



# 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: (503) 378-5518

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

### NOTICE OF ADOPTED AMENDMENT

June 28, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Phoenix Plan Amendment  
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 13, 2006**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
John Renz, DLCD Regional Representative  
Laura LeComu, City of Phoenix

<paa> ya

**FORM 2**

**DEPT OF**

**JUN 26 2006**

**LAND CONSERVATION  
AND DEVELOPMENT**

**D L C D NOTICE OF ADOPTION**

This form must be mailed to DLCD within **5 working days after the final decision**  
Per ORS 197.610, OAR Chapter 600 – Division 18

(See reverse side for submittal requirements)

Jurisdiction: City of Phoenix

Local File No.: A06-01, Z006-01

(If no number, use none)

Date of Adoption: June 19, 2006  
(Must be filled in)

Date Mailed: June 23, 2006  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: April 28, 2006

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: Annexation  
(Please Specify Type of Action)

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

Annexation and zone change to rezone a 2.15 acre parcel from County SR2.5 to City of Phoenix R-1 low density residential.

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".

Actual acres involved are 2.97, information on acres in proposed amendment was in error.

Plan Map Changed from: \_\_\_\_\_

to: \_\_\_\_\_

Zone Map Changed from: Jackson Co. SR2.5

to: R-1 Low Density Residential

Location: 3657 Hilsinger Road

Acres Involved: 2.97

Specify Density: Previous: N/A

New: N/A

Applicable Statewide Planning Goals: 1, 2, 11, 12, 14

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 001-06 (15194)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No: \_\_\_\_\_  
If no, do the Statewide Planning Goals apply: Yes: \_\_\_\_\_ No: \_\_\_\_\_  
If no, did The Emergency Circumstances Require immediate adoption: Yes: \_\_\_\_\_ No: \_\_\_\_\_  
Affected State or Federal Agencies, Local Governments or Special Districts: DLCD, ODOT

Local Contact: Laura LeCornu Area Code + Phone Number: 541-535-2050  
Address: PO Box 330 City: Phoenix, Oregon  
Zip Code + 4: 97535 Email Address: phoenixplanlaura@charterinternet.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 600 – 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 no 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 [Larry.French@state.or.us](mailto:Larry.French@state.or.us)  
– ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 862**

**AN ORDINANCE FOR ANNEXATION OF TWO PARCELS WITHIN TOWNSHIP  
38 SOUTH, RANGE 1 WEST, SECTION 16AB**

AN ORDINANCE proclaiming annexation to the City of Phoenix of two parcels totaling 2.97 acres and including a portion of public right-of-way under Jackson County jurisdiction, known as Hilsinger Road. The subject annexation is County zoned Single-Family Residential (RR-2.5) and is surrounded by lands already within the city limits. If not appealed, this ordinance is effective 30 days from the date of the City Council approval.

**WHEREAS:**

1. The property owner of parcels in the territory to be annexed has consented in writing to the annexation; and
2. The Planning Commission conducted a public hearing on the annexation on May 23, 2006, and following deliberation recommended annexation of the subject area; and
3. Notice of the City Council public hearing was published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of the published notice, and it appears to be in the best interest of the city and of the area involved that it be annexed to the City of Phoenix; and
4. The City Council finds and determines that the facts and conclusion in the staff report issues for the Planning Commission's May 23, 2006 hearing, on file in the City Offices, are true and correct and are hereby adopted as the findings of the council.

NOW, THEREFORE, the City of Phoenix ordains as follows:

Section 1. The following described area in Jackson County, Oregon, to wit:

All real property in the Northeast quarter of Section 16, in Township 38 South, Range 1 East of the Willamette Meridian, Jackson County Oregon, described as Tax Lots 700 and 800; and being more particularly described by metes and bounds in the attached Exhibit "A."

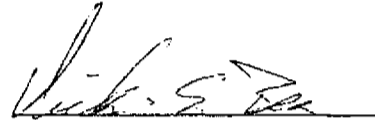
Containing 2.97 acres more or less, shall be annexed to the City of Phoenix, Oregon.

Section 2: The City Recorder shall submit to the Secretary of the State of Oregon a certified copy of this Ordinance. The City Recorder shall also, within ten days of the effective date of this annexation, send copies of this Ordinance to the Oregon Department of Revenue, the County Clerk, County Assessor and County Engineer of Jackson County, Oregon, Jackson County Fire District #5, public utilities and telecommunication carriers by certified mail.

Section 3. This application complies with the City's Comprehensive Plan and ORS Chapter 221.120, as evidenced in the staff report attached as Exhibit A and incorporated herein by reference.

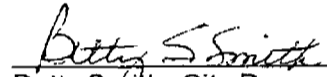
Section 4. The Annexation Agreement between the City of Phoenix and Jerry Lawrence attached as Exhibit "B" and incorporated herein by reference shall be executed prior to the recording of this annexation. The applicant is responsible to pay for all annexation and recording fees.

PASSED AND ADOPTED by the City Council and signed by me in open session in authentication thereof this 17th day of June, 2006.



Mayor Vicki E. Bear  
City of Phoenix

ATTEST:

  
Betty Smith, City Recorder/Treasurer



PLANNING DEPARTMENT

510 West 1<sup>ST</sup> Street • Phoenix, OR 97535  
(541) 535-2050 • FAX (541) 535-5769

## CITY COUNCIL STAFF REPORT AND RECOMMENDATIONS

**FILE NUMBERS:** A6-01; ZO06-01

**APPLICANT:** JERRY LAWRENCE

**AGENT:** DONBURT, AICP

**LOCATION:** Tax Lot 700 and 800, Assessor's Map Page 38-1W-16AB, 3651 and 3657 Hilsinger Road.

**ZONE:** Rural Residential (RR-2.5)

**HEARING DATE:** June 19, 2006

**REQUESTS:** The application proposes annexation of two tax lots with a total of 2.97 acres and a zone change from County RR-2.5 (Rural Residential – 2.5 acre minimum) zoning to City R-1 (Single-Family Residential) zoning. The application was initially received, and a fee paid (receipt #39763), on March 29, 2006. All surrounding lands are zoned R-1 and within the Phoenix City Limits.

### I. PROJECT INFORMATION:

#### A. Surrounding Lane Uses:

North: Garden O'Gold Subdivision; 8,000+ square-foot lots

South: April Addition Subdivision; 8,000+ square-foot lots. Two non-subdivided residential parcels containing 24 and .40 acres are between a portion of the subject parcel and April Addition.

East: Central Oregon & Pacific Railroad to the east of the Colver Road. Hidden Park Estates is east of the railroad right-of-way, having 6,000+ square-foot lots.

West: Coral Gardens Subdivision; 8,000+ square-foot lots. Tax Lot 2100 (.46 acre) is an undivided residential parcel.

#### B. Site Characteristics:

Size: 2.97 acres

Terrain: Predominantly level.

Water supply: Private wells. Upon annexation, water service will be available from the City of Phoenix. The wells can continue to be used for irrigation, but they will need to be equipped with backflow prevention devices.

Access: The existing dwelling receives access from Hilsinger Road, a local street. The property also fronts on Colver Road, a collector street. The applicant intends to dedicate additional right-of-way and construct urban half-street improvements. The City has requested a transfer of jurisdiction. The applicant will be required to meet City standards on improvements.

**C. Comprehensive Plan Designation:**

Low Density Residential

**D. Property Zoning**

RR-2.5 (Single-Family Residential)

**II. DETAILED PROJECT DESCRIPTION:**

The application was initially received, and a fee paid (receipt #39763), on March 29, 2006. Tax lots 700 and 800 are in the Urban Growth Boundary and are surrounded by lands already annexed.

Notice regarding this project was mailed on May 2, 2006, to all parties included on the required notice list provided by the applicant.

**III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:**

The following section of the Phoenix Land Development Code (PLDC) provides the criteria under which the Planning Commission shall approve, approve with conditions or deny the request.

***4.7 – Approval Criteria for Quasi-Judicial Amendments***

***A. General Approval Criteria.*** *The City may approve, approve with conditions, or deny a quasi-judicial amendment based on all the following approval criteria:*

***Quasi-Judicial Amendments:***

- 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;*
- 2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;*
- 3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 Transportation Planning Rule Compliance, as applicable.*

***Transportation Planning Rule Compliance***

1. *When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. Significant means the proposal would:*
  - A. *Change the functional classification of an existing or planned transportation facility; This would occur, for example, when a proposal causes future traffic to exceed the capacity of collector street classification, requiring a change in the classification to an arterial street, as identified by the Comprehensive Plan and the Transportation System Plan; or*
  - B. *Change the standards implementing a functional classification system; or*
  - C. *Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*
  - D. *Reduce the level of service of the facility below the minimum acceptable level identified in the Comprehensive Plan and the Transportation System Plan.*
  
2. *Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:*
  - A. *Limiting allowed land uses to be consistent with the planned function of the transportation facility; or*
  - B. *Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,*
  - C. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.*

**Oregon Revised Statutes Chapter 222.120:**

*ORS 222.120 establishes the procedures for annexation without election by city electors:*

1. *Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.*
2. *When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.*
3. *The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.*
4. *After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:*
  - a. *Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;*
  - b. *Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS*



- 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or*
- c. Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.*
  - 5. If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.*
  - 6. The ordinance referred to in subsection (4) of this section is subject to referendum.*
  - 7. For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.*

It is the applicant's burden of proof to demonstrate that they have met all of the above criteria. In the following element, Staff will not rehearse every criterion, but rather point out only those of the above criteria where potential issues arise.

#### **IV. ANALYSIS:**

The proposed annexation and zone change are consistent with the City's Comprehensive Plan. Chapter 251.100 outlines the annexation process, and permits the applicant to follow the statutory procedures in ORS 222. The statutes provide a process that result in a quick progression from Council decision to final annexation instead of going through a contract annexation process.

The proposed annexation and zone change are straightforward. The annexation is consistent with other "island" annexations where all surrounding parcels are already in the city, and will permit the applicant to request urban-level development. The City Council annexed similar parcels in the past on its own motion, but permitted property owners to opt out of the process if they were unwilling to annex. The applicant exercised that option, but has now decided to request annexation. The zone change simply applies the R-1 zoning found on the surrounding parcels and does not involve a Comprehensive Plan Amendment.

Because no changes are proposed to the comprehensive plan, the proposed zone change will not change the functional classification of any transportation facilities. Therefore, the Transportation System Plan is unaffected by the annexation and zone change. The applicant's findings include an evaluation of the availability of urban services to the site, their availability, and the cost of extension or improvement. None of the agencies who

responded to the request for comment indicated any impediments to providing urban services to the site.

**IV. CONCLUSION:**

The proposal to proceed with Annexation and a Zone Change to R-1 has demonstrated compliance with the approval criteria.

**VI. RECOMMENDATION:**

The Planning Commission held a public hearing on May 23, 2006, and recommends approval of Annexation and Rezoning. Staff recommends approval of the Annexation and Rezoning.



**PLANNING DEPARTMENT**

510 West 1<sup>ST</sup> Street • Phoenix, OR 97535  
(541) 535-2050 • FAX (541) 535-5769

**EXHIBIT "A"  
CITY OF PHOENIX  
PLANNING COMMISSION**

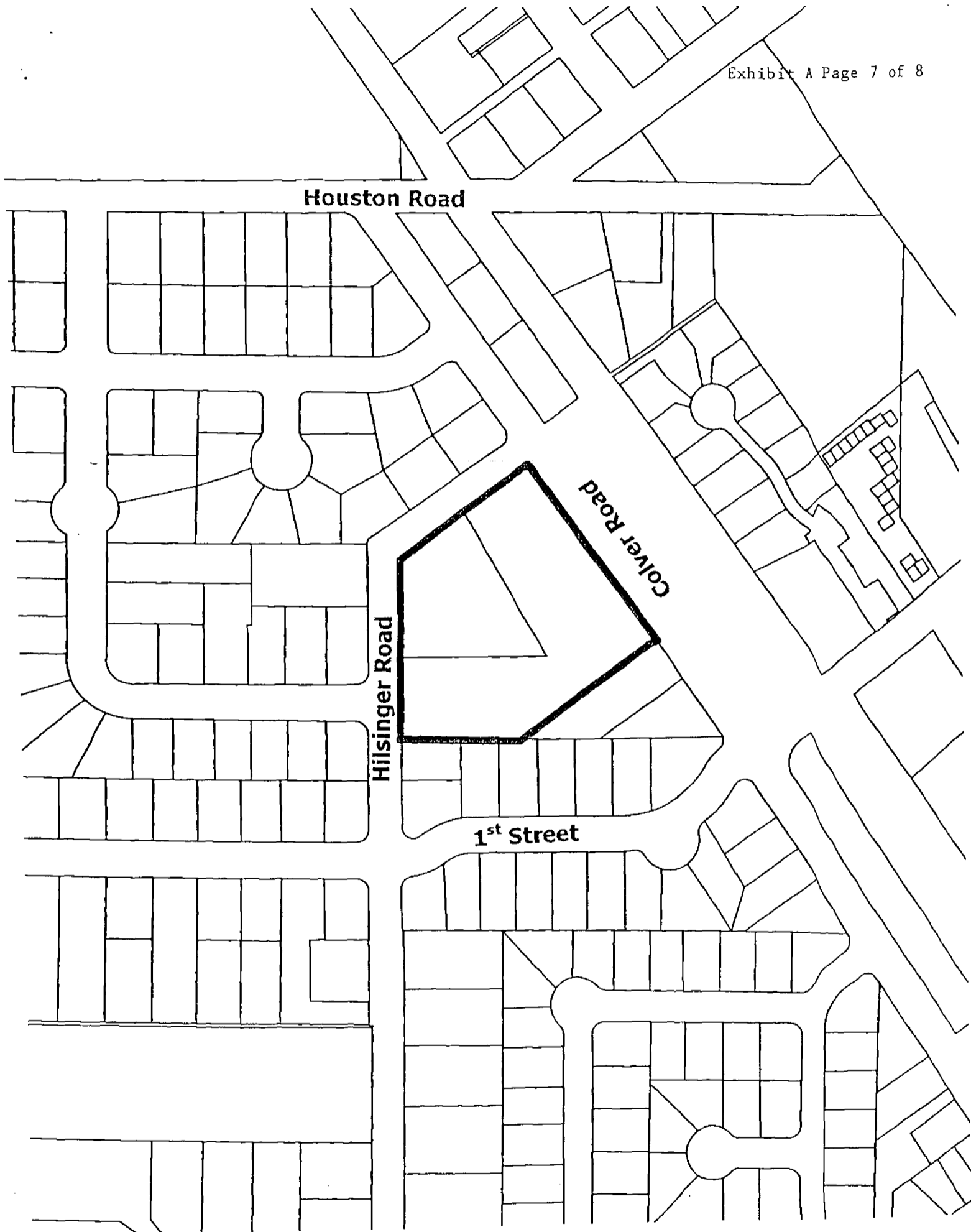
**FILE NUMBER: A06-01, Z006-01**

**APPLICANT: JERRY LAWRENCE**

**LOCATION: Tax Lots 700 and 800, Assessor's Map Page 38-1W-16AB, 3651 and 3657  
Hilsinger Road.**

**THE FOLLOWING CONDITIONS APPLY TO APPLICATION:**

1. The plans and all stipulations included in the applicant's submittal shall be completed as proposed unless modified by the following conditions.
2. Upon annexation, development of the property shall be subject to City standards.
3. This annexation is being processed as a conventional annexation. The property owner shall sign an Annexation Agreement prior to the recording of the annexation.
4. The property shall be rezoned R-1, Low Density Residential under the Phoenix Land Development Code.
5. The extension of utilities to serve the subject property shall be the responsibility of the property owner.
6. All street frontages shall be included as part of this annexation.
7. The property shall be withdrawn from Jackson County Fire District No. 5.
8. This property will be served by Rogue Valley Sewer Services. A sewer connection must be done in accordance with RVS standards.



**TRACT B:**

Commencing at the southwest corner of Lot 6 in HILSINGER SUBDIVISION in Jackson County, Oregon, according to the official plat thereof, now of record, thence North 0°03' East along the west boundary of said Lot 6 a distance of 140.0 feet to the true point of beginning; thence East 243.0 feet; thence North 28° 40' West a distance of 280.15 feet to the north boundary of said Lot 6; thence South 54°50' West along said north boundary 132.67 feet to the northwest corner of said Lot 6; thence South 0°03' West a distance of 169.40 feet to the true point of beginning.

Account 10028100, Levy Code 4-08, Map 381W16AB 800

**EXHIBIT "B"**

**CITY OF PHOENIX  
ANNEXATION AGREEMENT  
JERRY LAWRENCE (A06-01)**

This agreement is made between the City of Phoenix, a municipal corporation of the State of Oregon, hereinafter called "City", and Jerry Lawrence, hereinafter called "Lawrence."

In consideration of the City holding the necessary public hearings, investigating the facts, and considerations surrounding the application of Lawrence for annexation of their land, Lawrence hereby acknowledges and hereby agrees to fully comply with the conditions set forth below, which are imposed by the City. The property being annexed is known as follows:

Two parcels located at 3651 and 3657 Hilsinger Road, also known as Jackson County Assessor Map No. 38-1W-16AB, tax lots 700 and 800.

It is agreed that in the event of annexation, zone change, and other proceedings related to the application of Lawrence is challenged or found invalid for any reason whatsoever, the applicant hereby agrees to hold harmless the City, its agents, employees, and officer, including any legal expenses or court costs before the Land Use Board of Appeals, incurred by the City. Lawrence agrees that the following conditions of annexation be considered a restriction made upon the property by its present owner and its successors or assigns and developers and until all conditions have been fully met, such conditions shall run with the land.

The conditions of annexation are as follows:

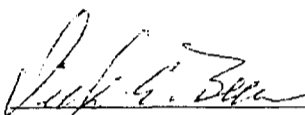
1. The plans and all stipulations included in the applicant's submittal shall be completed as proposed unless modified by the following conditions.
2. Upon annexation, development of the property shall be subject to City standards.
3. This property shall be withdrawn from Fire District No. 5 prior to completion of the annexation process.
4. The property shall be rezoned R-1, Low Density Residential under the Phoenix Land Development Code.
5. The extension of utilities to serve the subject property shall be the responsibility of the property owner.
6. All street frontages shall be included as part of this annexation.
7. This property will be served by Rogue Valley Sewer Services. A sewer connection must be done in accordance with RVS standards.

8. This Annexation Agreement and shall be executed prior to the recording of this annexation;  
The applicant is responsible to pay for all annexation recording fees.

Executed by Jerry Lawrence on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

CITY OF PHOENIX

Jerry Lawrence

  
\_\_\_\_\_  
Vicki E. Bear, Mayor

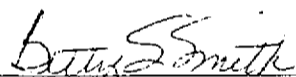
\_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF OREGON                    )  
  )SS  
COUNTY OF JACKSON            )

STATE OF OREGON                    )  
  )SS  
COUNTY OF JACKSON            )

Personally appeared, the above  
named Vicki E. Bear, Mayor, who  
acknowledged the foregoing  
instrument to be her voluntary  
act and deed.

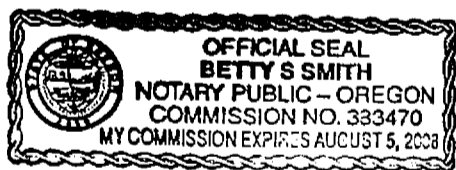
Personally appeared, the above  
named Jerry Lawrence, who  
acknowledged the foregoing  
instrument to be her voluntary  
act and deed.

Before me:   
\_\_\_\_\_  
Notary Public of Oregon

Before me: \_\_\_\_\_  
Notary Public of Oregon

My commission expires: 8/5/08

My commission expires: \_\_\_\_\_



ORDINANCE NO. 863

AN ORDINANCE CHANGING THE ZONE FOR TWO PARCELS WITHIN  
TOWNSHIP 38 SOUTH, RANGE 1 WEST, SECTION 16AB

AN ORDINANCE proclaiming a change of zone of two parcels totaling 2.97 acres in the City of Phoenix from County-zoned Single-Family Residential (RR-2.5) to City-zoned Single-Family Residential (R-1). If not appealed, this ordinance is effective 30 days from the date of the City Council approval.

WHEREAS:

1. The property owner of parcels in the territory to be annexed has consented in writing to the annexation; and
2. The Planning Commission conducted a public hearing on zone change request on May 23, 2006, and following deliberation recommended application of the Single-Family Residential (R-1) zoning district with a density of seven units per acre; and
3. Notice of the City Council public hearing was published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of the published notice, and the City Council determined it to be in the best interest of the city and of the area to rezone the properties to R-1; and
4. The City Council finds and determines that the facts and conclusion in the staff report issues for the Planning Commission's May 23, 2006 hearing, on file in the City Offices, are true and correct and are hereby adopted as the findings of the council.

NOW, THEREFORE, the City of Phoenix ordains as follows:

Section 1. The following described area in Jackson County, Oregon, to wit:

All real property in the Northeast quarter of Section 16, in Township 38 South, Range 1 East of the Willamette Meridian, Jackson County Oregon, described as Tax Lots 700 and 800; and being more particularly described by metes and bounds in the attached Exhibit "A."

Containing 2.97 acres more or less, shall be designated R-1.

Section 2: The above described property annexed to the City of Phoenix is hereby withdrawn from the Jackson County Fire District #5 at the effective date of annexation.

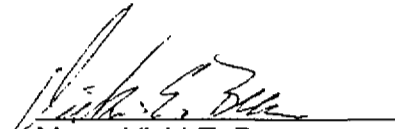
Section 3. The City Recorder shall, within ten days of the effective date of this decision, send copies of this Ordinance to the the Department of Land Conservation and Development, the County Clerk, County Assessor and County Engineer of Jackson County, Oregon.



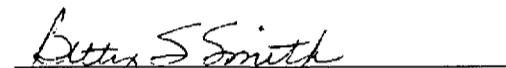
Section 4. Findings and Conclusions

The above described property complies with the City's Comprehensive Plan, Development Code, and ORS 222.120, as evidenced in the staff report attached as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED by the City Council and signed by me in authentication thereof this 19<sup>th</sup> day of June, 2006.

  
\_\_\_\_\_  
Mayor Vicki E. Bear  
City of Phoenix

ATTEST:

  
\_\_\_\_\_  
Betty Smith, City Recorder/Treasurer



PLANNING DEPARTMENT

510 West 1<sup>ST</sup> Street • Phoenix, OR 97535  
(541) 535-2050 • FAX (541) 535-5769

## CITY COUNCIL STAFF REPORT AND RECOMMENDATIONS

**FILE NUMBERS:** A6-01; ZO06-01

**APPLICANT:** JERRY LAWRENCE

**AGENT:** DONBURT, AICP

**LOCATION:** Tax Lot 700 and 800, Assessor's Map Page 38-1W-16AB, 3651 and 3657 Hilsinger Road.

**ZONE:** Rural Residential (RR-2.5)

**HEARING DATE:** June 19, 2006

**REQUESTS:** The application proposes annexation of two tax lots with a total of 2.97 acres and a zone change from County RR-2.5 (Rural Residential – 2.5 acre minimum) zoning to City R-1 (Single-Family Residential) zoning. The application was initially received, and a fee paid (receipt #39763), on March 29, 2006. All surrounding lands are zoned R-1 and within the Phoenix City Limits.

### I. PROJECT INFORMATION:

#### A. Surrounding Lane Uses:

North: Garden O`Gold Subdivision; 8,000+ square-foot lots

South: April Addition Subdivision; 8,000+ square-foot lots. Two non-subdivided residential parcels containing 24 and .40 acres are between a portion of the subject parcel and April Addition.

East: Central Oregon & Pacific Railroad to the east of the Colver Road. Hidden Park Estates is east of the railroad right-of-way, having 6,000+ square-foot lots.

West: Coral Gardens Subdivision; 8,000+ square-foot lots. Tax Lot 2100 (.46 acre) is an undivided residential parcel.

#### B. Site Characteristics:

Size: 2.97 acres

Terrain: Predominantly level.

Water supply: Private wells. Upon annexation, water service will be available from the City of Phoenix. The wells can continue to be used for irrigation, but they will need to be equipped with backflow prevention devices.

Access: The existing dwelling receives access from Hilsinger Road, a local street. The property also fronts on Colver Road, a collector street. The applicant intends to dedicate additional right-of-way and construct urban half-street improvements. The City has requested a transfer of jurisdiction. The applicant will be required to meet City standards on improvements.

**C. Comprehensive Plan Designation:**

Low Density Residential

**D. Property Zoning**

RR-2.5 (Single-Family Residential)

**II. DETAILED PROJECT DESCRIPTION:**

The application was initially received, and a fee paid (receipt #39763), on March 29, 2006. Tax lots 700 and 800 are in the Urban Growth Boundary and are surrounded by lands already annexed.

Notice regarding this project was mailed on May 2, 2006, to all parties included on the required notice list provided by the applicant.

**III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:**

The following section of the Phoenix Land Development Code (PLDC) provides the criteria under which the Planning Commission shall approve, approve with conditions or deny the request.

***4.7 – Approval Criteria for Quasi-Judicial Amendments***

***A. General Approval Criteria.*** *The City may approve, approve with conditions, or deny a quasi-judicial amendment based on all the following approval criteria:*

***Quasi-Judicial Amendments:***

- 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;*
- 2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;*
- 3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 Transportation Planning Rule Compliance, as applicable.*

***Transportation Planning Rule Compliance***

1. *When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. Significant means the proposal would:*
  - A. *Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of collector street classification, requiring a change in the classification to an arterial street, as identified by the Comprehensive Plan and the Transportation System Plan; or*
  - B. *Change the standards implementing a functional classification system; or*
  - C. *Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*
  - D. *Reduce the level of service of the facility below the minimum acceptable level identified in the Comprehensive Plan and the Transportation System Plan.*
  
2. *Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:*
  - A. *Limiting allowed land uses to be consistent with the planned function of the transportation facility; or*
  - B. *Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,*
  - C. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.*

**Oregon Revised Statutes Chapter 222.120:**

ORS 222.120 establishes the procedures for annexation without election by city electors:

1. *Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.*
2. *When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.*
3. *The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.*
4. *After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:*
  - a. *Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;*
  - b. *Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS*

- 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or*
- c. Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.*
  - 5. If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.*
  - 6. The ordinance referred to in subsection (4) of this section is subject to referendum.*
  - 7. For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.*

It is the applicant's burden of proof to demonstrate that they have met all of the above criteria.  
In the following element, Staff will not rehearse every criterion, but rather point out only those of the above criteria where potential issues arise.

#### **IV. ANALYSIS:**

The proposed annexation and zone change are consistent with the City's Comprehensive Plan. Chapter 251.100 outlines the annexation process, and permits the applicant to follow the statutory procedures in ORS 222. The statutes provide a process that result in a quick progression from Council decision to final annexation instead of going through a contract annexation process.

The proposed annexation and zone change are straightforward. The annexation is consistent with other "island" annexations where all surrounding parcels are already in the city, and will permit the applicant to request urban-level development. The City Council annexed similar parcels in the past on its own motion, but permitted property owners to opt out of the process if they were unwilling to annex. The applicant exercised that option, but has now decided to request annexation. The zone change simply applies the R-1 zoning found on the surrounding parcels and does not involve a Comprehensive Plan Amendment.

Because no changes are proposed to the comprehensive plan, the proposed zone change will not change the functional classification of any transportation facilities. Therefore, the Transportation System Plan is unaffected by the annexation and zone change. The applicant's findings include an evaluation of the availability of urban services to the site, their availability, and the cost of extension or improvement. None of the agencies who

responded to the request for comment indicated any impediments to providing urban services to the site.

**IV. CONCLUSION:**

The proposal to proceed with Annexation and a Zone Change to R-1 has demonstrated compliance with the approval criteria.

**VI. RECOMMENDATION:**

The Planning Commission held a public hearing on May 23, 2006, and recommends approval of Annexation and Rezoning. Staff recommends approval of the Annexation and Rezoning.



PLANNING DEPARTMENT

510 West 1<sup>ST</sup> Street • Phoenix, OR 97535  
(541) 535-2050 • FAX (541) 535-5769

**EXHIBIT "A"**  
**CITY OF PHOENIX**  
**PLANNING COMMISSION**

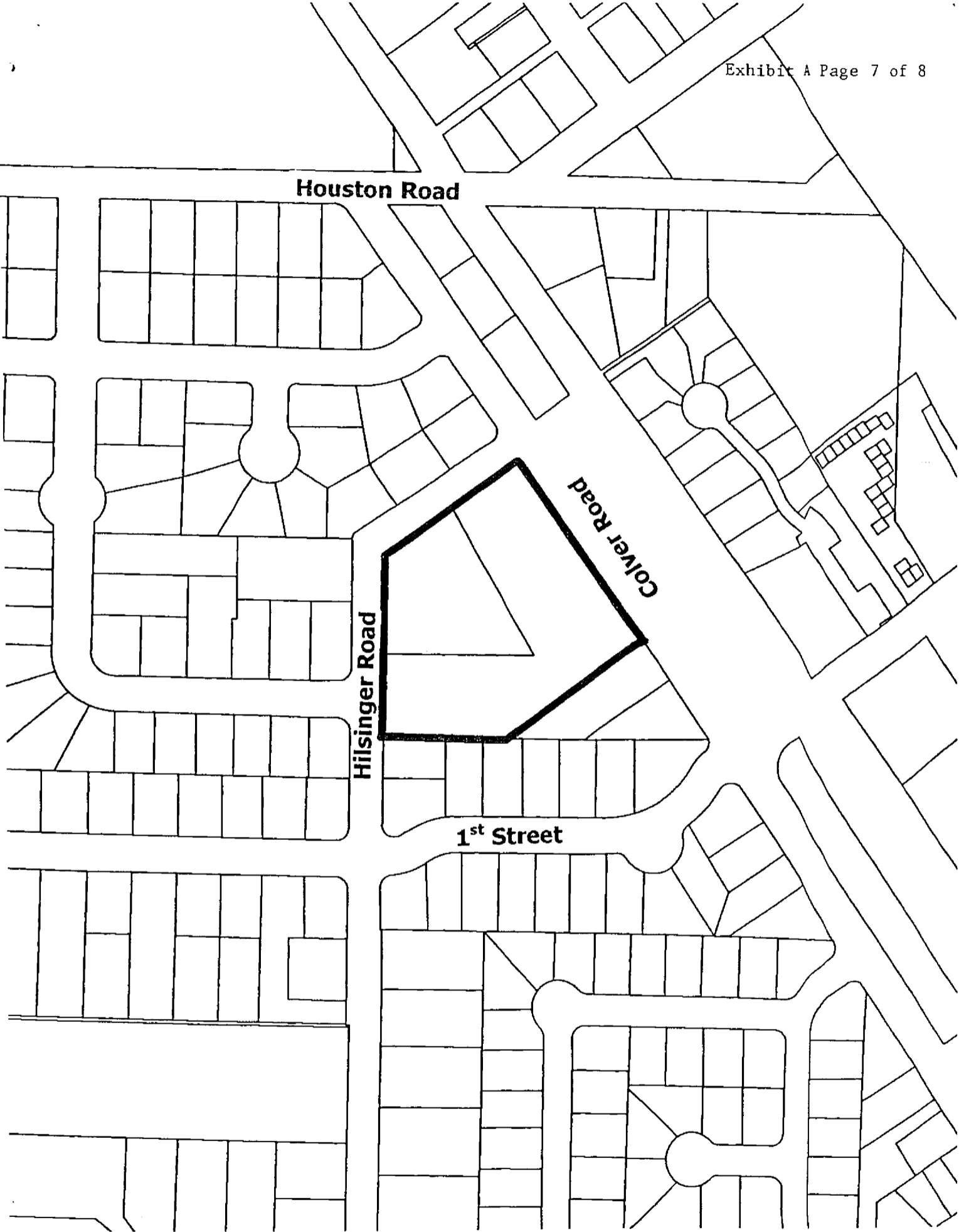
**FILE NUMBER: A06-01, ZO06-01**

**APPLICANT: JERRY LAWRENCE**

**LOCATION: Tax Lots 700 and 800, Assessor's Map Page 38-1W-16AB, 3651 and 3657  
Hilsinger Road.**

**THE FOLLOWING CONDITIONS APPLY TO APPLICATION:**

1. The plans and all stipulations included in the applicant's submittal shall be completed as proposed unless modified by the following conditions.
2. Upon annexation, development of the property shall be subject to City standards.
3. This annexation is being processed as a conventional annexation. The property owner shall sign an Annexation Agreement prior to the recording of the annexation.
4. The property shall be rezoned R-1, Low Density Residential under the Phoenix Land Development Code.
5. The extension of utilities to serve the subject property shall be the responsibility of the property owner.
6. All street frontages shall be included as part of this annexation.
7. The property shall be withdrawn from Jackson County Fire District No. 5.
8. This property will be served by Rogue Valley Sewer Services. A sewer connection must be done in accordance with RVS standards.





**TRACT B:**

Commencing at the southwest corner of Lot 6 in HILSINGER SUBDIVISION in Jackson County, Oregon, according to the official plat thereof, now of record, thence North 0°03' East along the west boundary of said Lot 6 a distance of 140.0 feet to the true point of beginning; thence East 243.0 feet; thence North 28° 40' West a distance of 280.15 feet to the north boundary of said Lot 6; thence South 54°50' West along said north boundary 132.67 feet to the northwest corner of said Lot 6; thence South 0°03' West a distance of 169.40 feet to the true point of beginning.

Account 10028100, Levy Code 4-08, Map 381W16AB 800