



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

November 6, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cave Junction Plan Amendment  
DLCD File Number 003-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 17, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist  
John Renz, DLCD Regional Representative  
Helen Early, City of Cave Junction

<paa> ya



**FORM 2 Notice of Adoption**

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Cave Junction Local file number: ZC-231-67

Date of Adoption: 10/23/2006 Date Mailed: \_\_\_\_\_

Date original Notice of Proposed Amendment was mailed to DLCD: 8/11/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Change zone of a parcel from Commercial ( C ) to Multi-family Residential ( MR ).**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

**Same**

Plan Map Changed from: Commercial to: Multi-Family Residential

Zone Map Changed from: Commercial to: Multi-Family Residential

Location: 1400 N Sawyer Ave Acres Involved: 3.5

Specify Density: Previous: No minimum or maximum New: 8-36 units per acre

Applicable Statewide Planning Goals: 2, 9, 10, 11, 12

Was an Exception Adopted?  YES  NO

DLCD File No.: 003-06  
(15453)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

**Josephine County, IV Fire District, Oregon Dept of Transportation, City of Cave Junction.**

Local Contact: **Helen Early** Phone: **(541) 592-2156** Extension:

Address: **PO Box 1396** City: **Cave Junction**

Zip Code + 4: **97523-** Email Address: **cjplanning@cavenet.com**

### ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**  
**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**635 CAPITOL STREET NE, SUITE 150**  
**SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to **8-1/2x11 green paper only**; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

*Accom.*

ORDINANCE NO. 498

30-

**AN ORDINANCE AMENDING ORDINANCE NO. 242 REGARDING THE BOUNDARIES OF THE ZONING MAP OF CAVE JUNCTION, OREGON.**

**WHEREAS**, the Common Council of the City of Cave Junction approved the zone change requested by CLL Investments for the property located at 1400 N. Sawyer Avenue, and more particularly described as Assessor's Map 39-08-16, Tax Lot 809;

**THE CITY OF CAVE JUNCTION ORDAINS AS FOLLOWS:**

**Section 1:** The parcel of land identified as Assessor's Map 39-08-16, Tax Lot 809 is hereby rezoned from City of Cave Junction Zone Commercial (C) to City of Cave Junction Zone Multi-Family Residential (MR) and the City Zoning Map is hereby amended.

**Section 2:** The map entitled "Zoning Map of Cave Junction" and identified as Exhibit "A" of Ordinance No. 242 is amended to include the above described property indicated in Exhibit "A", and more particularly identified in Exhibit "B" of this ordinance.

**PASSED** by the Common Council of the City of Cave Junction this 23<sup>rd</sup> day of October, 2006.

**SUBMITTED TO AND APPROVED** by the Mayor of the City of Cave Junction this 24<sup>th</sup> day of October, 2006.

Signed:   
TONY PAULSON, Mayor

Attest:   
CHARLES J. POLK, Recorder

JOSEPHINE COUNTY OFFICIAL RECORDS  
GEORGETTE BROWN, COUNTY CLERK

2006-021353



\$30.00

00158565200600213530030039

10/25/2006 09:58:26 AM

DEE-CIO Cnt=1 Stn=4 RECEIPTS

\$15.00 \$11.00 \$4.00

EXHIBIT "A" of Ordinance 498

Parcel:

Assessor's Map 39-08-16  
Tax Lot 809

1400 N. Sawyer Avenue

EXHIBIT "B" of Ordinance 498

Parcel 1: Assessor's Map: 39-08-16  
Tax Lot: 809

Legal Description: A parcel of land in Donation Land Claim No. 43 in Section 16, Township 39 South, Range 8 West of the Willamette Meridian, Josephine County, Oregon, being more particularly described as follows:

Commencing at the Southwest corner of the North Half of the South Half of said D.L.C. No. 43; thence along the West line of said D.L.C. No. 43, North 0° 15' 48" West 51.83 feet; thence South 89° 04' 51" East 5 feet to an iron rod; thence parallel with said West line, North 0° 15' 48" West 1273.10 feet to an iron rod which is 5.00 feet South of the North line of said North Half of the South Half; thence parallel with said North line, North 89° 48' 02" East 347.02 feet to the center of George Creek; thence along the center of said Creek, South 11° 24' 10" East 194.22 feet; thence continue along the center of said Creek, South 61° 19' 15" East 126.76 feet; thence leave said Creek, North 17° 57' 06" East 120.87 feet to an iron rod, thence South 79° 03' 26" East 629.73 feet to the center of George Creek; thence along the center of said Creek, North 85° 58' 00" East 230.00 feet; thence continue along the center of said Creek, North 83° 16' 00" East 69.76 feet thence leave said Creek North 7° 32' 45" West 171.65 feet to an iron rod; thence North 89° 48' 02" East 701.59 feet to an iron rod; thence South 4° 48' 43" West 107.52 feet to the center of George Creek; thence along the center of said Creek, South 86° 22' 08" East 234.71 feet; thence leave said Creek, South 47° 15' 00" West 377.52 feet to an iron rod; thence South 34° 19' 15" West 252.84 feet to an iron rod; thence South 40° 47' 30" West 251.33 feet to an iron rod; thence South 14° 42' 15" West 497.89 feet to an iron rod which is the true point of beginning, said iron rod is 5.00 feet North of the South line of said North Half of the South Half; thence North 14° 42' 15" East 170 feet; thence South 89° 53' 04" West 410 feet; thence North 65 feet; thence South 89° 53' 04" West 330 feet, more or less, to the center of the Kerby Ditch; thence Southwesterly, along said ditch to a point 5.00 feet North of the South line of said North Half of the South Half of the D.L.C. No. 43; thence parallel to said South line, North 89° 53' 04" East to the point of beginning.

TOGETHER WITH an easement for sewer, water and electricity, as set forth in Document No. 81-01559, and modified by Document No. 97-29, and as further modified by Document No. 97-19780, Official Records of Josephine County, Oregon.

ALSO TOGETHER WITH an easement for ingress, egress and utility purposes as set forth in Document No. 81-03381, Official Records of Josephine County, Oregon.

ALSO TOGETHER WITH an easement for right-of-way purposes, including driveway and electricity, as set forth in Document No. 97-19778, Official Records of Josephine County, Oregon.



---

---

## City of Cave Junction • Home of the Oregon Caves

---

---

P.O. Box 1396 • 222 Lister Street • Cave Junction, OR 97523  
Phone (541) 592-2156 • Fax (541) 592-6694 • TDD Relay 1-800-735-2900  
e-mail: cityofcj@cavenet.com

October 27, 2006

CLL Investments, LLC  
Andy Chen  
PO Box 1819  
Cave Junction OR 97523

### NOTICE OF DECISION

Notice is given that the Common Council of the City of Cave Junction rendered a decision regarding the following application:

**Applicant:** CLL Investments, LLC.

**Nature of Request:** Zone Change, Commercial to Multi-Family Residential.

**Legal Description:** Assessor's Map 39-08-16, Tax Lot 809.

**Nature of Decision:** This decision approves, with conditions, the zone change from Commercial to Multi-Family Residential.

**Contact Information:** Information about this decision can be obtained at the Planning Office during business hours.

**Appeal Information:** Any person who is adversely affected, aggrieved or who is otherwise entitled to this notice according to law, may appeal the decision by filing an appeal to the Land Use Board of Appeals, in accordance with the applicable state statutes and administrative rules.

**Appeal Deadline:** At the close of business on November 17, 2006.

**Before the Common Council  
of the  
City of Cave Junction**

**Regarding: Zone Change - 1400 N. Sawyer Avenue (Commercial to Multi-Family)**

**Property Owner: CLL Investments, LLC.  
Applicant: CLL Investments, LLC.  
Kelsy Ausland, Ausland Builders, LLC.**

This request came before the Common Council of the City of Cave Junction on October 9, 2006 for a public hearing at the request of CLL Investments, LLC., who requested approval of a zone change from Commercial ( C ) to Multi-Family Residential ( MR ) for the parcel at 1400 N. Sawyer Avenue, more particularly described as 39-08-16, tax lot 809.

There being no objection to the authority of the Council to hear the matter, and Tony Paulson announcing he performed work for the applicant and would abstain from participation in the decision, the public hearing was opened.

**1. CRITERIA FOR DECISION:**

1.1 EVIDENTIARY CRITERIA: Section 17.14.510 (B) states that a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1.1.1 Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval.

1.1.2 Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances.

1.1.3 Evidence of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; (and the provision of Section 17.14.450 Transportation Planning Rule Compliance, as applicable).

**1.2 APPROVAL CRITERIA**

1.2.1 Municipal Code 17.28.010 - Purpose of the Commercial District

1.2.2 Municipal Code 17.24.010 - Purpose of the Single-Family Residential District

1.2.3 Municipal Code 17.14.510 - Criteria for a Zone Change

1.2.4 ODOT Access Management Administrative Rule 734-051

1.2.5 City of Cave Junction Comprehensive Plan

---



**2.0 EVIDENCE AND FACTS:** The Common Council considered the following evidence and testimony:

2.1 TESTIMONY: Written and oral testimony from Staff, who discussed the salient aspects of the application noting the following:

2.1.2 Written Narrative for the Zone Change Application from Kelsy Ausland

2.1.2 Written Staff Report

2.1.3 Written Comments from Jerry Schaeffer, IVFD Fire Marshall

2.1.4 Written Comments from Paul Anderson, City Public Works

2.1.5 Written Comments from the Oregon Department of Transportation

2.2 Oral Testimony from Kelsy Ausland, supporting the application

2.3 Oral Testimony from Andy Chen, supporting the application and providing clarification on the announced perceived or potential conflicts of interest.

2.4 Oral Testimony from Larry Osborn, supporting the application.

**3.0 JUSTIFICATION:** The Council accepted the following findings to justify the decision:

3.1 CURRENT ZONING/COMPREHENSIVE PLAN

Current Zone: C (Commercial)

Comprehensive Plan: Commercial

3.2 Proposed Zoning/Comprehensive Plan

Proposed Zone: MR (Multiple Residential)

Proposed Comprehensive Plan: Multiple Residential

3.3 Consistency with Comprehensive Plan

3.3.1 Economy and Housing: The property has a Commercial Comprehensive Plan designation, reflecting its past use as a radio station. The radio station was abandoned and the property has not been actively used since, although it has alternated between commercial and residential zoning. Through the State-mandated periodic review process, the City updated various elements of the Comprehensive Plan, including an analysis of the effect that creation of an employment zone would have on residential land supply.

The Economy Element includes an evaluation of the need for commercial land, noting a need for 49 acres in the planning period. The proposed change would subtract 3.50 acres from the commercial land base, but the property's access via an easement at the end of a residential street diminishes its value as to the commercial land base of the city. As such, the existing commercial designation can be found to be inconsistent with the development pattern of the immediate vicinity.

3.3.2 Air, Water, and Land Resources Quality: Air pollution is not cited in the Plan as a significant issue, although automobiles are noted to be a source of pollution. Water resources are adequate for current population levels and normal development within the city limits, but the City is concerned about depletion of groundwater in rural residential developments, forcing annexation when supplies are diminished. The City also participates in regional planning programs for the Illinois River basin. The only land resource issue in the Plan is recognition of the Kerby solid waste transfer station.

---

3.3.3 Recreation: The site is adjacent to the Illinois Valley Golf Course. Other existing amenities in Cave Junction include Jubilee Park and coordinated use of school district playground facilities. The Forks State Park is immediately south the city, across the Illinois River. The City intends through zoning to provide an adequate supply of land for privately owned recreation-oriented and tourist-oriented businesses.

3.3.4 Public Facilities and Service: The City's expanded water and sewage treatment facilities were completed in the late 1990s. Water and sewer lines are in Sawyer Road. A 6-inch water line also crosses the property. Because the properties are inside city boundaries, it is appropriate to extend municipal sewer and water. The applicant submitted a tentative site plan for developing the property, which shows a stormwater detention ditch along the south property line.

In addition to water and sewer facilities, the City also provides fire protection through the Illinois Valley Fire District. The urban area has a fire insurance rating of 5. Garbage collection is provided by a private company. Police protection is provided through a contract with the Josephine County Sheriff's Office.

3.3.5 Transportation: The property does not front on a State Highway, but because the request is for a comprehensive plan amendment, the applicant requested comment from ODOT in an email dated July 27, 2006. The applicant received a reply that ODOT would likely not be interested. Further, the applicant notes that the proposed change is to a zone with a lower trip-generating potential than the current commercial designation. Projected traffic generation from the proposed development is just over 230 average daily trips ADT, below the 450 ADT that would require further review by ODOT. ODOT comment received on September 29, 2006, confirmed that the agency had no concerns with the proposal.

3.3.6 Land Use and Urbanization: Even using the highest population estimates prepared for the sewer and water system improvements, the City has ample acreage to accommodate residential use, but it has not allocated significant acreage for multi-family development. While the City's long-term vitality depends on a strong commercial land base, the subject property is among the least appropriate to satisfy that need.

3.3.7 Consistency with the Zoning Ordinance: The purpose of the Commercial district is to accommodate, at convenient locations within Cave Junction, commercial activities which: (1) provide the basic goods and services needed by surrounding residents; and (2) provide appropriate tourist and recreational goods, services, and facilities.

Permitted buildings and uses include any retail or service commercial use not involving the manufacture, processing, repair, storage or compounding of products other than what is clearly incidental to the business of the premises. Multiple-family dwellings, mixed use buildings, and mobile home parks are permitted, but only in conjunction with commercial uses.

Section 17.24 states that the purpose of the Multiple Residential zoning district is to provide a quality environment for medium and high density, urban residential uses, together with other compatible uses. The applicant intends to provide medium residential densities in a master planned development consisting of duplexes.

**4. CONCLUSION:** The proposed comprehensive plan amendment and zone change is the result of the applicant's desire to create a residential Master Planned Development on the site. While the ordinance permits a mix of residential and commercial uses in the Commercial zone, it does not permit exclusive residential use. Given the location of the property, commercial zoning appears unreasonable, having been originally established to accommodate a radio station. The proposed Multiple Residential designation will provide for increased housing choices in Cave Junction.

**5. DECISION:** Therefore, based on the staff report, evidence submitted into the record and testimony from witnesses, the Common Council of the City of Cave Junction, upon a motion by Russell Ehrman and a vote of 4-0-1 (Tony Paulson abstained from the discussion and vote), approved the request for the zone change from Commercial ( C ) to Multi-Family Residential ( MR ) for the property located at 1400 N. Sawyer Avenue, more particularly described as Assessor's Map 39-08-16, tax lot 809.

Notice of Decision  
List of Additional Recipients

NAME	ADDRESS
Dick Converse	Rogue Valley Council of Governments PO Box 3275 Central Point OR 97502
Jerry Schaeffer	Illinois Valley Fire District 681 Caves Hwy Cave Junction OR 97523
Kelsy Ausland	Ausland Builders, LLC 3935 Highland Avenue Grants Pass OR 97526
Larry Osborn	1000 Waldamar Rd PO Box 847 Cave Junction OR 97523