



CITY OF LA PINE, OREGON PLANNING COMMISSION

Wednesday, July 17, 2024 at 5:30 PM

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

Online access via Zoom: <https://us02web.zoom.us/j/81883352460>

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

AGENDA

CALL TO ORDER

ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

- 1. 06.05.2024 Planning Commission Minutes 3.

ADDED AGENDA ITEMS

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

PUBLIC HEARING

All public hearings will follow the following procedure:

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

- 1. 01ZC-23 OR 97 Investments
 - a. Open Public Hearing
 - b. Application Documents
 - i. Agenda Request 8.
 - ii. Staff Report 10.
 - c. Public Testimony
 - d. Close Hearing

OLD BUSINESS

None

NEW BUSINESS

1. Code Update Work Session (Discussion Only)
2. Long Range Planning Update (Discussion Only)
3. Administrative Land Use Application Update (Discussion Only)

OTHER MATTERS

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

PUBLIC COMMENTS

Public Comments provide an opportunity for members of the community to submit input on ongoing matters within the city.

Public Comments are limited to three (3) minutes per person; when asked to the podium, please state your name and address. This helps the Planning Commission and staff determine if you are a city resident. The acting chair may elect to respond to comments if the matter is within the jurisdiction of the city or defer to city staff for response. Any matter that warrants testimony and rebuttal may be debated only during a Public Hearing on the matter.

STAFF AND COMMITTEE COMMENTS

ADJOURN

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission.



CITY OF LA PINE, OREGON PLANNING COMMISSION

Wednesday, June 5, 2024 at 5:30 PM

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

Online access via Zoom: <https://us02web.zoom.us/j/87427048590>

MINUTES

CALL TO ORDER

Commission Vice Chair Poteet called the meeting to order at 5:30 p.m.

ESTABLISH QUORUM

Commission

Commission Chair Myers – Excused

Commission Vice Chair Poteet

Commissioner Bauman

Commissioner Hatfield

Commissioner Accinelli

Staff

Geoff Wullschlager – City Manager

Brent Bybee – Principal Planner

Rachel Vickers – Associate Planner

Amanda Metcalf – City Recorder

PLEDGE OF ALLEGIANCE

Commission Vice Chair Poteet led the Pledge of Allegiance.

CONSENT AGENDA

1. 05.15.24 Planning Commission Meeting Minutes

An amendment to the minutes, Commissioner Hatler needs to be changed to Commissioner Hatfield.

Commissioner Bauman made a motion to approve the minutes as amended. *Commissioner Hatfield seconded the motion.* Motion passed unanimously.

ADDED AGENDA ITEMS

None.

PUBLIC HEARING

None.

OLD BUSINESS

None.

NEW BUSINESS**1. Code Update Work Session (Discussion Only)**

Principal Planner Bybee presented to the Commission a work session regarding a code update. The Commission had a discussion on the following items:

1. Drive up and drive thru facility and mobile food unit definitions

Principal Planner Bybee stated that the code does not define what a drive up, drive thru facilities, or mobile food unit within the Downtown overlay. He presented an amendment that would include definitions that were similar to surrounding cities.

He also presented an amendment that would include criteria for drive up and drive thru facilities will need to be permanently affixed to the ground and connected to city water and sewer. This is to ensure these businesses are treated equitably with other commercial uses in the City, and that the public health, safety, and welfare of the community is protected.

There was discussion about the criteria needed to determine how these facilities will be connected to water and sewer.

The Commission agreed with the staff recommendations and did not add or change the presented amendments.

2. Partition, property line adjustment, and replats definitions

He stated that the La Pine Development Code is missing definitions for certain land divisions and contains definitions that differ from ORS92-Subdivisions and Partitions. He said that the recommended amendment would be that the definitions mirror state code ORS 92.010.

There was discussion on the difference between a subdivision and a partition. Associate Planner Vickers clarified the development standards for partitions.

He also presented an amendment to remove references to “boundary” line adjustments, remove replat criteria and create a separate chapter for replats. In addition, match the replat criteria to that of state statute, and link to the procedures for partitions.

The Commission agreed with the staff recommendations and did not add or change the presented amendments.

3. Flag lot definition

He proposed an amendment to create a definition for flag lots, which defines the “flag” and “pole” portions of a lot. The proposed definition matches the current definition in the City of Redmond’s Development Code.

He also said that an amendment is needed to include criteria that requires the “pole” portion of a flag lot to match the frontage requirements of the development standards.

The Commission agreed with the staff recommendations and did not add or change the presented amendment.

4. Self-service storage paving requirements

He said that currently, self-service storage facilities in the commercial and industrial zones are not regulated in terms of property size and surfacing requirements. He proposed that the 5-acre minimum property size requirement match that of the Residential Zone. In addition, staff proposed that asphalt surfacing be required for areas utilized by tenants.

City Manager Wullschlager gave a clarification on self-service storage facilities.

The Commission agreed with the staff recommendations and did not add or change the presented amendment.

5. Existing tree retention and multifamily development

He stated an amendment to remove references to multi-family “dwelling complexes” to better reflect uses defined within the code.

In addition, to ensure the goals and policies of the Comprehensive Plan are met, he proposed an amendment that would ensure mature trees within the city are preserved and if they must be removed for development they will need to be replaced.

There was discussion about the percentages that would need to be landscaped on new development. It was asked if staff can present landscaping standards from surrounding cities to compare them to the City of La Pine’s code.

6. Pedestrian access materials

He proposed to the Commission an amendment, for pedestrian access materials, to remove the options for asphalt, brick or masonry pavers, and match width requirements to that of the Public Works design standards. This is to ensure ADA requirements are met for proposed developments.

Associate Planner Vickers clarified that this is just for sidewalks and that multiple use walkways, with the direction from Public Works and the City Engineer, can still be made of asphalt.

The Commission agreed with the staff recommendations and did not add or change the presented amendment.

7. Type 1 review procedures (review timeline)

He said that ORS 197.015 does not require timelines for Type 1 decisions as they are not land use decisions nor limited land use decision. He presented the amendments to clarify that Type 1 decisions are not land use decisions and remove the 30-day decision timeline.

The Commission agreed with the staff recommendations and did not add or change the presented amendment.

8. Mobile food unit approval

Lastly, he presented an amendment to remove the section that is already addressed by article 7. This section of the code outlines the application procedures and timelines that are followed for mobile food units. He stated that there is a contradiction in information and recommends removing the code criteria for clarity.

The Commission agreed with the staff recommendations and did not add or change the presented amendment.

2. Long Range Planning Update (Discussion Only)

Principal Planner Bybee gave an update on the public summit that happened May 21st, 2024. He stated that 3J is currently compiling the maps that were created during the exercise and create one map. He stated that at the end of the month 3J will present a handout to provide to citizens.

He listed the community events that the Planning Department will be attending this summer.

He stated that the Department of Land Conservation and Development (DLCD) and Oregon Department of Transportation (ODOT) will be having an online presentation regarding the transportation system plan (TSP) grant and how to present your city stand so it will stand out from other applicants. He clarified that staff will be coordinating with 3J and a representative from ODOT to finalize the grant application.

He gave an update on Community Planning Assistance for Wildfire (CPAW) he will be coordinating with CPAW to start the next steps so their evaluation can be included with the comprehensive plan update.

3. Administrative Land Use Application Update (Discussion Only)

Associate Planner Vickers gave an update on the current land use applications. This includes 4 preapplication meetings that have been completed to potential applicants.

She stated that she will start communicating all future Type 1 decisions to the Council.

She informed the Commission that the industrial life station is at capacity. Per the city code, if a public works representative states that a public facility is not adequate then the planning department can list it in the conditions of approvals. City Manager Wullschlager clarified that this lift station is the oldest in the City and it has had critical failures. He also stated that staff are trying to include the rebuilding of the lift station with the water wastewater expansion project. This will have USDA add the cost to rebuild the station to the project's funds. There was discussion on the conditions of approval and how it will affect new development.

Associate Planner Vickers answered a question about La Pine Realty and their decision to move into an existing building versus the original plan to build one.

OTHER MATTERS

None.

PUBLIC COMMENTS

None.

STAFF AND COMMITTEE COMMENTS

Commission Vice Chair Poteet did not have any comments.

Commissioner Bauman did not have any comments.

Commissioner Hatfield did not have any comments.

Commissioner Accinelli did not have any comments.

Principal Planner Bybee commented that the public hearing that was scheduled for June 19th will need to be postponed due to the Federal Holiday. He stated that all notices will need to be sent out again and the new hearing will be scheduled for July.

City Manager Wullschlager did not have any comments.

Associate Planner Vickers did not have any comments.

City Recorder Metcalf did not have any comments.

ADJOURN

Commission Vice Chair Poteet adjourned the meeting at 7:00 p.m.

Pursuant to ORS 192.640: This notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the Planning Commission.

_____ Date: _____
Teri Myers, Chair

ATTEST:

_____ Date: _____
Amanda Metcalf, City Recorder



CITY OF LA PINE

AGENDA REQUEST

MEETING DATE: July 17th, 2024
TO: Planning Commission
FROM: Brent Bybee, Principal Planner
SUBJECT: Public Hearing: 01ZC-23, Oregon 97 Investments LLC

- | | | | |
|--------------------------|-------------------------|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> | Resolution | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | No Action – Report Only | <input checked="" type="checkbox"/> | Public Hearing |
| <input type="checkbox"/> | Formal Motion | <input type="checkbox"/> | Other/Direction: Please see below |

Proposal:

The applicant proposes a Comprehensive Plan Map amendment and Zoning Map amendment, changing the zoning of the property from Industrial (I), to Mixed Use-Commercial (CMX).

Background:

The subject property was previously owned by the ODOT, and was a part of the property adjacent to the East. It was then sold to the current owner. It is of note that the property is not a legal lot of record, which highlights the included condition of approval requiring the lot to be legalized. However, lot legality does not have bearing on the current proposal. The landowner’s overall goal is to consolidate the subject property into the property to the West, which is zoned the same as what is currently proposed for the subject property, Commercial Mixed Use (CMX). That consolidation is not being considered through this request.

In an effort to allow more development opportunities for the subject property, the landowner has requested a comprehensive map amendment and zone map amendment to change the zoning of the subject property from Industrial (I) to Commercial Mixed Use (CMX).

The request has been analyzed for compliance with the La Pine Development Code, La Pine Comprehensive Plan, La Pine Transportation System Plan, and the Oregon Statewide Planning Goals.

With regard to transportation, the Applicant submitted a TPR Analysis which found the proposal to have a

significant impact on local traffic infrastructure. The Applicant initially proposed a trip cap which would limit the types of development that could occur, but staff does not support this mitigation measure. Instead, a condition of approval has been included requiring a cash contribution to offset the effects of the proposal.

Staff found the use to comply with the Development Code, Comprehensive Plan, and Statewide Planning Goals, with exception to one criteria. Staff has recommended that the applicant provide additional evidence towards Sec. 15.334.040(D)(4).

It is of note as well that DLCD requested further compliance be demonstrated with OAR 660-009-0010, since the subject property is over two acres in size and is switching from an industrial use designation to a non-industrial use designation. The Applicant provided additional evidence towards compliance with that administrative rule, and staff found the use to comply.

Additional infrastructure deficiencies were found to exist within the area, specifically with regard to wastewater infrastructure. Conditions of approval have been included to offset the effects of the proposal.

Staff notes that applicable code criteria are discussed in the attached Staff Report.

Public Notice:

This Public Hearing was adequately noticed in accordance with LPDC Section 15.204.030 (B):

- a. Mail Date: June 27th, 2024
- b. Bend Bulletin Publishing Date: July 7th, 2024
- c. Posting Date and Location: July 2nd, 2024, Northern border of property along Rosland Rd.

Staff has not received any public comments in relation to this land use application.

Next Steps:

At the conclusion of the Public Hearing, the Planning Commission may choose one of the following:

- Continue the hearing to a date and time certain.
- Close the oral portion of the hearing and leave the written record open to a date and time certain.
- Close the hearing and schedule deliberations for a date and time to be determined.
- Close the hearing and commence deliberations.

Recommended Motion:

Staff recommends the La Pine Planning Commission close the public record, and continue the hearing to a date and time certain for a complete recommendation to City Council. Recommended language is included below:

I move to continue the hearing for file 01ZC-23 to [Date], allowing for the inclusion and consideration of additional evidence submitted by the Applicant.

Budget Impacts:

None, staff time has been covered by the applicant fee that was paid in full by the applicant.

Attachment(s):

1. Staff Report



16345 Sixth Street — PO Box 2460

La Pine, Oregon 97739

TEL (541) 536-1432

www.lapineoregon.gov

**CITY OF LA PINE PLANNING DIVISION
STAFF REPORT TO THE PLANNING COMMISSION**

DATE: July 10, 2024

FILE NUMBER: 01ZC-23

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

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

ENGINEER: Ashley and Vance Engineering, Inc.
Jack Mitchell
33 NW Franklin Avenue, Suite 110
Bend, OR 97702

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

LOCATION: The subject property address is 17125 Rosland Rd, and is identified as Tax Lot 107 on Deschutes County Assessor's Map 21-10-36.

ZONING: Industrial Zone (I)

REQUEST: Approval of a Comprehensive Plan Map amendment and Zoning Map amendment, changing the zoning of the property from Industrial (I), to Mixed Use-Commercial (CMX).

STAFF CONTACT: Brent Bybee, Principal Planner
Email: bbybee@lapineoregon.gov
Phone: (541)668-1135

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA:

PART III – CITY OF LA PINE DEVELOPMENT CODE**ARTICLE 3 - ZONING DISTRICTS****CHAPTER 15.22. - COMMERCIAL AND MIXED USE-ZONES**

Sec. 15.22.100. - Purpose.

Sec. 15.22.200. - Characteristics of the commercial and mixed-use zones.

ARTICLE 7 - PROCEDURES**CHAPTER 15.202. - SUMMARY OF APPLICATION TYPES AND GENERAL PROVISIONS**

Sec. 15.202.010. - Purpose and applicability.

CHAPTER 15.204. - APPLICATION PROCEDURES

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

ARTICLE 8 - APPLICATIONS AND REVIEWS**CHAPTER 15.334. - TEXT AND MAP AMMENDMENTS**

Sec. 15.334.010. - Purpose.

Sec. 15.334.020. - Applicability.

Sec. 15.334.030. - Procedure type.

Sec. 15.334.040. - Approval criteria.

Sec. 15.334.050. - Transportation planning rule compliance.

OREGON ADMINISTRATIVE RULES**CHAPTER 660****DIVISION 9 - ECONOMIC DEVELOPMENT**

660-009-0010 Application

II. BACKGROUND INFORMATION:

PROPERTY DESCRIPTION: The subject property is 3.26 acres in size. It is undeveloped with trees and vegetation covering the property. The property is generally level and located outside of any FEMA designated floodway and/or floodplain.

SURROUNDING ZONING AND USES: Lots adjacent to the north, south, east, and west are also Industrial (I). Properties to the west are zone Commercial Mixed Use (CMX), with one property containing a travel center with fuel station and restaurant.

PUBLIC NOTICE AND COMMENTS: The City of La Pine sent notice of the application to the City Council, Planning Commission and property owners within 100 feet of the subject property. No public comments were received. The City will mail the notice of decision to the same distribution list.

AGENCY/DEPARTMENT COMMENTS: The City of La Pine requested review and comments from the following departments: City Fire Chief, ODOT, Republic Services, Deschutes County Building, Deschutes County Roadway, City Engineer Consultant, City Public Works Manager, and the Office of the State Fire Marshal. All comments received are incorporated herein.

III. FINDINGS OF FACT:**PART III – CITY OF LA PINE DEVELOPMENT CODE****ARTICLE 3 - ZONING DISTRICTS****CHAPTER 15.22. - COMMERCIAL AND MIXED-USE ZONES****Sec. 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.

Sec. 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.

FINDING: The request is for a zone change to change the underlying zoning on the subject property from Industrial (I), to the Commercial Mixed-Use (CMX). Changing to the Commercial Mixed-Use zone would accommodate a mix of commercial services, retail, and civic uses, along with residential uses permitted in some circumstances. It is important to note as stated above that the Commercial Mixed-Use 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. Any development proposed after the zoning of the properties has been changed would be subject to the criteria of the CMX zoning, ensuring any commercial or residential uses comply with the applicable standards. Criteria met.

CHAPTER 15.24. - INDUSTRIAL AND PUBLIC FACILITY ZONES**Sec. 15.24.100. - Purpose.**

[Chapter 15.24](#) regulates allowed land uses ("uses") and sets forth lot and development standards, including without limitation minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development in the industrial and public facility zones. The regulations of this chapter are intended to implement the City of La Pine Comprehensive Plan.

Sec. 15.24.200. - Characteristics of the industrial and public facility zones.

Industrial and public facility zones accommodate a mix of intensive and less intensive uses engaged in manufacturing, processing, warehousing, distribution, and similar activities. Two industrial zoning districts, one for light industrial uses and one for general industrial uses, provide for the full range of planned industrial land uses within the city. Both districts are intended to provide for efficient use of land and public services, provide a high-quality environment for business, offer a range of parcel sizes and locations for industrial site selection, avoid encroachment by incompatible uses, provide transportation options for employees and customers, and facilitate compatibility between dissimilar uses.

- B. Industrial Zone (I). The I zone allows for the same uses as the LI zone, but also provides suitable locations for more intensive industrial uses, such as those with processing, manufacturing, assembly, packaging, distribution, or other activities.*

FINDING: The request is for a zone change to change the underlying zoning on the subject property from Industrial (I), to the Commercial Mixed-Use (CMX). Industrial and public facility zones accommodate a mix of intensive and less intensive uses engaged in manufacturing, processing, warehousing, distribution, and similar activities. As stated above, the zone is intended to provide for efficient use of land and public services, provide a high-quality environment for business, offer a range of parcel sizes and locations for industrial site selection, avoid encroachment by incompatible uses, provide transportation options for employees and customers, and facilitate compatibility between dissimilar uses. Any development proposed after the zoning of the properties has been changed would be subject to the criteria of the CMX zoning, no longer requiring compliance with the I zoning. Criteria does not apply.

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.*
- 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).*

*(***)*

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.*

Legislative text or map amendment	Type IV	Chapter 15.344 [15.334]
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FINDING: The request is for a zone change to change the underlying zoning on the subject property from Industrial (I), to the Commercial Mixed-Use (CMX). As identified above, the applicable review procedure is a Type IV review. However, Chapter 15.334 allows for zone changes to be reviewed through the Type III procedures if the proposal only affects a limited group of property owners. Since the zone change will only affect the owners of the subject property and limited number of neighboring properties, the proposal is being reviewed through the Type III procedures. Chapter 15.334 is also addressed in this report where the use is found to comply. Criteria met.

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](#).*

FINDING: The above criteria addresses the required elements of an application submitted for review. At the time of submittal, an application form provided by the planning department was submitted. All of the applicable information requested on the application form was addressed. A concept plan was submitted detailing the approval being sought, as well as a burden of proof explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail. No prior decisions or conditions of approval exist for the subject property. The required fee was submitted, and evidence of neighborhood contact was provided. Criteria met.

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:*
 - i. *A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable Development Code requirements;*
 - ii. *The date, time, and location of the scheduled hearing;*
 - iii. *The street address or other clear reference to the location of the proposed use or development;*
 - iv. *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;*
 - v. *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;*
 - vi. *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;*
 - vii. *A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and*
 - viii. *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.*

FINDING: Subsection B above addresses the criteria for mailed and posted notices of hearing. On June 27, 2024, notice of the hearing was mailed to the applicant, owners of property within 100 feet of the subject property, the Planning Commission, any individuals who have requested to receive notice, and all government agencies entitled to notice. No airports are located within 10,000 feet, the property requested for the zone change does not contain a mobile home park, the property is not located within the boundaries of a neighborhood or community organization. The notice sent contained all of the required elements listed in Subsection 4 above.

Notice was posted in the Bend Bulletin on July 7, 2024, at least 10 days before the hearing. Notice was also posted 14 days before the hearing on July 2, 2024, at the project site in clear view from a public right of way.

With those findings, criteria met.

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](#).*

FINDING: No requests have been received to change the date of the hearing. If one is requested and approved after the notice has been mailed, it shall be processed as a continuance. If the applicant requests the hearing date to be changed, written agreement to extend the 120-day review timeline shall be provided.

*(***)*

- 1. 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.*

FINDING: If approved by the commission, the decision shall be in writing and mailed to all parties. The notice shall contain all of the required elements above. Criteria met.

- 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.*

FINDING: Upon the issuance of a decision by the Planning Commission, The above criteria will apply. There will be an appeal period of 12 days after the decision is mailed, No building permits shall be issued until after the decision is final. No development is proposed at this time. Criteria met.

- 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*
 - b. *Any other person who testified orally or in writing during the subject public hearing before the close of the record.*
 2. *Appeal filing procedure. Appeals shall be filed in accordance with [chapter 15.212](#).*

FINDING: If the decision is appealed, the criteria addressed above shall apply. Criteria met.

ARTICLE 8. APPLICATIONS AND REVIEWS

CHAPTER 15.334. - TEXT AND MAP AMENDMENTS

Sec. 15.334.010. - Purpose.

The purpose of this chapter is to provide standards and procedures for legislative amendments to the comprehensive plan and map and to this Development Code and zoning map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

Sec. 15.334.020. - Applicability.

- A. *Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, Development Code, or changes in zoning maps not directed at a small number of property owners. The following amendments are considered generally considered legislative:*
1. *All text amendments to Development Code or comprehensive plan (except for corrections).*

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

FINDING: The request is for a zone change to change the underlying zoning on the subject property from Industrial (I), to the Commercial Mixed-Use (CMX). This involves a zoning map amendment and comprehensive plan map amendment. The proposal does not meet the applicability criteria for legislative amendments above. This is based on the fact that the request does not involve text amendments to the development code or comprehensive plan, and the amendment to the comprehensive plan map and zoning map would affect a limited group of property owners. Therefore, the request is being reviewed quasi-judicially. Criteria met.

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

FINDING: The map amendment was submitted by the applicant, not the Planning Commission or City Council. Criteria met.

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.*

FINDING: The request is being processed quasi-judicially subject to a Type II review. As previously addressed in the findings for Article 7, the request complies with those criteria. Since the request involves a zone change, final approval shall be granted by the City Council. Criteria met.

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*

FINDING: The burden of proof submitted by the applicant addresses the above criteria.

“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.”

Although the above criteria requires compliance with only the comprehensive plan, Sec. 15.334.040.D requires compliance with both the comprehensive plan and Oregon Statewide Planning Goals for quasi-judicial zone changes. As evidenced by findings in this report, the proposal is found be consistent with the comprehensive plan and statewide planning goals, and the criteria is met.

B. The proposal must be found to:

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

FINDING: The burden of proof submitted by the applicant addresses subsection 1 and 2 specifically. As stated in the application,

“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."

Compliance is required with only one of the above-listed criterion. The applicant has chosen to address compliance with subsection 1 and 2, which requires the proposal to be in the public interest with regard to community conditions and the proposal is a response to changes in the community.

For subsection 1, the applicant has made the argument that the current Industrial zoning designation is more restrictive than the proposed Commercial Mixed-Use zoning. They also state that the Industrial zoning typically requires larger lots, and buildings to accommodate those uses, and the narrow strip of property would be prohibitive towards that. The change in zoning would allow for more uses to be applied for, meaning more options for different types of businesses in the community. They go on to state that the zone change would enhance tourist opportunities, which will have an economic effect on the local stores, eating establishments, fuel, etc. Staff primarily agrees with the applicant's argument, with exception to the lot size discussion. Changing the zoning of a smaller piece of land is not generally considered in the public best interest, only that of the individual landowner. That portion of the argument is dismissed by staff, and find that the remaining portion of the argument serves the public's best interest.

For subsection 2, the applicant states that the proposal most broadly adheres to this criteria. They state that the Industrial zone has historically extended to the western edge of ODOT controlled land, and that everything west of that designation should be zoned Commercial Mixed-Use. They state that due to the sale of the strip of land from ODOT, the underlying zoning designation is not representative of the zoning designations in the area. Staff agrees with the applicant's argument, and finds the proposal to be in compliance with subsection 2, based on the fact that ODOT decided to sell land within the community to a private landowner, causing a change in public versus private ownership, and the proposed zone change is a response to those changes. Criteria met.

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

FINDING: The burden of proof submitted by the applicant states, "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."

Although the applicant's argument lacks substance when addressing this criteria, when referencing the TPR Analysis and Traffic Report in the application materials submitted, page 8 of the TPR Analysis addresses transportation planning rule compliance. Compliance with this criteria is addressed further in Sec. 15.334.050., where the use is found to comply.

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;

FINDING: The burden of proof submitted by the applicant addresses the individual Oregon Statewide Planning Goals. Each goal is addressed below for consistency in relation to the proposal.

Goal 1 - Citizen Involvement

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

The factors outlined by the applicant above demonstrate compliance with the Citizen Involvement Goal. The review of the application is processed as a Quasi-Judicial review, which includes public involvement. As evidenced by the application materials, a neighborhood meeting was also held. Since the request has adequately incorporated citizen involvement, the request complies with Goal 1.

Goal 2 - Land Use Planning

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

The factors outlined by the applicant above demonstrate compliance with the Land Use Planning Goal. The review of the application is processed as a Quasi-Judicial review, which includes reviewing the use in accordance with the land use procedures for the City of La Pine. Since the request has adequately incorporated land use planning, the request complies with Goal 2.

Goal 3 - Agricultural Lands

The proposal does not involve the utilization of agricultural lands, nor are the lands being used for agricultural purposes. Goal 3 does not apply to the request.

Goal 4 - Forest Lands

The proposal does not involve the utilization of forest lands, nor are the lands being used for forestry purposes. Goal 4 does not apply to the request.

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

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

Staff agrees with the applicant’s argument, the site is not within the jurisdiction of any Goal 5 resources, nor does the property contain any Goal 5 resources. Goal 5 does not apply to the request.

Goal 6 - Air, Water and Land Resources Quality

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

Staff agrees with the applicant’s argument, the request is for a zone change. Any future uses identified or permitted in the new Commercial Mixed-Use zone will be uses that already comply with the Statewide Planning Goals, as the adopted comprehensive plan and code have been reviewed by the Department of Land Conservation and Development for compliance. Goal 6 does not apply to the request.

Goal 7 - Areas Subject to Natural Hazards

In addressing the Statewide Planning Goal, the applicant stated the following,

“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 Oregon 97 Investments Comprehensive Plan Map Amendment / Zone Change Page 26 of 36 that other properties in the area, thus the proposal is consistent with this goal and additional assessment is not necessary.”

Staff agrees with the applicant's argument, the request is for a zone change. The request would not be affected by a Natural hazard, and the subject property is not within any areas subject to natural hazards. Goal 7 does not apply to the request.

Goal 8 - Recreational Needs

In addressing the Statewide Planning Goal, the applicant stated the following,

"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."

Staff agrees with the applicant's argument, the request is for a zone change. The subject property has not been identified as a recreational resource, and no recreational uses currently exist on the subject property. Goal 8 does not apply to this request.

Goal 9 - Economic Development

In addressing the Statewide Planning Goal, the applicant stated the following,

"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."

The applicant intends to improve the economic vitality of the property through the zone change request. Their argument addresses the size of the property, the difficulty in utilizing an industrial use on a property that size, and its consistency with the zoning of the property to the West, which would be combined with the subject property in the future. They argue that allowing the zoning to be changed to commercial would allow a larger range of potential uses that would meet the economic goals of the City. Staff agrees with the portion of their argument regarding economic vitality of the property, and how the subject property could be utilized with other neighboring properties zoned for commercial uses. Changing the zoning would meet the economic goals of the city, and the commercial zoning would allow for that. OAR 660-009-0010(4) requires that properties in excess of two acres switching from an industrial designation to a non-industrial designation, must meet all planning requirements and meet one of three sub criteria. Findings for OAR 660-009-0010(4) are addressed herein where the request is found to comply. The request complies with Goal 9.

Goal 10 - Housing

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

Staff agrees with the applicant’s argument, the request is for a zone change. One component to address is that currently the Industrial zone has limited options for housing, while the Commercial Mixed-Use zone allows more options for housing. The request complies with Goal 10.

Goal 11 - Public Facilities and Services

In addressing the Statewide Planning Goal, the applicant stated the following,

“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.”

In coordination with the Contract Engineer for the City, Erik Huffman, the effect of the project on public facilities and services was discussed, and comments were provided. In response, Huffman recommended the following conditions of approval to ensure the development does not burden any existing facilities.

The property is within 300 feet of a public sewer. Prior to zone change approval, the applicant shall design and construct an extension of the sewer main which currently terminates in Rosland Road at the intersection with Drafter Road, and extend the sewer main to the easterly boundary of the subject property along the frontage of Rosland Road. Minimum gravity sewer main diameter is 8-inches. Construction plans shall be submitted to the City of La Pine for review and approval. Prior to construction, the developer shall submit a performance bond in the amount of 120% of the value of public improvements. The developer shall submit a cost estimate to the City for approval prior to submitting the performance bond.

The area in the subject property under the proposed zoning represents approximately 20 EDU of sewer capacity, and sewer capacity in this basin is limited. The 20 EDU represents an increase of approximately 8 EDU from current zoning. The estimated cost to increase capacity in the basin is \$750,000 and the estimated existing quantity of EDUs available in the basin is 424. The increase of 8 EDUs represents a prorated share of \$14,150 toward capacity improvements created by this zone change. Prior to zone change approval, the developer shall provide the City with a cash contribution toward future sewer capacity improvements in the amount of \$14,150.

With those conditions of approval, compliance with Statewide Planning Goal 11 is ensured, and the criteria is met.

Goal 12 - Transportation

In addressing the Statewide Planning Goal, the applicant stated the following,

“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."

The Applicant states that development is not subject to Statewide Planning Goal 12, since no development is proposed at this time. This statement is in contrast to the statements later on in their burden of proof, and TPR Analysis provided which states the proposal would have a significant impact. As discussed in Sec. 15.334.050 of this report, the Applicant has requested a trip cap mitigation measure to mitigate the significant impact. Staff does not support this mitigation measure, and a condition of approval requiring a cash contribution to mitigate the effects of the proposal is included in this report. With that condition, and findings within this report addressing transportation system effects, compliance with the policies of Chapter 8 is ensured. Criteria met.

Goal 13 - Energy Conservation

In addressing the Statewide Planning Goal, the applicant stated the following,

"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."

Staff agrees with the applicant's argument, the request is for a zone change. Energy conservation will be addressed through the development review process for uses that have been adopted in accordance with the adopted comprehensive plan. Goal 13 does not apply to the request.

Goal 14 - Urbanization

In addressing the Statewide Planning Goal, the applicant stated the following,

"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."

Staff agrees with the applicant's argument, the request is for a zone change. Rural lands will not be brought into the urban growth boundary through the request. Goal 14 does not apply to the request.

Goals 15 - 19

Goals 15 through 19 address either coastal or Willamette Valley goals, which do not apply to the City of La Pine. Goals 15 through 19 do not apply to the request.

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

FINDING: In reviewing the relevant policies of the comprehensive plan, all relevant policies must be analyzed to ensure compatibility with the goals of the City. Each chapter is reviewed below for conformity.

Chapter 1 - Community Characteristics

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“After detailing the history of the City of La Pine, from demographics, to development groups, and land use patterns, this chapter goes on to note that, “These historic types of land uses do not currently support sustainability and the reduction of vehicle miles traveled.” (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 contains 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 tourists to stay in La Pine. The proposal is consistent with the applicable elements of this chapter.”

The applicant accurately identified the applicable policies of Chapter 1. Their argument is generally centered around two factors. That the general area abutting the property is used for tourism purposes, and the planned zone change will allow for efficient infill of development that is consistent with nearby uses and would allow opportunities for more tourism. Staff agrees with the applicant’s arguments. Changing the zoning from Industrial to Commercial Mixed Use will certainly allow for more tourism support services and activities. Potential tourism support services permitted in the Commercial Mixed-Use zone include campgrounds and rv parks, commercial lodging, eating and drinking establishments, retail sales and service, and other potential tourism supporting services. Changing the zoning would also allow uses that do not require as much area as industrial uses, addressing the infill policies and creating more density. The request complies with the policies of Chapter 1

Chapter 2 - Citizen Involvement Program

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

The applicant states that the proposal is in compliance with Chapter 2, mainly in part to the fact that the review is a Quasi-Judicial Review, which involves a public hearing, allowing for citizen involvement. Staff agrees, the review of the zone change will follow the public process, adequately addressing the citizen involvement. The request complies with Chapter 2.

Chapter 3 - Agricultural Lands

The proposal does not involve the utilization of agricultural lands, nor are the lands being used for agricultural purposes. Goal 3 does not apply to the request.

Chapter 4 - Forest Lands

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following, The proposal does not involve the utilization of forest lands, nor are the lands being used for forestry purposes. Goal 4 does not apply to the request.

Chapter 5 - Natural Resources and Environment

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

Staff agrees with the applicant’s argument, the request is for a zone change. Any future uses identified or permitted in the new Commercial Mixed-Use zone will be uses that already comply with the Comprehensive Plan, as adopted in 2010. The request would not be affected by a Natural hazard, and the subject property is not within any areas subject to natural hazards. Chapter 5 does not apply to the request.

Chapter 6 - Parks, Recreation, and Open Space

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

The Applicant states that the La Pine Parks and Rec Department has not included the subject properties in its Master Plan, and that since there are no identified park, recreation, or open space needs, the policies of Chapter 6 do not apply. Staff agrees, No policies within this chapter of the comprehensive plan exist that would relate to the proposed zone change. Chapter 6 does not apply to the request.

Chapter 7 - Public Facilities and Services

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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 Oregon 97 Investments Comprehensive Plan Map Amendment / Zone Change Page 31 of 36 incorporated into the Development Code will be imposed upon development review, which will ensure consistency with this Chapter.”

In coordination with the Contract Engineer for the City, Erik Huffman, the effect of the project on public facilities and services was discussed, and comments were provided. In response, Huffman recommended the following conditions of approval to ensure the development does not burden any existing facilities.

The property is within 300 feet of a public sewer. Prior to zone change approval, the applicant shall design and construct an extension of the sewer main which currently terminates in Rosland Road at the intersection with Drafter Road, and extend the sewer main to the easterly boundary of the subject property along the frontage of Rosland Road. Minimum gravity sewer main diameter is 8-inches. Construction plans shall be submitted to the City of La Pine for review and approval. Prior to construction, the developer shall submit a performance bond in the amount of 120% of the value of public improvements. The developer shall submit a cost estimate to the City for approval prior to submitting the performance bond.

The area in the subject property under the proposed zoning represents approximately 20 EDU of sewer capacity, and sewer capacity in this basin is limited. The 20 EDU represents an increase of approximately 8 EDU from current zoning. The estimated cost to increase capacity in the basin is \$750,000 and the estimated existing quantity of EDUs available in the basin is 424. The increase of 8 EDUs represents a prorated share of \$14,150 toward capacity improvements created by this zone change. Prior to zone change

approval, the developer shall provide the City with a cash contribution toward future sewer capacity improvements in the amount of \$14,150.

With those conditions of approval, compliance with Chapter 7 of the Comprehensive Plan is ensured, and the criteria is met.

Chapter 8 - Transportation

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

The Applicant states that development is not subject to Chapter 8 of the Comprehensive Plan, since no development is proposed at this time. This statement is in contrast to the statements later on in their burden of proof, and TPR Analysis provided which states the proposal would have a significant impact. As discussed in Sec. 15.334.050 of this report, the Applicant has requested a trip cap mitigation measure to mitigate the significant impact. Staff does not support this mitigation measure, and a condition of approval requiring a cash contribution to mitigate the effects of the proposal is included in this report. With that condition, and findings within this report addressing transportation system effects, compliance with the policies of Chapter 8 is ensured. Criteria met.

Chapter 9 - Economy

In addressing this chapter of the La Pine Comprehensive Plan, the applicant provided an initial response to the Economic chapter of the Comprehensive Plan. They stated the following,

“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.”

Once the PAPA was submitted to DLCD, they provided comments which notified the Applicant of the need to address OAR 660-009-0010(4). The Applicant provided a response to the cited administrative rule, which is addressed further on in this report, and the use is found to comply. In terms of overall compliance with the

policies of the Comprehensive Plan, staff agrees with the applicant that the proposal will be a better fit for the subject properties, and will ultimately result in development occurring on the site that will add economic opportunities to the City, drawing in and serving tourists, who will provide a benefit to the local economy and employment sector. Criteria met

Chapter 10 - Housing

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

The Applicant states that the request will not alter the availability of housing or residential lands in the city. They state that the properties are not zoned residential, and that the proposed zone change will change the zoning of the properties to Commercial Mixed Use, which is not a residential zoning. Staff agrees, No policies within this chapter of the comprehensive plan exist that would relate to the proposed zone change. Chapter 10 does not apply to the request.

Chapter 11 - Energy Conservation

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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.”

The Applicant states that since no development is proposed through the zone change request, the policies of Chapter 11 do not apply to the request. They state that when site development occurs, some of the policies will apply through the adopted development code criteria. Staff agrees, No policies within this chapter of the comprehensive plan exist that would relate to the proposed zone change. Chapter 11 does not apply to the request.

Chapter 12 - Urbanization

In addressing this chapter of the La Pine Comprehensive Plan, the applicant stated the following,

“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 Oregon 97 Investments Comprehensive Plan Map Amendment / Zone Change Page 33 of 36 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.”

The Applicant states that Chapter 12 highlights that there is sufficient land to accommodate the 20 year land needs. They also cite a section that states there is large amounts of federally owned land that is zoned for public facilities. They then simply state that there is a sufficient amount of Industrial zoned lands. Although the applicant’s argument towards compliance with Chapter 12 lacks specificity, findings for Chapter 9 provide additional arguments towards compliance. Staff agrees that the city currently contains an adequate amount of Industrial land, with findings incorporated from Chapter 9. Criteria met.

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

FINDING: The burden of proof submitted by the applicant states, “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.” The closest sewer and water connections are located at the northwest corner of Rosland Rd and Drafter Rd, approximately 340 feet from the subject property. At this time, with the current proposal, no improvements are required. However, at the time of land use review for any uses proposed on the property, the existing systems may require upgrades to ensure the carrying capacity meets the needs of the development for the subject property and potential neighboring future uses. Transportation will also be addressed once an actual use is proposed for the subject property, with the use dictating the effect on the road system. Based on the fact that no development is proposed through this request, and services exist in the direct vicinity, criteria met.

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.*

FINDING: The burden of proof submitted by the applicant states, “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.”

However, as discussed in findings for LPDC Sec. 15.334.050, a trip cap shall not be instituted to mitigate the significant impacts of the proposal. Instead, the Applicant shall pay a cash contribution to offset the effects of the proposal. That alone however does not adequately address the criteria. The criteria states that 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. Further evidence towards compliance with the criteria is necessary, and the Applicant is requested to provide this to the Planning Commission prior to their recommendation to City Council.

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.

FINDING: The burden of proof submitted by the applicant states, “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.”

The Applicants statements do not accurately represent what was addressed in the Analysis provided by Transight Consulting, LLC. Page 14 of the TPR Analysis states that “As summarized in Table 6, the rezone increases the trip generation potential of the site on both a daily and weekday p.m. peak hour basis. This will require additional analysis, limitations of allowable land uses, or other measures to show that a “significant impact” does not occur.”

The analysis then again recognizes a finding of significant impact, and goes on to address potential mitigation measures that could be implemented through OAR 660-012-0060(1).

The Applicant has proposed a trip cap as their mitigation option. They state on Page 18 of the analysis that,

“The proposed application involves rezoning the 2.88-acre property from La Pine Industrial to Commercial Mixed-Use, and a trip cap based on the intensity of the current zoning potential is proposed to avoid the finding of a significant impact at the surrounding highway intersections. With the trip cap in place, any proposed uses will be the same or less intense than uses allowed outright within the industrial zoning, so the project complies with OAR 660-012-0060 requirements for a Plan and Land Use Regulation Amendment. This trip cap is expected to accommodate the plans for the site, and the trip cap should only remain in place until funded improvements or a specific funding plan for the US 97/Rosland Road intersection are established.

The following is recommended to support this rezone application:

- Due to identified deficiencies at the US 97/Rosland Road intersection, a trip cap should be implemented on the property limiting its uses to those that generate 36 or fewer weekday p.m. peak hour trips.
- Additional transportation analysis will be required for any future site plan application. This analysis will need to comply with the City of La Pine (and ODOT's) transportation analysis requirements.
- It is recommended that the City work collaboratively with ODOT to establish improvement funding mechanisms as the next step on the Wickiup Refinement Plan. The identification of deficiencies and lack of a funding mechanism to resolve this need creates somewhat of a moratorium on future redevelopment plans."

The proposed mitigation measure proposed by the Applicant is an optional mitigation measure that the City is not required to adopt. In the past, the City has not historically adopted a trip cap for any properties or projects within La Pine. In coordination with City leadership, tracking a trip cap for a property is not something that is within the ability of the City. In analyzing the effectiveness of a trip cap, the benefits of adopting the mitigation measure seems to only benefit the Applicant. A trip cap would limit the ability for more types of businesses to establish within the community, and if the property were to be sold in the future, any potential developers would be subject to the trip cap as well. Without a means for the City to track a trip cap, and the development limitations it would impose on the property, staff does not support the proposed mitigation measure.

Staff discussed the proposed trip cap with the Contract Engineer for the City, Erik Huffman. Through coordination with him towards a solution on what could be required in place of a trip cap, he stated that "the area in the subject property under the proposed zoning represents an approximate increase in 63 potential PM peak hour vehicle trips over current zoning according to submitted documents, primarily impacting the US97 Rosland Road intersection. According to the City of La Pine TSP Refinement Plan, future improvements to the US97 Rosland Road intersection have a cost of \$3,000,000. The refinement plan area has a potential for approximately 6,120 PM peak hour vehicle trips currently, and the increase of 63 potential PM peak hour vehicle trips represents a prorated share of \$30,882 toward capacity improvements created by this zone change." A condition of approval is included stating that prior to zone change approval, the developer shall provide the City with a cash contribution toward future transportation system improvements in the amount of \$30,882.

In addressing the significant impact, the cash contribution towards future transportation system improvements will meet the requirements of OAR 660-012-0060(2)(d). With the included condition, staff finds the request has mitigated the impacts in accordance with the TPR and applicable law. Criteria met.

OREGON ADMINISTRATIVE RULES

CHAPTER 660

DIVISION 9 - ECONOMIC DEVELOPMENT

660-009-0010 Application

*(***)*

La Pine Community Development Department – Planning Division
PO Box 2460 16345 Sixth Street La Pine, Oregon 97739
Phone: (541) 536-1432 Fax: (541) 536-1462 Email: info@ci.la-pine.or.us

- (4) *For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:*
- (a) *Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or*
 - (b) *Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or*
 - (c) *Adopt a combination of the above, consistent with the requirements of this division.*

FINDING: After the PAPA was submitted to DLCDC, comments from that agency were received directed towards the need for additional evidence for compliance with OAR 660-009-0010(4). In addressing the administrative rule, the applicant stated the following,

“In light of DLCDC’s review comments, the applicant is taking a deeper dive into Chapter 9 of the City of La Pine Comprehensive Plan. Particularly, this narrative focuses on industrial land supply and industrial land demand. On page 107, *Section VI - Land Inventory Analysis*, the Comprehensive Plan indicates that (at the time of the Comprehensive Plan drafting), there was 508.5 gross acres of industrial land in the City and 234 acres of **net vacant / redevelopable** industrial land in the City. The Comprehensive Plan does not provide data/information on what lands were included in these calculation and/or what deductions were taken out to get the net number, thus some assumptions need to be made.

An important assumption that need to be determined, is whether railroad right-of-way and planned ODOT facility land area were deducted in the net calculation. In the La Pine Industrial Park area, there is railroad right-of-way that is approximately 5,350 feet long x 300 feet wide; approximately 37 acres:

If this area was deducted from the gross acres of “I” land; then it would not be part of the 234 acres “Net Vacant/Redevelopable” acres, that was determined to be available to serve La Pine’s industrial land need.

Similarly, at the time of drafting the City of La Pine Comprehensive Plan, the 2.88 acre area that is subject to the current application was part of a roughly 5,400 foot long by 300 foot wide (37 acre) area on the north end of the City that was owned by the Oregon Department of Transportation and planned for an ODOT Facility.

If the railroad right-of-way and the ODOT property were not included in the “Net Vacant/Redevelopable Acres” then changing the designation of the subject land (which was part of the ODOT property) to something other than Industrial (I), would have no effect on the 234 acre supply of industrial lands that was determined to be available in the City of La Pine.

This, by itself would be sufficient to document that the currently proposed amendment is consistent with its most recent Economic Opportunities Analysis of the City of La Pine and the parts of its acknowledged comprehensive plan which address the requirements of this division.

In addition to the above analysis, given that the Comprehensive Plan does not provide details how it calculated its gross and net numbers, we cannot establish the above described assessment with 100% certainty. As such, this analysis is taking the “belt and suspenders approach” and will also consider the change as if the above denoted areas were not included in the gross / net deductions. This additional analysis is being provided in the unlikely event that the City or DLCD do not agree with the assessment above.”

The Applicant then goes on to address portions of the Comprehensive Plan, specifically pages 92-93. The portions of the Comprehensive Plan are included below with their responses.

Key Industrial Areas –The vision of LIGI

Led by community-based LIGI – the La Pine Industrial Group, Inc., efforts to develop three county-owned parcels east of the highway into industrial and business park sites are opening eyes in the Central Oregon business community. As development spreads from rapidly growing Bend outward, newly incorporated La Pine is high on the list of communities ripe for investment and development opportunities. Water and sewer districts have brought municipal services to the community core. In 2008, the City of La Pine was designated as an enterprise zone by the State of Oregon. This allows qualified companies to forego paying property taxes for 3 to 5 years. La Pine is located on US Hwy 97, the primary route between California and the Canadian border on the east side of the Cascades. Hwy 97 has been designated as an Expressway by the Oregon Department of Transportation and will be upgraded to four lanes between California and Washington. It connects with I-5 in northern California, I-84 in northern Oregon, and I-90 in central Washington. Three major highway routes link La Pine with Eugene, Salem, Portland, and other Willamette Valley cities. Electricity is provided by Midstate Electric Cooperative headquartered in La Pine. Midstate is a preferred customer of the Bonneville Power Administration, giving it first right to low cost, federally owned hydro-electric resources and a significant cost advantage to new firms locating in its service area.

The Applicant states that “It is clear from the text of the Comprehensive Plan that at the time of drafting the Comprehensive Plan, there was a desire and interest to attract Industrial Development to the City of La Pine; bare land that has services and capacity has been available, and it has been actively marketed and promoted. However, as detailed in the sections below, the amount of development has not proved to occur at the level that was originally forecast/anticipated.”

The La Pine Industrial Park

The La Pine Industrial Park consists of three segments: The Newberry Business Park, Finley Butte Industrial Park and an 80-acre, shovel-ready, certified site. Development of the 327-acre La Pine Industrial Park is a cooperative effort undertaken by the land-owner Deschutes County and the La Pine Industrial Group, Inc. a non-profit organization. LIGI can provide a range of site options including fully-serviced ready-to-build lots, build-to suit facilities for purchase or lease, and multi-tenant space for lease. Financing can also be arranged for qualified companies.

Newberry Business Park

Newberry Business Park is owned by Deschutes County and is developed and marketed by the La Pine Industrial Group, Inc., a 501(c)(3) non-profit civic organization in La Pine. Newberry Business Park opened in 2002 with 40 acres of developed sites. All utilities are installed underground. NBP is designed to provide an attractive environment for light industrial firms and protection of property values. It has its own zoning ordinance and CC&R’s. Lot sizes range from 0.4 acres (18,760 sq. ft.) to 0.6 acres (25,000 sq. ft.). Lots can be combined for larger requirements. Generous building standards allow maximum site coverage. The La Pine

Industrial Group also provides assistance to arrange build-to-suit construction and financing for qualified companies. Newberry Business Park has been designed with higher development standards than the older areas of the industrial park. It is intended to provide an attractive and functional environment for smaller companies that provide services and supplies to other industries, commercial businesses, and the public. LIGI's objective in developing Newberry Business Park is to generate family-wage job opportunities for workers in La Pine and the surrounding area. Minimum employment standards will be imposed, making these lots unsuitable for uses that provide minimal or no employment such as self-storage units. Remaining lots range from 9,000 square feet to 25,200 square feet. Lots can be combined for larger requirements. Streets, curbs, and underground utilities are included. Current pricing is at \$2.50 per square foot with higher premium for corner lots.

That Applicant addresses the Newberry Business Park stating that, "Originally platted with 79 lots, aerial imagery appears to identify that 56 lots (70%) are undeveloped."

The 80-acre Rail Site

This key parcel is located on the east side of La Pine abutting the main line of BNSF Railroad and approved for rail siding or drill track to interior of site. The parcel is certified as "shovel ready4" by the State of Oregon and is available for a single rail user or can be subdivided. The current pricing is at \$1.50 per square foot depending on level of employment.

That Applicant addresses the 80-acre Rail Site stating that, "This lot remains undeveloped and available for development."

Finley Butte Industrial Park

Finley Butte Industrial Park is 90 acres subdivided into one-acre to three-acre lots⁵. Larger lots are available by combining the sites shown on this map. Rail access is planned using two easements to common loading docks. Lots are available and include water, sewer, and underground electric power, natural gas, telephone, DSL and other broadband communications. Initial prices have been set at \$108,900 per acre or about \$2.50 per square foot.

That Applicant addresses the Finley Butte Industrial Park stating that, "Based upon aerial imagery, it appears that only one of these lots have developed. Also, there is a 38.73 acre property immediately west of this platted subdivision, which is understood to be market along with the Finley Butte lots."

The Applicant then provides an overall argument in response to the above cited sections of the Comprehensive Plan stating,

"The Comprehensive Plan does not provide any additional information or direction regarding the other Industrial zoned lands throughout the City in the EOA.

When forecasting future land needs, the Comprehensive Plan established the following table:

Employment Land Breakdown and Projection of Needed Acres Over 20-year Period⁷		
Employment Land Type	Zoning Required	Acres
Neighborhood Commercial and Service Nodes	Mixed Use, Industrial, Commercial	12
Middle sized, 20-acre minimum parcels	Industrial	200
Smaller sized incubator/light industrial type parcels	Mixed-use, Industrial, Commercial	50
Shopping Centers	Mixed-use or Commercial	80
	Total Land Needed Net	342.0
	Total Employment Land in UGB Gross	450.0
	Reserve	108.0

⁷ Approximately 3 new commercial nodes 4 acres each, 1 mid-size 20 acre industrial project every 2 years, 5, ½ acre projects every year, 2 40- acre shopping centers

As detailed above, the City has not had a need for one 20 acre parcel every 2 years and it currently has over 150 acres of available land in the La Pine Industrial Park, along other properties around the City. Based upon interviews with local realtors and economic development professional, along with correspondence with the City Manager the general perspective is that the City of La Pine has an ample amount of Industrial lands, but not enough Commercial / Mixed-Use lands. The Mayor has recently expressed this sentiment; see attached news article where the City of La Pine Mayor states, "We have a lot of industrial area that's available, but we really don't have very much commercial space that's available."

Based upon the above materials it can be determined that 1) it is unlikely that the subject property was even identified as land that would provide Industrial land (it was likely excluded from the net acreage) and 2) even if the subject property was included as part of the net acreage to accommodate the Industrial Land needs, the City continues to retain an adequate supply of Industrial lands that are development ready, with roads, water and sewer that are available, while the City has a limited amount of commercial and mixed-use lands.

For the aforementioned reasons, the applicant concludes that the proposed Comprehensive Plan Map Amendment and Zone Change, which converts a piece of property that is not easily developed with an Industrial designation, to a Commercial Mixed-Use designation, where it can be combined with and developed with land to the west and be easily developed, is consistent with its most recent economic opportunities analysis of the City of La Pine and the parts of its acknowledged comprehensive plan which address the requirements of OAR 660-009-0010 (4).

Attachments

- Commercial Broker Correspondence
- City Manager Correspondence
- KTVZ News Article
- La Pine Business Webpage
- La Pine Industrial Park Spec Sheet"

In responding to the criteria, the Applicant relies upon the fact that the City has over 150 acres of available land in the La Pine Industrial Park; there is instead a lack of commercially zoned land; the subject properties were not identified as being necessary for Industrial development in the Comprehensive Plan; and the City continues to retain an adequate supply of Industrial lands. Staff agrees with the Applicant, the subject properties were not originally identified in the most recent economic opportunities analysis or parts of the acknowledged

comprehensive plan that the lands were necessary for Industrial Development. A change in zoning of these properties would not unduly impair the availability of Industrial lands, and as evidenced by findings within this report, the proposal complies with all other statewide planning goals, and applicable portions of the acknowledged City of LA Pine Comprehensive Plan. Criteria met.

IV. RECOMMENDATION:

Staff recommends submittal of additional evidence demonstrating compliance with 15.334.040(D)(4) of this report.

V. CONDITIONS OF APPROVAL:

GENERAL:

1. The subject property is not a legal lot of record. Prior to site plan submittal, the applicant shall submit for and complete a lot line adjustment so that the subject property is contiguous with either tax lot 100, 300, or 800.
2. The property is within 300 feet of a public sewer. Prior to zone change approval, the applicant shall design and construct an extension of the sewer main which currently terminates in Rosland Road at the intersection with Drafter Road, and extend the sewer main to the easterly boundary of the subject property along the frontage of Rosland Road. Minimum gravity sewer main diameter is 8-inches. Construction plans shall be submitted to the City of La Pine for review and approval. Prior to construction, the developer shall submit a performance bond in the amount of 120% of the value of public improvements. The developer shall submit a cost estimate to the City for approval prior to submitting the performance bond.
3. The area in the subject property under the proposed zoning represents approximately 20 EDU of sewer capacity, and sewer capacity in this basin is limited. The 20 EDU represents an increase of approximately 8 EDU from current zoning. The estimated cost to increase capacity in the basin is \$750,000 and the estimated existing quantity of EDUs available in the basin is 424. The increase of 8 EDUs represents a prorated share of \$14,150 toward capacity improvements created by this zone change. Prior to zone change approval, the developer shall provide the City with a cash contribution toward future sewer capacity improvements in the amount of \$14,150.
4. The area in the subject property under proposed zoning represents an approximate increase in 63 potential PM peak hour vehicle trips over current zoning according to submitted documents, primarily impacting the US97 Rosland Road intersection. According to the City of La Pine TSP Refinement Plan, future improvements to the US97 Rosland Road intersection have a cost of \$3,000,000. The refinement plan area has a potential for approximately 6,120 PM peak hour vehicle trips currently, and the increase of 63 potential PM peak hour vehicle trips represents a prorated share of \$30,882 toward capacity improvements created by this zone change. Prior to zone change approval, the developer shall provide

the City with a cash contribution toward future transportation system improvements in the amount of \$30,882.

5. Site plan approval is required prior to site clearing and issuance of a building permit.

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

THIS DECISION BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE MAILED, UNLESS APPEALED BY THE APPLICANT OR A PARTY OF INTEREST IN ACCORDANCE WITH ARTICLE 7 OF THE CITY OF LA PINE LAND DEVELOPMENT CODE.

PLANNING COMMISSION ACTION

- A. The Planning Commission may either:
 1. Approve the application and adopt findings contained in the staff report;
 2. Approve the application with modified findings; or
 3. Deny the application, specifying reasons why the applicant has not met the criteria.
 4. Continue the hearing to a date and time certain for the consideration of additional evidence.

- B. Staff will prepare an Order for the Chair's signature based on the Commission's decision.