

ORDINANCE NO. 2015-01

AN ORDINANCE OF THE CITY OF LA PINE AMENDING THE COMPREHENSIVE PLAN AND ZONING MAP TO CHANGE THE ZONE DESIGNATION FOR CERTAIN PROPERTY FROM PUBLIC FACILITY TO COMMERCIAL RESIDENTIAL MIXED-USE AND TO CHANGE THE ZONING MAP FOR THAT PROPERTY FROM PF TO CRMX .

WHEREAS, La Pine Haven, LLC applied for a plan amendment to change to the La Pine City Comprehensive Plan to re-designate certain property from Public Facility to Commercial Residential Mixed-Use and to change the Zoning Map from PF to CRMX;

WHEREAS, After notice was given in accordance with applicable law, a public hearing was held in front of the La Pine Planning Commission on January 21, 2015; and

WHEREAS, the Planning Commission, after review conducted in accordance with applicable law, approved the Plan Amendment and Zone Change request and the final decision was mailed on January 23, 2015; and

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

1. The Comprehensive Plan of the City of La Pine is hereby amended to change the Comprehensive Plan map designation of 8.4 acres of certain real property depicted on the map Exhibit "A", attached and incorporated herein, more particularly described as Lot 2 of Newberry Neighborhood (T22-R10-11CB-200) from Public Facility to commercial Residential Mixed-Use.
2. The Zoning Map of the City of La Pine is hereby amended to rezone 8.4 acres of certain real depicted on the map Exhibit "B", attached and incorporated herein, more particularly described as Lot 2 of Newberry Neighborhood (T22-R10-11CB-200) from PF to CRMX.
3. The Findings of Fact and Conclusions of Law contained in the staff report, attached hereto as Exhibit "C", which were approved by the Planning Commission, are hereby adopted and incorporated herein. Said findings have been designated by the City's community Development Department as File # CP/ZC 2014-13.
4. The City's Community Development Department 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 the approved ordinance.
5. The provisions of this Ordinance are severable. If any Section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
6. This ordinance may be corrected by order of the City council to cure editorial and clerical errors.

[end of ordinance – signature page immediately follows]

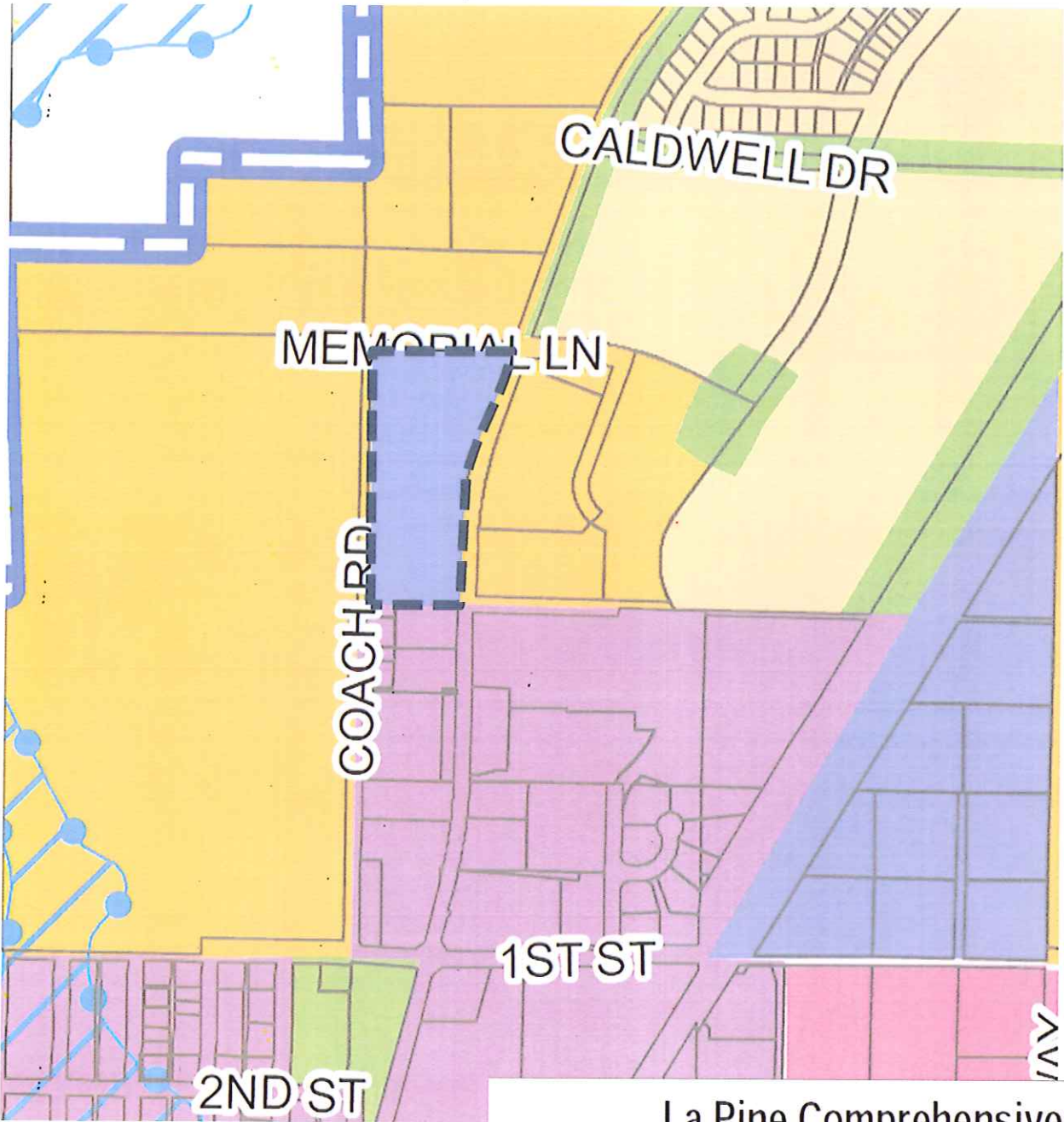
This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of ___ for and ___ against and APPROVED by the mayor on March 11th, 2015.

Ken Mulenex, Mayor

ATTEST:

Richard L. Allen, Interim City Manager

City of La Pine – Comprehensive Plan Map



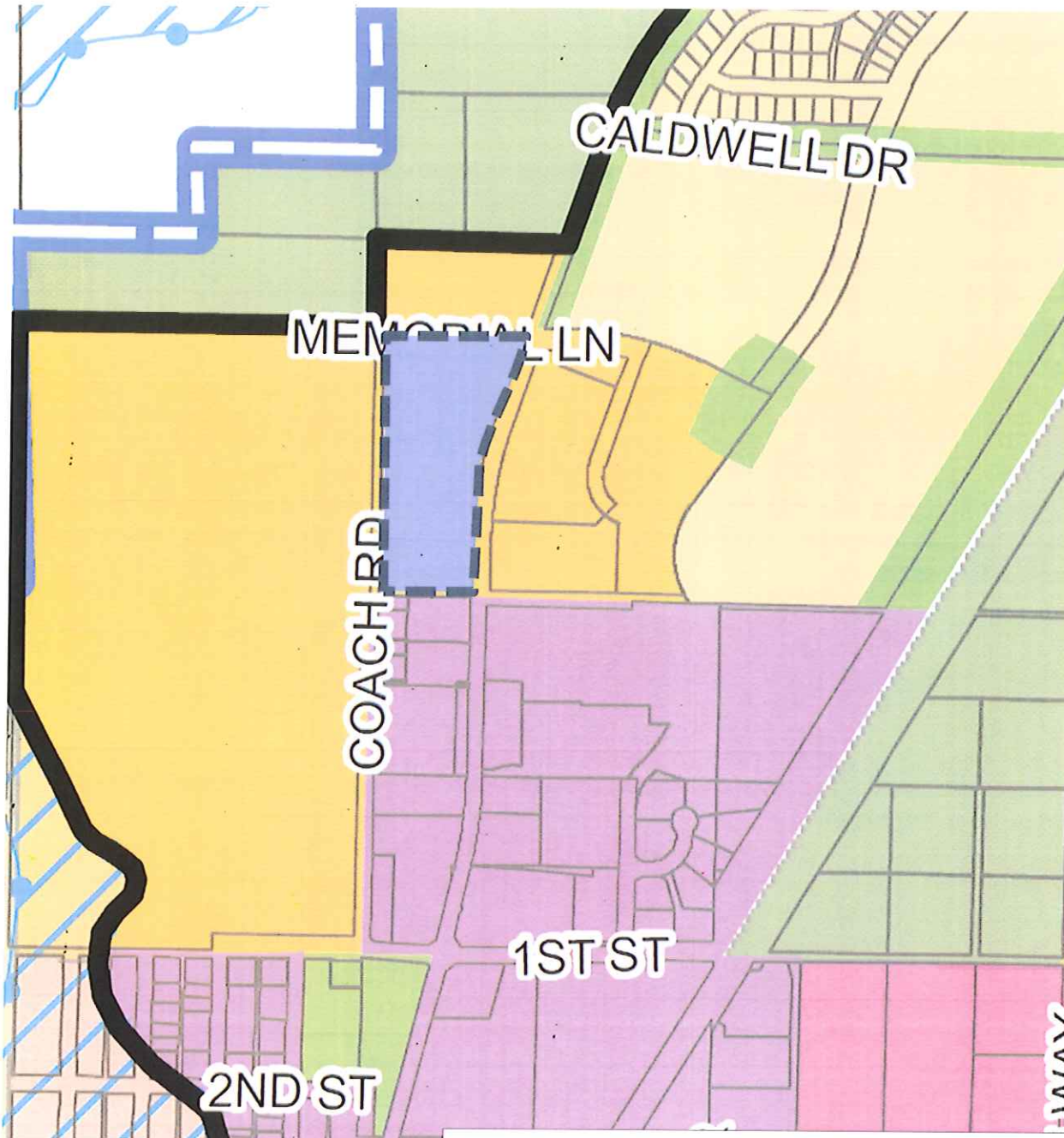
La Pine Comprehensive Plan

"growing, accomodating and managing a complete community"

	City Limit / Urban Growth Boundary		Master Plan Residential
	River		Comm/Res Mixed Use
	Taxlot		Traditional Commercial
	Floodplain_FEMA		Mixed-Use Commercial
	Little Deschutes River Riparian Area Overlay Zone		Neighborhood Commercial
	Natural Gas Pipeline ROW		Open Space & Parks
	Residential - Single-Family		Industrial
	Residential - Multi-Family		Public Facilities



City of La Pine – Zoning Map



La Pine Zoning Map

"growing, accomodating and managing a complete community"

La Pine UUC Boundary	Residential - Multi-Family	County Zoning Holding Zones
City Limit / Urban Growth Boundary	Master Plan Residential	
Railroad	Mixed-Use Commercial	
River	Open Space & Parks	
Transition Area	Public Facilities	
Floodplain_FEMA	Neighborhood Commercial	
Comm.Res Mixed Use	Industrial	
Little Deschutes River Riparian Area Overlay Zone		
Traditional Commercial		
Residential - Single-Family		
	EFULA - EFU La Pine Subzone	
	F1 - Forest	
	LPC - Commercial District	
	LPCFL - Community Facility Limited	
	LPR - Residential District	
	OS&C - Open Space & Conservation	
	RI - Rural Industrial	
	RR10 - Rural Residential	

Note: County Zoning outside of UUC Boundary





CITY OF LA PINE

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Mayor

Ken Mullenex
Council Members
Greg Jones
Stu Martinez
Kathy Agan
Karen Ward

STAFF REPORT TO PLANNING COMMISSION

CASEFILE NUMBER: CP/ZC 2014-13

DATE STAFF REPORT MAILED: January 14, 2015

HEARING DATE: January 21, 2015

APPLICANT: Robert Krohn, Representative
La Pine Haven, LLC
376 SW Bluff Drive, Suite 1
Bend, OR. 97702

OWNER: Wendy Potok, Managing Member
La Pine Haven, LLC
20220 Moonlight Crt.
Bend, OR. 97702

REQUEST: To change the Comprehensive Plan map from Public Facility to Commercial Residential Mixed-Use and to change the Zoning map from PF to CRMX.

LOCATION: The subject property is located in the west central part of the City and is bounded by Huntington Road on the east, Memorial Lane on the north, Coach Road on the west, and various commercial uses on the south.

LEGAL: Lot 2 of Newberry Neighborhood; T22 – R10 – 11CB – 200.

PARCEL SIZE: 8.4 acres

STAFF CONTACT: Bill Adams, Planning Director

EXHIBITS: By reference:

Application, including burden of proof statement; legal notices; 2014-13 file materials; and relevant parts of applicable City Ordinances, state statutes, and state rules.

I. APPLICABLE CRITERIA:

- (1) City of La Pine Ordinances:
 - Comprehensive Plan
 - Transportation System Plan
 - Zoning Ordinance
 - Land Use Procedures Ordinance
- (2) Compliance with Oregon Administrative Rules (OAR)
 - 660-008 Housing Rule
 - 660-012 Transportation Planning Rule (TPR)
 - 660-015 Oregon Statewide Planning Goals

II. FINDINGS OF FACT:

1. **LOCATION:** The application describes the location of the property: it is bounded by Huntington Road on the east, Memorial Drive on the north, Coach Road on the west, and commercial uses on the south. There is no address because there is no improvement on the property. Refer to Exhibit 1 of applicant's burden of proof (BOP) statement.
2. **ZONING:** The subject is currently zoned Public Facility (PF) on the Zoning map and is designated Public Facility on the Comprehensive Plan map.
3. **SITE DESCRIPTION:** Staff conducted a site visit to the property and provides the following findings based on observations made on the site, County digital aerial photographs, and information submitted by the applicant. The subject property is vacant and has a fairly dense stand of lodge pole pine trees. Soils are somewhat sandy. The site is relatively flat, with grades of less than 5% overall. There is no improvements on the property. There are informal recreational trails where people have walked, bicycled, or drove off-road vehicles in the past. There are a few unimproved access drives to the surrounding paved road system.

According to the Zoning map and FEMA, the site is outside of any floodplain.

4. **SURROUNDING ZONING AND LAND USES:** Staff conducted a site visit to the properties and provides the following findings based on observations made on the site, County digital aerial photographs, and information submitted by the applicant. Surrounding zoning designations include Public Facility (PF) to the north, west, and east; Forest (F) to the northwest; Master Plan Residential (RMP) to the northeast; and Traditional Commercial (TC) to the south.

To the north, northwest, and northeast the properties are vacant; to the east is the La Pine Senior Center and the Little Deschutes Lodge; to the west is the La Pine school campus; and to the south is various commercial uses.

Refer to Exhibits 1 and 5 of the applicants' BOP.

5. **LOT LEGALITY:** The subject lot is part of the Newberry Neighborhood subdivision, a legally platted subdivision which predates the incorporation of the city of La Pine. The lot was owned by the federal government, a bank, and other private entities prior to today's ownership. Refer to Exhibit 4 of the applicants' BOP.
6. **PUBLIC NOTICE AND COMMENTS:** On December 22, 2014, the city of La Pine sent notices of the request to surrounding owners of record of property as shown on the most recent property tax assessment roll within 500 feet of the subject property. Various agencies were also sent notices. Notice of the public hearing was published in the Newberry Eagle Newspaper on December 15, 2014 and January 1, 2015.

As of the date of completion of this staff report, no letters had been received from the public or public agencies regarding the proposal.

7. **BURDEN OF PROOF:** The applicant bears the burden of proof to demonstrate that the application complies with the applicable review criteria. The applicant in this matter submitted a burden of proof (BOP) statement that staff has made reference to for the findings in this report.

The Planning Commission will note that the BOP contains references to a Site Plan and Site Plan Review applications. However, during review of that application it was determined to be incomplete. The applicant asked that staff continue processing the Comp Plan and Zoning map amendment and complete the Site Plan Review at a later date.

III. CONCLUSIONARY FINDINGS:

1. CONFORMANCE WITH the LA PINE LAND USE PROCEDURES CODE (Exhibit B Ordinance 2011-03)

"Section 5.2.0 Action on Land Use Action applications.

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

"Section 6.0.0 Land Use Action Hearings."

"Section 7.3.0 Decision on Comprehensive Plan amendments and Zone Changes."

A. Except as set forth herein, the Planning Commission . . . shall have authority to make decisions on all quasi-judicial Comprehensive Plan amendments and Zone changes. Prior to becoming effective, all quasi-judicial Comprehensive Plan amendments and Zone changes shall be adopted by the City Council."

FINDING: The Comprehensive Plan Map and Zoning map amendment application is being heard by the Planning Commission in accordance with the subject ordinance. All notice and other procedures for the hearing have been followed by city staff. The Planning Commission has the final authority to approve or deny the application. The City Council shall adopt the Planning Commissions' decision, and in the case of approval, shall adopt the Comprehensive Plan and Zoning map amendment by Ordinance.

2. CONFORMANCE WITH THE LA PINE COMPREHENSIVE PLAN

"V. Amendments to the Plan

Amendments to the La Pine Comprehensive Plan may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, add newer information, or to address changes in the law. An amendment or revision to the Plan may be initiated by the La Pine City

Council, the La Pine Planning Commission, or the owner of the land which is the subject of the proposed amendment or revision. In the case of a Council

or Planning Commission initiated change, the change must be found to be consistent with all applicable state of Oregon requirements, including Oregon Revised Statutes and Oregon Administrative Rules. In the case of an owner initiated amendment to the Plan, the owner must, in addition to compliance with State laws, demonstrate that:

- 1. There was a mistake when the Plan designation was applied to the subject property; or***
- 2. Would result in a more efficient use of the land."***

FINDING: The applicant has addressed this criterion in his Burden of Proof statement on pages 8-12. Staff concurs with applicants statements generally, however, we don't believe a mistake was made in applying the Public Facility designation to the site. While it can be argued that another land use designation is better suited for the site, it doesn't necessarily mean the current designation was a "mistake". The PF Zone could be thought of as a holding zone for future circumstances like ownership, sewerage, and demand to trigger the re-zone. The applicant has developed facts and findings that demonstrate that this site is well suited for a residential / commercial mixed-use. He has also demonstrated a need for more affordable housing in La Pine and based on his analysis, this site would meet that need. Therefore, staff concurs that the proposal meets criterion V 2 above.

***"Chapter 4 Forest Lands
IV Goals and Policies Goal 2***

Policies

- Forestlands within the city shall be designated Public Facilities on the Comprehensive Plan map. These areas are primarily for public facility uses including for non-residential uses such as: public open and recreation spaces, cemetery expansion, right of way necessary for the ODOT Overpass project, natural areas, parklands and buffers between other areas designated for traditional urban development."***

FINDING: It is clear that the subject property, now owned by private parties, is not intended for the public facility uses as described above in the policy.

***"Chapter 10 Housing
V General Housing Goals and Policies***

Goal 1, 2, 4, 5

....”

FINDING: The applicant has addressed relevant Goals and Policies in the Comprehensive Plan. In particular, the applicant has documented the need for more affordable housing and mixed use areas in neighborhoods as contemplated by the Comprehensive Plan. Refer to pages 16-24 of the applicants’ Burden of Proof statement.

3. CONFORMANCE WITH ZONING ORDINANCE

“Section 3 Community Development Objectives

B. Specific Objectives

- 4. Provide opportunities for mixed use development so that residents can have close-to-home access to needed goods and services.***
- 7. Provide for a variety of housing choices, including a variety of housing types including but not limited to single-family, duplexes, apartments, live/work, recreational housing, etc.”***

FINDING: The proposed amendment will meet the above listed Objectives of the Zoning Ordinance. Also, refer to applicants Burden of Proof statement on pages 25-26.

“Section 10 Permitted Uses

CRMX Commercial Residential Mixed Use Zone

All uses in the RSF, RMF, and RMP zones except that residential uses must be the dominant use as compared to other non-residential uses and at least 60% of the total amount of all uses as measured by floor area. . . “

FINDING: The CRMX Zone is much more appropriate than the Public Facility Zone, as found in previous findings above and in the findings under the Comprehensive Plan. The proposed Zone best meets the intent of the Comprehensive Plan and is in the best interests of the citizens of the city of La Pine. Refer to applicants Burden of Proof statement on pages 27-28.

4. CONFORMANCE WITH STATE ADMINISTRATIVE RULES (OAR’s)

“OAR 660-008-0005 Definitions (Goal 10 Housing Rule)

- (2) Buildable Land means residentially designated lands within the urban growth boundary including both vacant and developed land likely to be***

redeveloped, that is suitable, available, and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

- (d) is within the 100 year flood plain; or*
- (e) Cannot be provided with public facilities."*

"OAR 660-008-0010 Allocation of Buildable Land

" . . . Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection"

FINDING: The applicant has submitted data to update the city's Housing Needs & Buildable Lands Analysis (refer to applicants Exhibit 3 of BOP). The findings in the applicants' Burden of Proof and in Exhibit 3 demonstrate that very little land is available for multi-family or affordable housing. Other than the Newberry Neighborhood Master Plan area, only one other area is zoned for multi-family – that being the CRMX in the old town (southeast part of La Pine). There is currently very little multi-family housing within the community of La Pine, primarily because of zoning and lack of sewage treatment, which has been addressed.

THE TRANSPORTATION PLANNING RULE (TPR), OAR 660-012-060

"660-012-0060, Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating

projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”

FINDING: The applicant has submitted a Transportation Impact Analysis (TIA) that is attached as Exhibit 6 to the applicants Burden of Proof Statement. It assumes some basic access points and conducts traffic counts and analysis. Anytime there is a proposed change of zoning, the city must demonstrate that the estimated traffic from the new zoning will not “significantly affect a transportation facility.”

The TIA found that the impact from traffic caused by the new mixed use zoning would not significantly affect surrounding roads, including Huntington and Highway 97. The applicant or whomever proposes to develop the site will be required to make frontage improvements and mitigate for traffic impacts, as stated in the TIA.

Based on the above findings and the TIA, the proposed Plan and Zoning map amendment complies with the Transportation Planning Rule.

OAR 660-15, STATEWIDE PLANNING GOALS

The following addresses how the proposed Zone Change applies to the Statewide Planning Goals:

Goal 1 – Citizen Involvement

FINDING: Statewide planning Goal 1 requires that the City provide the opportunity for citizens to be involved in the planning process. Notice of the public hearing to consider the proposal was mailed to all property owners within 500 feet of the subject property, and interested agencies. The County also provided public notice in the newspaper of public hearing pertaining to this quasi-judicial land use action. Citizens are provided the opportunity to comment on the application at the public hearings, and also have the right to an appeal to the City County. Providing the opportunity for public input complies with Goal 1.

Goal 2 – Land Use Planning

FINDING: As required by Goal 2, the City has adopted criteria and procedures to evaluate and make decisions regarding land use applications. City Staff reviews applications based on established regulations and policies and then prepares detailed preliminary findings for consideration by the Planning Commission. These preliminary findings will allow the Planning Commission to render a decision based on factual data. The Comprehensive Plan and Zoning Ordinance sets out procedures and regulations for land use decision-making, in compliance with Goal 2.

Goal 3 – Agricultural Lands

FINDING: Goal 3 requires the preservation and maintenance of agricultural lands. Agricultural lands are defined as being predominantly composed of agricultural capability Class I – VI soils in eastern Oregon. The subject site is within an Urban Growth Boundary (UGB) and with the city limits of La Pine, therefore this Goal does not apply.

Goal 4 – Forest Lands

FINDING: The purpose of Goal 4 is to conserve forest land. The site is within the UGB and the city limits, therefore this goal does not apply.

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

FINDING: Per this goal, Cities are required to establish inventories and adopt protection of natural, scenic and historic areas and open spaces. The subject site is not identified as a Goal 5 area or resource, thus Goal 5 is not applicable.

Goal 6 – Air, Water and Land Resources Quality

FINDING: Goal 6 requires that the air, water and land resources of the state be maintained or improved. Sewage treatment and water supply will be supplied by the City, thus maintaining water and land resource quality. There are no streams or other water resources in the vicinity that would be adversely affected by the proposed rezone. Approval of the Zone Change will not adversely affect air, water and land resources in applicable air sheds and river basins. This goal is met.

Goal 7 – Areas Subject to Natural Disasters and Hazards

FINDING: It is the intent of Statewide Planning Goal 7 to protect people and property from the dangers of natural disasters. The property is not subject to any significant natural hazards, including those under Goal 7. The site is not within the 100 year flood plain of the Little Deschutes River. There are no known significant geologic faults in the area, and the earthquake hazard is considered to be moderate. There is no designation of the subject site that makes the property more of a hazard than other properties in the vicinity. This goal is met.

Goal 8 – Recreational Needs

FINDING: The subject site is not designated for recreational purposes (bike or pedestrian trail, park) nor has the site been identified for a destination resort development. The property is not needed to meet the recreational needs of the citizens of the city, so the proposal does not conflict with Goal 8. This goal does not apply.

Goal 9 – Economic Development

FINDING: Goal 9 requires jurisdictions to provide adequate opportunities for economic development. While approval of the proposal will remove approximately 8 acres from potential industrial development, there remains adequate acreage for future industrial development on the east side of the city. This goal is met.

Goal 10 – Housing

FINDING: Goal 10 requires that sufficient buildable lands be provided in urban and urbanizable areas to provide for the housing needs of the citizens of the state. The subject lot is located within the city's urban growth boundary and can be used to help meet the city's need for affordable and multi-family housing. According to the applicant's submittal, recent market analyses indicate a greater demand for multi-family development, particularly in this area of the city.

Goal 11 – Public Facilities and Services

FINDING: Goal 11 requires cities to plan and develop in a timely, orderly and efficient manner, with public facilities and services to serve as a framework for urban and rural development. Goal 11 requires that cities or counties develop a public facility plan for areas within a UGB containing a population greater than 2,500. Goal 11 does not apply to the city.

Goal 12 – Transportation

FINDING: Goal 12 requires local governments to provide a 'safe, convenient and economic transportation system.' This goal is implemented through the City's Transportation System Plan and through the Transportation Planning Rule (TPR), OAR 660-012-0060. The TPR requires an applicant for a Zone Change to demonstrate that the proposed change will not significantly affect a transportation facility.

Compliance with the TPR was demonstrated above in staff's findings in response to OAR 660-12-060, thus, this goal is met.

Goal 13 – Energy Conservation

FINDING: Goal 13 requires local governments to consider the conservation of all energy types when developing land use plans. Goal 13 is not applicable to this request.

Goal 14 – Urbanization

FINDING: 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 the efficient use of land. The subject lot is located within the city's Urban Growth Boundary. The proposed zone change will facilitate development that will use existing public facilities and services and will provide for a more efficient and functional land use pattern. The proposal is consistent with the requirements of Goal 14 – this goal is met.

Goal 15 – Willamette River Greenway

FINDING: The subject lots are not located within the Willamette River Greenway. This goal does not apply.

Goal 16 – Estuarine Resources

FINDING: The subject lots do not contain estuary or wetland areas. This goal does not apply.

Goal 17 – Coastal Shorelands

FINDING: The subject lots do not contain nor are they near coastal shorelands. This goal does not apply.

Goal 18 – Beaches and Dunes

FINDING: The subject lots do not contain nor are they near beaches or dunes. This goal does not apply.

Goal 19 – Ocean Resources

FINDING: The subject lots are not in the vicinity of ocean resources and will therefore not have an impact on ocean resources. This goal does not apply.

IV. RECOMMENDATION AND CONCLUSION:

CONCLUSION:

Staff finds the applicant has effectively demonstrated compliance with applicable city of La Pine and state of Oregon approval criteria for a Plan and Zoning map amendment. The applicant has also demonstrated that the proposed zone change to Commercial Residential Mixed Use is warranted and that it is more compatible with surrounding uses than the existing Public Facility Zone designation.

RECOMMENDATION:

Staff recommends that the Planning Commission make a motion to approve the proposal, Case file CP/ZC 2014-13, an application to re-designate the Comprehensive Plan map to Commercial Residential Mixed Use and to re-zone the Zoning map to CRMX, for lot 2 Newberry Neighborhood.

***** END OF STAFF REPORT *****

(See next page for Decision)

The above recommendation was adopted by the La Pine Planning Commission.

DECISION OF PLANNING COMMISSION:



Chairman

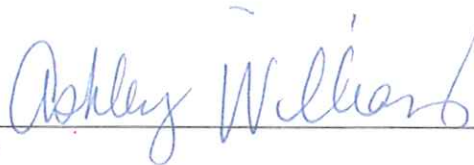
1-21-15

Date

This decision is final unless appealed within 12 days of mailing to the La Pine City Council or the decision is called up for review by the City Council in accordance with section 7.3.0, 7.5.0, and 9.0.0 of the city Land Use Procedures Code. Appeal forms and fees must be filed at City Hall, 16345 6th Street, La Pine, Oregon 97739. Phone: 541-536-1432.

1/23/15

Date Mailed



By