

ORDINANCE NO. 2016-12

AN ORDINANCE OF THE CITY OF LA PINE AMENDING THE ZONING MAP AND COMPREHENSIVE PLAN MAP TO CHANGE THE DESIGNATION FOR A CERTAIN PROPERTY PURSUANT TO LAND USE APPROVALS 2016-40CPA AND 2016-41ZC AND DECLARING AN EMERGENCY.

WHEREAS, the Central Oregon Regional Housing Authority dba Housing Works filed land use applications (File Nos. 2016-40CPA AND 2016-41ZC) to change the designations for a property identified as Tax Lot 303 on Deschutes County Assessor’s Map 22-10-11CB (the “Property”) from Public Facilities and Parks/Open Space to Mixed Use Commercial on both the City of La Pine (“City”) Zoning Map (“Zoning Map”) and the City’s Comprehensive Plan Map (the “Comprehensive Plan Map”) (collectively, the “Zone Change”);

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held before the La Pine Planning Commission (the “Planning Commission”) on November 9, 2016;

WHEREAS, the Planning Commission, after receiving public comment and fully deliberating the matter, approved the Zone Change;

WHEREAS, the decision is final because no appeal was filed and the La Pine City Council (the “City Council”) did not to call up the decision;

WHEREAS, a draft of this Ordinance No. 2016-12 (this “Ordinance”) was available for public inspection seven days prior to the City Council meeting on December 14, 2016; and

WHEREAS, the City Council desires to adopt this Ordinance to effectuate the Zone Change.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Recitals. The above stated recitals are hereby adopted.
2. Zoning Map. The Zoning Map is hereby amended to change the zoning designation for the Property as shown on Exhibit A, attached hereto and incorporated herein. Staff is directed to take those steps necessary to incorporate the amendment into the Zoning Map and other planning documents.
3. Comprehensive Plan Map. The Comprehensive Plan Map is hereby amended to change the comprehensive plan designation for the Property as shown on Exhibit B, attached hereto and incorporated herein. Staff is directed to take those steps necessary to incorporate the amendment into the Comprehensive Plan Map and other planning documents.
4. Findings. The findings of fact and conclusions of law contained in the staff report, attached hereto as Exhibit C, are hereby adopted and incorporated herein.
5. Notice. Staff shall provide the Oregon Department of Land Conservation and Development, the Deschutes County Assessor, the Deschutes County GIS Department, and any others who are entitled to notice thereof, with a copy of this Ordinance.
6. Severability; Errors. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional

section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

7. Emergency Declaration. The City Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This Ordinance will be in full force and effect upon its passage and adoption by the City Council and signing by the mayor.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of __ for and __ against and APPROVED by the mayor on December 14, 2016.

Ken Mulenex, Mayor

ATTEST:

Cory Misley, City Manager

Exhibit A
Amended Zoning Map

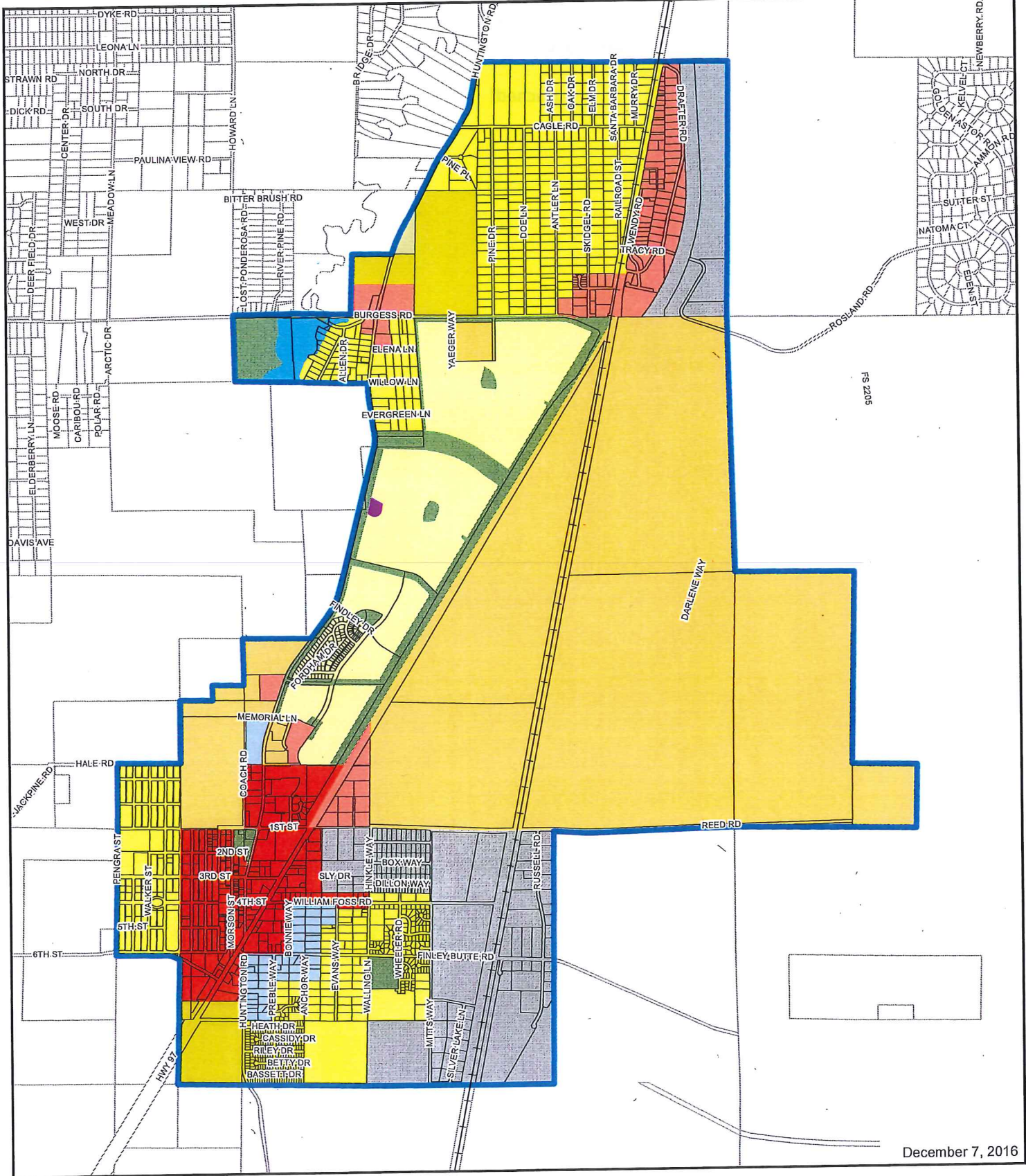
[attached]



City of La Pine - Zoning



1" = 0.5 MI.



December 7, 2016

- | | | | |
|-------------------------|------------------------------------|---------------------------|--|
| Traditional Commercial | Commercial / Residential Mixed Use | Master Plan Residential | Riparian Area - Little Deschutes River |
| Mixed Use Commercial | Public Facility | Residential Single-Family | Open Space & Park |
| Neighborhood Commercial | Industrial | Residential Multi-Family | Exclusive Farm Use |

Exhibit B
Amended Comprehensive Map

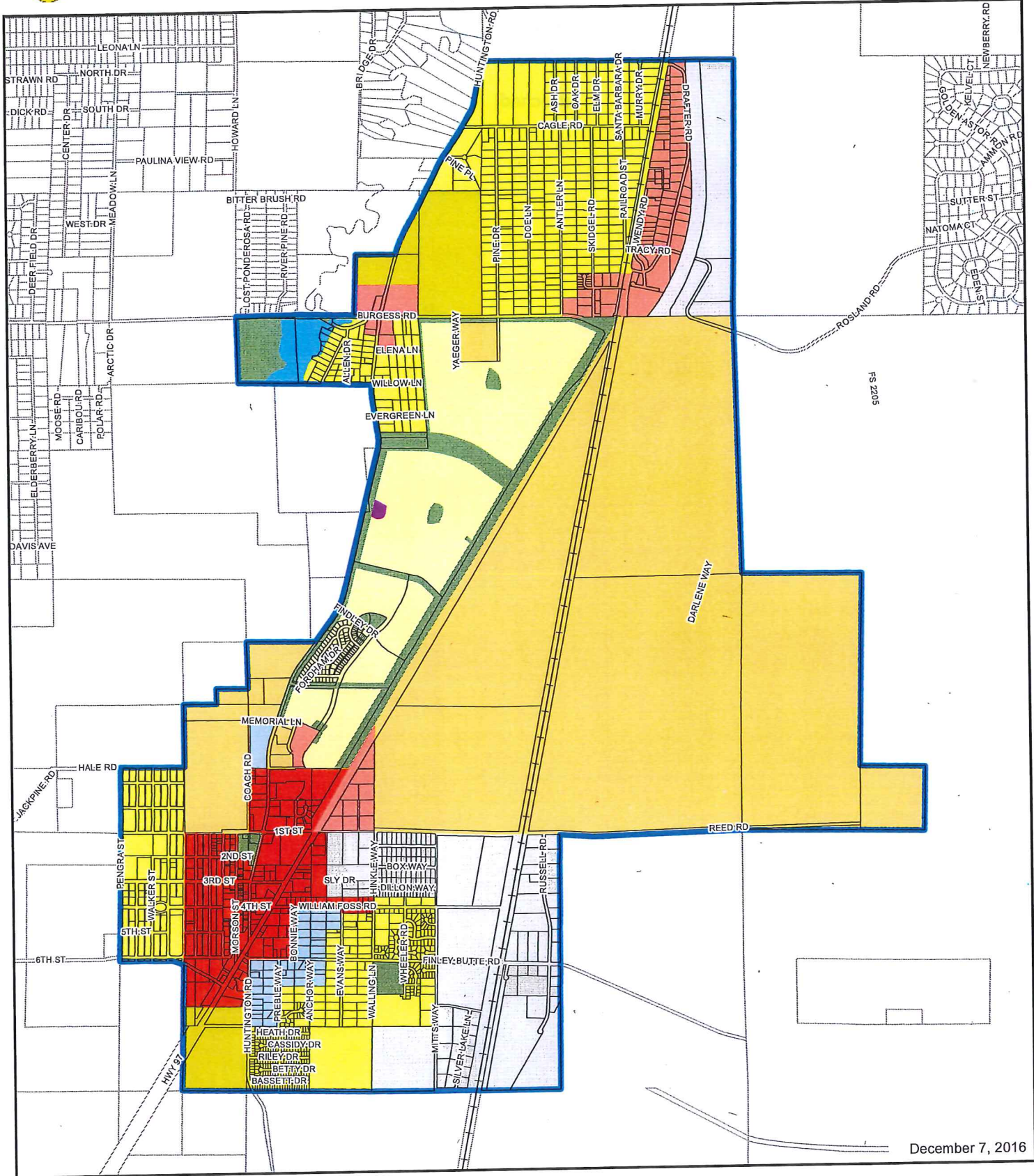
[attached]



City of La Pine - Comprehensive Plan



1" = 0.5 MI.



December 7, 2016

- Traditional Commercial
- Mixed Use Commercial
- Neighborhood Commercial
- Commercial / Residential Mixed Use
- Public Facility
- Industrial
- Master Plan Residential
- Residential
- Residential - Multi-Family
- Open Space & Park
- Riparian Area

Exhibit C
Staff Report

[attached]



CITY OF LA PINE PLANNING DIVISION

FILE NO. SPR 2016-40CPA and 2016-41ZC

Staff Report to Planning Commission

- Applicant:** Central Oregon Regional Housing Authority
DBA - Housing Works
405 SW Sixth Street
Redmond, OR 97756
- Owner:** Deschutes County
Property & Facilities Department
PO Box 6005
Bend, OR 97708
- Engineer:** Hickman, Williams & Associates, Inc.
Grant Hardgrave, PE
62930 O.B. Riley Rd., Suite 100
Bend, OR 97701
- Traffic Engineer:** Ferguson and Associates, Inc.
Scott Ferguson, Principal
PO Box 1336
Bend, OR 97709
- Planner:** Blackmore Planning and Development Services, LLC
Greg Blackmore
19454 Sunshine Way
Bend, OR 97702
- Location:** The property is located east of Huntington Road (and east of Little Deschutes Lane) north of Victory Way, and south of Memorial Lane extension. The property has not been assigned an address; it is identified as Tax Lot 303 on the Deschutes County Tax Assessor's Map 22-10-11CB.
- Request:** The proposal includes a request for a Comprehensive Plan Map Amendment and Zone Change to convert the 7.06-acre property from a Public Facilities and Park/Open Space Comprehensive Plan Designation and Zone to a Mixed Use Commercial (CMX) Comprehensive Plan Designation and Zone.

I. APPLICABLE STANDARDS, PROCEDURES, AND CRITERIA:

City of La Pine Ordinances & Regulations

- La Pine Procedures Code, Exhibit B of Ordinance 2011-03
- La Pine Comprehensive Plan
- La Pine Zoning Ordinance No. 2012-05

Oregon Revised Statutes

- ORS 197.610, Local Government Notice of Amendment or New Regulation
- ORS 197.250, Compliance with Goals Required
- ORS 197.763, Conduct of Local Quasi-Judicial Land Use Hearings; Notice Requirements.

As shown on the map, the properties to the north and east are zoned Residential Master Plan/ County Newberry Neighborhood, the property to the south is zoned Traditional Commercial (C), and the properties to the west are zoned Public Facilities (PF).

Surrounding Development –

An aerial image documenting the surrounding development is included below:



As shown on the aerial image, the properties to the north, east, and south are vacant. The properties to the west are developed with an “affordable” Senior Living facility and a senior center. Approximately 700 feet to the north is the Crescent Creek subdivision, a development that is improved with single-family homes. Other surrounding developments include a Bend La Pine School Campus to the west and Bi-Mart to the south.

LOT LEGALITY: The property was created as Parcel 3 on Partition Plat PP2009-17.

ASSOCIATED DEVELOPMENT PLANS / APPLICATIONS: This request is intended to take the first step to entitle the property through a Comprehensive Plan Map Amendment and Zone Change, so that the applicant can construct affordable housing on approximately 2.5 acres of the parcel. The two applications are being reviewed concurrently and are both discussed in this single staff report. Full entitlement for the clinic will require the currently requested Comprehensive Plan Map and Zoning Map amendments, as well as a future Partition and a Site Plan application.

Comprehensive Plan Map Amendment – Current application, details of conformance with applicable standard and criteria are addressed herein.

Zoning Map Amendment - Current application, details of conformance with applicable standard and criteria are addressed herein.

Land Partition & Site Plan/Design Review – The Applicant has stated that they working with a development

team to design a project that conforms to City Standards and Criteria. Upon design completion, the Applicant states they will submit the requisite City application(s) for review, in accordance with the applicable review procedures at that time.

PUBLIC NOTICE AND COMMENTS: Public notices were mailed to the Applicant, property owner, all property owners within 500' of the subject parcel and the Planning Commission on October 14, 2016. Notice was published in the local newspapers - *Wise Buys* and *Frontier Advertiser*, beginning in the October 25, 2016 weekly editions and will run until the public hearing date. No written public comments have been received.

III. APPLICATION OF THE CRITERIA:

1. Conformance with the Land Use Procedures Code (Exhibit B of Ordinance 2011-03)

SECTION 5.0.0. REVIEW OF LAND USE ACTION APPLICATIONS

Section 5.1.0. Effect of determinations made outside of established processes.

Any informal interpretation or determination, or any statement describing the uses to which a property may be put, made outside the declaratory ruling process (City of La Pine Land Use Procedures Code, Section 11.0.0) or outside the process for approval or denial of a land use permit (Section 7.00) shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final City action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

FINDING: The Applicant acknowledged in their burden of proof document that they understand that any statements made outside the declaratory ruling process or outside the process for approval or denial of a land use permit are considered supposition only and that final determinations will only be made through this land use process.

Section 5.2.0. Action on land use action applications.

A. Except for Comprehensive Plan amendments and Zone changes, and other instances where a hearing is required by state law or by other Code provisions, the Planning Director or other duly designated City representative may decide upon a land use action application administratively either with prior notice, as prescribed under Section 5.3.0 or without prior notice, as prescribed under Section 5.4.0; or he/she may refer the application to the Planning Commission for hearing.

FINDING: The current proposal is for a Comprehensive Plan Map Amendment and Zone Change and is not being decided upon by Planning Director. Rather, the request is being heard by the Planning Commission in a quasi-judicial hearing format on November 9, 2016.

B. The Planning Director's or other duly designated City representative's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appealable decision.

FINDING: These requests are a Comprehensive Plan Map Amendment and Zone Change and cannot be decided administratively; rather, the request will follow quasi-judicial hearings procedures as outlined in the Land Use Procedures Code.

C. Zone change and Comprehensive Plan amendment applications shall be referred to a hearing before the Planning Commission.

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

FINDING: The proposed Comprehensive Plan Map Amendment and Zone Change will be heard by the Planning Commission in accordance with this section on November 9, 2016.

Section 5.3.0. Administrative land use decisions with prior notice.

A. Notice of the application shall be sent within 10 days of submittal of the application to persons entitled to notice under Section 6.3.0. Such notice shall include all the information specified under Sections 6.4.0 (A) except for the information specified in Sections 6.4.0 (A) (7-10).

B. Any person may comment in writing on the application within 10 days from the date notice was mailed or a longer period as specified in the notice.

C. The Planning Director's or other duly designated City representative's decision to approve, deny or send to a hearing shall be made within 30 days after an application is accepted as complete. This time limit may be waived by the written consent of the applicant.

D. Notice of the Planning Director's or other duly designated City representative's decision and the appeal period shall be sent to all persons entitled to notice under Section 6.3.0 and to all persons who commented. The notice shall contain the applicable information required under Section 6.4.0.

E. The applicant, all persons entitled to notice under Section 6.3.0 and all other persons commenting as provided in Section 5.2.0 constitute parties to the administrative decision. Any party can appeal the decision in accordance with Section 9.0.0 (Appeals).

FINDING: The request is a Comprehensive Plan Map Amendment and Zone Change and cannot be decided administratively; rather, the request will follow quasi-judicial hearings procedures as outlined in the Land Use Procedures Code. This section does not apply.

Section 5.4.0. Administrative decision without prior notice.

The procedures for administrative decisions without prior notice shall be the same as those set forth in Section 5.3.0, except that no prior notice shall be given.

FINDING: The review of a Comprehensive Plan Map Amendment and Zone Change requires Planning Commission hearing and notice; therefore, this section does not apply.

Section 5.5.0. Final action in land use actions.

A. Except as otherwise provided, the City shall take final action, including consideration of appeals to the City Council, in land use actions within 120 days after the application is deemed complete.

B. If the applicant refuses or fails to submit missing information within the 30 days specified in Section 2.5.0, the application shall be deemed complete, for purposes of processing the application, on the 31st day after the application was first submitted, and final action of City Council, if required, shall be taken within one hundred fifty-one (151) days after the application was first received unless otherwise provided.

C. The periods set forth in Section 5.5.0 during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the applicant.

FINDING: The Applicant submitted their application on September 30, 2016. The City requested submittal of the Transportation Planning Rule analysis, which was submitted on October 12, 2016. The application

was deemed complete on October 13, 2016. Final action is planned at City Council in December 2016, less than 120 days after the application was deemed complete.

Section 5.6.0. Supplementation of application within first 30 days of submittal.

An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under Section 2.5.0. Any evidence submitted by an applicant in violation of Section 5.6.0 will not be considered in determining whether the application is complete and will be returned to the applicant.

FINDING: In accordance with this section, no evidence was submitted to supplement the application following application submittal, except to respond to specific requests from the City for additional information.

Section 5.7.0. Modification of application.

A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of Section 5.6.0 and this section, and payment of the required fee.

B. The Planning Director, or other duly designated City representative or Planning Commission shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in Section 1.2.0) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day review period as of the date the modification is submitted. The 120- day time clock for an application, as modified, may be restarted as many times as there are modifications.

C. The Planning Director, or other duly designated City representative or Planning Commission may require that the application be re-noticed and additional hearings be held.

D. Up until the day a hearing is opened for receipt of oral testimony, the Planning Director or other duly designated City representative shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Planning Commission shall make such determinations. The Planning Director, or other duly designated City representative or Planning Commission determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the City on an application.

FINDING: The Applicant has not modified their application, nor any of the supporting documentation.

SECTION 6.0.0. LAND USE ACTION HEARINGS

Section 6.1.0. Filing of staff report for hearing.

A. At the time an application that in the judgment of the Planning Director or other duly designated City representative requires a hearing is deemed complete, a hearing date shall be set.

B. A staff report shall be completed no less than seven days prior to hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is complete.

C. A copy of the staff report shall be mailed to the applicant, shall be made available to such other persons who request a copy and shall be filed with the Planning Commission.

D. Oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.

FINDING: The request is for a Comprehensive Plan Map Amendment and Zone Change, which requires a hearing before the Planning Commission in accordance with this code. This staff report will be available to the public on or before November 2, 2016, at least seven days prior to the hearing. A copy of the staff report will be mailed to the Applicant and the Property Owner and will be filed with the Planning Commission. Modifications or additions to the staff report are not anticipated, however, if necessary, will be allowed prior to or at the hearing.

Section 6.2.0. Hearings Body.

A. The following shall serve as the hearings body:

- 1. Planning Commission.**
- 2. City Council**

B. The Hearing's Body order shall be as set forth in Section 6.2.0 (A), except that the Council may call up an administrative decision for review without the necessity of an application going before the Planning Commission.

FINDING: The application will follow a quasi-judicial process and will include a hearing before the Planning Commission on November 9, 2016.

Section 6.3.0 Notice of hearing or administrative action.

A. Individual Mailed Notice.

- 1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:**
 - 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.**
- 2. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.**

FINDING: Notice was mailed on October 14, 2016, in accordance with this section, to the Applicant,