and instead are imposed upon development, via the Site Plan and CUP provisions, as adopted into the applicable implementing regulations.

### ***Chapter 9 – Economy***

This Chapter is intended to carry out Statewide Planning Goal 9, Economic Development. This Chapter includes an extensive analysis of the La Pine economy, noting (page 105) that one of the target industries is “Tourism related services”.

The proposed Comprehensive Plan Map Amendment and Zone Change will specifically make land (that would otherwise be limited in its developability) available to be combined with other land (triangle of land to the northwest), such that the combined area can be developed a use that is allowed in the CMX zone, likely tourism related. The zone change will provide land that will accommodate tourism related activities, which is an identified target industry in the La Pine.

This chapter further provides reasons that La Pine is desirable for economic development, it identifies key industrial areas, commercial areas, it addresses mixed-use areas, drivers of the economy, existing conditions, trends statistics industries and employers, along with desired industries. Beyond those elements, the chapter provides details of land inventory and needs. Ultimately, the chapter concludes that there is an adequate supply of employment lands within the City to meet the 20-year need. The proposal will change the designation and zone from one employment type (I), to a different employment type (CMX). The proposal will not reduce that amount of employment land in the City.

The subject property, situated on the northeast side of town, is located near a Hwy 97 commercial strip. The area is developed with tourist related services, including a travel center that service large vehicle. The narrow strip of I zoned land could not be efficiently developed with industrial uses and Industrial lands here would not be consistent with the existing development pattern and nearby CMX zones. The proposed Comprehensive Plan Map Amendment and Zone Change in combination with

the future use will enhance and broaden the community tourism service base in this area and provide for a variety of services to the existing and future users, enhancing the tourism focus concept in this area of town, in accordance with this chapter.

### ***Policies***

- ***Frequent updates to the inventories may be required in response to redevelopment, proposed zone changes, mixed-use development techniques and planned unit developments that enable “Complete Neighborhood” concepts and economic development opportunities.***

**Applicant Response:** As noted above a complete community begins with providing enough jobs, education, services, and industry to sustain the community without heavy reliance upon other nearby cities such as Bend and Redmond. The current proposal is being submitted with an intention to develop a tourism related use on the property, thereby enhancing tourism related service focus of the area. This policy recognizes the need for these types of changes and anticipates that updates to provide for efforts such as this. Allowing the update would be consistent with this policy.

### ***Chapter 10 – Housing***

This chapter addresses housing and State Planning Goal 10. The proposed Comprehensive Plan Map Amendment and Zone Change will not alter the availability of housing or residential lands in the City of La Pine. The property does not exist as a residentially designated parcel, and the planned designation is Commercial Mixed Use (CMX), which is not primarily residential. The proposal does not add or remove any residential lands from the La Pine Urban Growth Boundary, thus will not impact the availability of residential lands, Goal 10, or this chapter.

### ***Chapter 11 – Energy Conservation***

This chapter carries out Oregon State Planning Goal 13. After providing background, purpose and intent, this Chapter identifies issues with travel, existing development patterns, and energy supply opportunities. The policies of this chapter address residential density, along with development and design desires. The Comprehensive Plan Map Amendment and Zone Change element of the proposal does not include any development, thus the policies of this chapter do not apply to Comprehensive Plan Map Amendment and Zone Change element proposal. It is anticipated that some of the policies of this section will be imposed upon site development, as reviewed with the Site Plan and CUP, as implemented through adopted Development Code provisions.

### ***Chapter 12 – Urbanization***

This chapter carries out State Planning Goal 14, which requires that cities 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. This chapter provides details of Buildable Lands, residential and commercial land needs, ultimately determining that the amount of land within the City Limits is sufficient to accommodate the 20 year land needs.

In addition to detailing land needs, this chapter provides guidance and direction on future development within the UGB area. This chapter notes, "The City of La Pine currently contains over a thousand acres of forest and BLM lands. These acres are located on the eastern part of the community and mostly east of the BNSF rail line. These acres will be used for public facilities such as sewer expansion ROW for the ODOT overpass, energy production and other public use." It is possible that some of these lands could be converted to I zoning. This rezoning has already occurred. With a substantial amount of I Zoned Lands in the City, the City has a substantial oversupply of Industrial lands.

**3. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property;**

**Applicant Response:** With this Comprehensive Plan Map Amendment and Zone Change Application the applicant has begun to plan for tourism related uses on the property. The anticipated use is a very specific use, whereby water, sewer and transportation needs can be considered and analyzed. With future development applications, the project will extend water and sewer mains to serve the property and surrounding area. The improvements will be coordinated with the City Engineer and Public Works director, such that adequate capacity can be determined. Furthermore, the design will extend franchise utilities to the property, as needed to serve the site and surrounding area. Lastly, the Site Plan / CUP design will include right-of-way dedication and improvements, including water and sewer main in Rosland Road. Overall, the existing conditions, along with the improvements that are planned with the Site Plan / CUP will ensure that adequate facilities, services and transportation networks are extended to the site and to the surrounding area.

**4. For nonresidential changes, the proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.**

**Applicant Response:** If considering a worst case scenario, the CMX Zone would allow more intensive uses than the I Zone, however the Comprehensive Plan Map Amendment and Zone Change is planned to limit trips (include a 36 pm peak hour trip cap). If a worst case scenario were being considered without a trip cap (any CMX allowed use could occur on the property) then an additional analysis of whether the use would destabilize the land use pattern of the area would be needed, however given that the Comprehensive Plan Map Amendment and Zone Change will limit the development (on the I zoned property) to 36 pm peak our trips, the Comprehensive Plan Map

Amendment and Zone Change will be no more intensive than retaining the I zone; therefore the Comprehensive Plan Map Amendment / Zone Change (with the trip cap) will not destabilize the land use pattern in the area.

**Sec. 15.334.050. - Transportation planning rule compliance.**

**Proposals to amend the comprehensive plan or zoning map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to OAR 660-012-0060 (Transportation Planning Rule - TPR). Where the city, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the city shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.**

**Applicant Response:** In association with this proposal, a Transportation Planning Rule (TPR) Analysis was conducted by Transight Consulting, LLC. The TPR Analysis is included in this proposal as an Exhibit. The findings of the TPR analysis indicate that by utilizing a PM peak hour trip cap, that the Comprehensive Plan Map Amendment and Zone Change from Industrial (I) to Mixed Use Commercial (CMX) will not significantly affect any existing or planned transportation facility, thus the proposal is in conformance with the TPR. The complete analysis is included in the referenced Exhibit, findings of which are incorporated herein.

**IV. Conformance with Procedures, Standards, and Approval Criteria that are Applicable to the Site Plan Review and Conditional Use Permit**

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**Article 3 – Zoning Districts:**

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**Chapter 15.22 – Commercial and Mixed-Use Zones**

**15.22.100 Purpose**

**Chapter 15.22 regulates allowed land uses (“uses”) and sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development in the commercial and mixed-use zones. The regulations of this chapter are intended to implement the City Comprehensive Plan.**

**Applicant Response:** This section is a purpose statement; it does not establish and measurable development standards or approval criteria. It is understood that a project that conforms to the standards of this and other sections of the Code will carry out this stated purpose.

**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.

- C. **Commercial Mixed-Use Zone (CMX).** The CMX zone is intended to allow for a wide range of both commercial and residential uses. Unlike the CRMX zone, residential uses are not limited and are allowed to be developed on standalone sites. Some commercial uses that may not be compatible with residential uses are prohibited or limited. The CMX zone allows for flexible uses that can respond to market demand.

**Applicant Response:** With the Comprehensive Plan Map Amendment and Zone Change, the property will be zoned Commercial Mixed Use (CMX). The overall project will allow the development of a tourist service in an area that provide many other tourist services and it is consistent with the desired characteristics.

#### 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...
- 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.

**Applicant Response:** The proposal will allow for the future development of uses that are allowed in the CMX Zone, which is consistent with the use allowances.

#### 15.22.400 Development Standards...

### **15.22.500 Additional Standards..**

**Applicant Response:** Development is not reviewed with this application, but will be reviewed with subsequent Site Plan and CUP review.

### **V. Summary and Conclusion:**

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Based on the discussion above, as well as the exhibits included with this application, the Applicant has documented that the Comprehensive Plan Map Amendment and Zone Change, request meets the applicable approval criteria. Because the proposal conforms to all applicable criteria and standards, the applicant respectfully requests that the City approve the Site Plan as proposed.

## Neighborhood Contact Notification

*Pursuant to Section 15.202.050 of the La Pine Development Code*

**Date:** Wednesday October 25, 2023  
**Time:** 2:30 p.m.  
**Location:** La Pine Senior Activity Center  
16450 Victory Way  
La Pine, OR 97739

**Applicant:**

Oregon 97 Investments LLC

**Proposal:**

The proposal consists of three application types, 1) a Comprehensive Plan Map Amendment and Zone Change, 2) a Site Plan and 3) a Conditional Use Permit.

- The Comprehensive Plan Map Amendment and Zone Change will convert the 2.88-acre eastern strip of land property from an Industrial (I) Designation and Zone, to a Mixed Use Commercial (CMX) Designation and Zone.
- The Site Plan and CUP are for an RV Park, consisting of 47 RV spaces, a clubhouse with a patio area, bathrooms and showers parking, and landscaping.

Prior to the submittal of the land use application, an informational meeting will be held according to the provisions of Section 15.202.050 of the La Pine Development Code.

**Location:**





The property is located in the northeast quadrant of the City of La Pine, east of Hwy 97 and south of Rosland Road. The western (triangular) portion of the site has been assigned the address of 17125 Rosland Road and the properties are identified by the Deschutes County Tax Assessor as 211036DC00100 and 2110360000107.

Detailed plans depicting the specific proposal will be available for review at the Neighborhood Contact meeting.

**Contact Information:**

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