



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

August 29, 2007



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 005-07

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: September 10, 2007

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.**

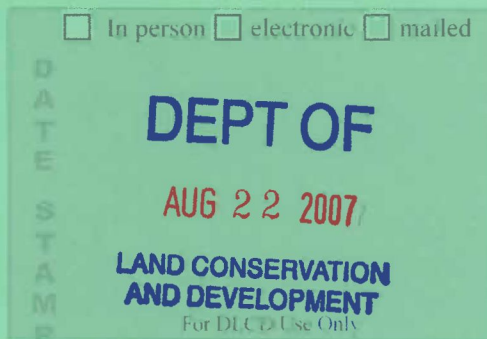
Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Charles Polk, City of Cave Junction

<paa> ya/

PROP **2**

DLCD

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: **A-443-67**

Date of Adoption: **8/13/2007**

Date Mailed: **8/20/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **5/31/2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amend zoning map from RR-5 to SR for lot annexed into City of Cave Junction.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **RR5**

to: **SR**

Zone Map Changed from: **RR5**

to: **SR**

Location: **650 Caves Highway**

Acres Involved: **1**

Specify Density: Previous: **5 acre**

New: **7,000 sq ft**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. 005-07 (16145)

Accom.

ORDINANCE NO. 506-1

AN ORDINANCE PROCLAIMING THE ANNEXATION OF A CERTAIN PROPERTY TO THE CITY OF CAVE JUNCTION, JOSEPHINE COUNTY, OREGON AND AMENDING ORDINANCE 242 REGARDING THE BOUNDARIES OF THE ZONING MAP OF THE CITY OF CAVE JUNCTION.

THE CITY OF CAVE JUNCTION ORDAINS AS FOLLOWS:

Section 1. That by Ordinance No. 506 adopted by the Common Council of the City of Cave Junction and approved by the Mayor of the City of Cave Junction on the 11th day of June, 2007, the Council provided that no election should be held within the corporate limits of the City of Cave Junction for the submission to the legal voters of said City, the question of whether or not the hereinafter described property should be annexed to the City of Cave Junction, but provided in lieu thereof, a hearing should be held at the approximate hour of 7:00 p.m. on the 23rd day of July, 2007 in the Council Chambers of City Hall, Cave Junction, Josephine County, Oregon, by the Common Council on the question of whether or not the hereinafter described real property should be annexed into the City of Cave Junction and said hearing was held at the said time and place as provided by Ordinance No. 506.

Section 2. At the said public hearing on the 23rd day of July, 2007, the Common Council determined and does hereby determine that in its judgement, the real property hereinafter described should be annexed to the City of Cave Junction, Josephine County, Oregon, and that it is to the best interest of the City of Cave Junction, and the inhabitants thereof, that the said property should be annexed to the City of Cave Junction, Josephine County, Oregon, and that said property is located in Josephine County, Oregon, and is described as follows:

Parcel: Assessor's Map: 39-08-22-CA
Tax Lot: 2002

Legal Description: The legal description of the parcel is attached as Exhibit "B" of this ordinance.

Section 3. That in previous Ordinance No. 506, the submission of the question of said annexation to the registered voters by election was thereby dispensed with and it further appearing that there be no good reason or protest against said annexation and that the provisions of annexation under ORS 222.170 were complied with and the Common Council of the City of Cave Junction does hereby ordain that the above described property by annexed to the City of Cave Junction, Josephine County, Oregon, on the following terms and conditions:

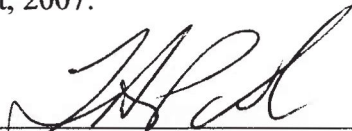
1. Property to be annexed as Single Family Residential (SR).
2. Any and all charges incurred by the City for the annexation of the above described property shall be at the property owner's expense (advertising, recording, etc.).
3. The address of said proper property shall be 650 Caves Hwy.

Section 4. The parcel of land identified as Assessor's Map 39-08-22-CA, Tax Lot 2002, is hereby rezoned from Josephine County Zone Rural Residential 5 (RR5) to City of Cave Junction Zone Single Family Residential (SR) and the City Zoning Map is hereby amended.

Section 5. 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 13th day of August, 2007.

SUBMITTED TO AND APPROVED by the Mayor of the City of Cave Junction this 14th day of August, 2007.

Signed: 
TONY PAULSON, Mayor

Attest: 
CHARLES J. POLK, Recorder

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EXHIBIT "A" of Ordinance 506-1

Parcel: Assessor's Map 39-08-22-CA

Tax Lot 2002
650 Caves Hwy

EXHIBIT "B" of Ordinance 506-1

Parcel: Assessor's Map: 39-08-22-CA

Tax Lot: 2002

Legal Description: A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 22, Township 39 South, Range 8 West of the Willamette Meridian, Josephine County, Oregon, described as follows:

Commencing at the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 22; thence East along the North line of said legal subdivision, 187 feet; thence South 0°03'40" East 450 feet to the Southwest corner of property described in Volume 246, Page 93, Josephine County Deed Records, the true point of beginning; thence South 89°30' East 110 feet to the Southeast corner of said property described in Volume 246, Page 93, Josephine County Deed Records; thence South 0°03'40" East 406 feet, more or less, to the North line of the Oregon Caves Highway; thence North 68°43'40" West along said North line 125 feet, more or less, to a point which bears South 0°03'40" East 381.58 feet from the true point of beginning; thence North 0°03'40" West 381.58 feet to the true point of beginning.

EXCEPTING THEREFROM the North 50 feet thereof.

ALSO: A parcel of land in the Northeast Quarter of the Southwest Quarter of Section 22, Township 39 South, Range 8 West, of the Willamette Meridian, Josephine County, Oregon, more particularly described as follows: Commencing at the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 22; thence South 89°30' East 306.00 feet along the North line of the Northeast Quarter of the Southwest Quarter of said Section 22; thence South 0°03'40" East 450.00 feet to the true point of beginning; thence South 0°03'40" East 423.12 feet to an iron pipe on the northerly boundary of Oregon Caves Highway; thence South 68°44' East 15.03 feet along the Northerly boundary of Oregon Caves Highway; thence North 0°03'40" West 428.45 feet; thence North 89°30' West 14.00 feet to the true point of beginning.

EXCEPTING THEREFROM the North 50 feet thereof.



JOSEPHINE COUNTY OFFICIAL RECORDS
GEORGETTE BROWN, COUNTY CLERK

2007-015978



\$40.00

00183596200700159780050054

08/15/2007 10:06:05 AM

DEE-CIO Cnt=1 Stn=4 RECEIPTS

\$25.00 \$11.00 \$4.00

Accom.

40-

**Josephine County
Clerk & Recorder's Office**

**CERTIFICATE
PAGE**

This page **MUST** be included
if document is re-recorded.

DO NOT remove from original document.
City of Cave Junction - Ordinance No. 506-1

July 16, 2007

Date of Hearing: Monday, July 23, 2007 @ 7:00 p.m.
Application: Annexation Request by Robert D. Johnson-650 Caves Hwy (39-08-22-CA TL 2002)
Prepared By: Dick Converse, Rogue Valley Council of Governments/Helen Early, Planning Clerk

1.0 REQUEST

An application and notarized consent to annex were submitted by Robert D. Johnson for property located at 650 Caves Highway more particularly described as part of Assessor's Map 39-08-22-CA, Tax Lot 2002. Applicant's reason for annexation is to partition the lot.

2.0 APPROVAL CRITERIA

- 2.1 City of Cave Junction and Josephine County Intergovernmental Agreement
- 2.2 Oregon Revised Statutes *ORS Chapter 222.005 - 222.183*
- 2.3 Cave Junction Municipal Code 17.60.040 "*Zoning of Annexed Areas*"
- 2.4 City of Cave Junction Comprehensive Plan
- 2.5 Illinois Valley Fire District - Uniform Fire Code
- 2.6 City of Cave Junction Transportation System Plan
- 2.7 State of Oregon Transportation Planning Rule.

2.1 CRITERIA

1. ***City of Cave Junction and Josephine County Intergovernmental Agreement***
"Annexations to the City of Cave Junction shall be approved only upon findings that urban level services can be provided. Any and all water service made available to annexed property shall be done at the property owners expense, including all main charges and connection fees. Any and all streets installed on annexed property shall be at the complete expense of the property owner and shall meet all city specifications"
2. ***Oregon Revised Statutes 222.111***
Authority and procedure for annexation. (1) *When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.*
3. ***City of Cave Junction Comprehensive Plan - Goal 14 Policies*** (approved by DLCD 11/20/01)
 1. *Land within the Urban Growth Boundary shall be available for annexation to the City as services can be economically provided;*
 2. *Before land is annexed to the City, the owner must demonstrate to the City that urban services are available to the property or that the owner will pay the costs of service extensions;*
 3. *The City limits of Cave Junction shall be contiguous;*
 4. *Islands of county property within the city limits shall be annexed into the City as rapidly as possible;*
 5. *Annexation of county property within the city limits shall be given top priority;*
 6. *A change in the Urban Growth Boundary shall constitute a major plan amendment;*
 7. *All land use actions on unincorporated lands within the Urban Growth Boundary shall be subject to the joint management agreement with Josephine County for planning coordination. This agreement is adopted into this plan.*

3.0 FINDINGS

3.01 Current and Comprehensive Plan Zoning

Tax Lot 2002 is currently zoned Rural Residential 5 (RR5) and is within the urban growth boundary. It is contiguous with Tax Lots 800, 900 and 904 to the north, which are located in the city, across Caves Highway, a public right of way. It is in the Comprehensive Plan to become Single Family Residential (SR).

Current Adjacent Zoning

North: County RR5

East: County RR5

West: County RR5

South: City - Public

Comprehensive Plan Zoning

Single Family Residential (SR)

Single Family Residential (SR)

Single Family Residential (SR)

Public

3.02 Existing Structure(s)

There are five structures on the property, which includes a single family residence built in 2006, two detached garages, and out buildings. All structures conform to city setbacks.

3.03 Water

Tax Lot 2002 has a well, and does not have city water services. Water services are available by extension of the main line at property owner's expense. There is a eight inch water main line at Caves Highway and N. Old Stage Rd., which is 1275 ft from the west boundary of the property. There is also a six inch water line at Frederick Court that is 970 ft from the west boundary of the property. Water extension would require tying into both lines in order to provide water circulation. The city's water system is adequate to provide service to the property.

3.04 Sewer

Tax Lot 2002 has a septic system and does not have city sewer services. City sewer service is available by extension of the main sanitary sewer line at property owner's expense. The nearest sewer line is at Frederick Ct., 1000 ft from the west boundary of the property. The sewer system can accommodate the proposed annexation.

3.05 Street and Access

Access to subject property will be from Caves Highway, which is under the jurisdiction of the Oregon Department of Transportation. The driveway approach is paved

3.06 Notice of Public Hearing

On May 31, 2007 a copy of the Annexation Request, Owner Consent, and Assessor's Map was mailed to the Department of Land Conservation and Development (DLCD). The City has received no comment from DLCD.

On 6/7/07, a copy of the Annexation Request, Owner Consent, Property Description (Deed) and Assessor's Map was mailed to the Oregon Department of Revenue; IV Fire District; Josephine County Planning; Oregon Department of Transportation; the Josephine County Assessor. A "notice of public hearing" and Assessor's map was mailed to all property owners within 300 ft of subject property; published in the Illinois Valley News and posted at the County Building, U. S. Post Office and Home Valley Bank.

4.00 CONCLUSION

Subject property is located within the Cave Junction Urban Growth Boundary and the area is contiguous with the existing City boundary. The proposed annexation meets all necessary requirements and criteria in order to be in compliance with requirements of the Oregon Statutes. Public utilities and services are adequate to accommodate urban levels of development on the property. Upon approval of the annexation, the property will be designated as Single Family Residential (SR), which is consistent with the Comprehensive plan.

PUBLIC HEARING - ANNEXATION (Johnson - 650 Caves Hwy): The application for annexation submitted by Robert Johnson for his property at 650 Caves Hwy and the approval criteria was briefed. Documentation provided included the application, map, owner's consent, legal description, staff report and email objection from Holger Sommer.

- *No objections were made relating to the Council's jurisdiction to hear the matter.*
- *No council members abstained or were determined to be unable to be impartial.*
- *No council members had any prior contact with applicant.*
- *No council members had visited the site, although Tony and Margaret announced they had driven by the lot.*

Helen read the criteria, findings and conclusion as presented in the staff report. Lynne requested clarification on if others property owners who were not near the services could connect to them and if it would help others along the way. Helen responded that services, if installed, would then be available and it would depend on filing for reimbursement. The public hearing as set by Ordinance 506 was opened.

Robert Johnson, applicant, 650 Caves Hwy, was present and requested and received clarification regarding the requirement to install water and sewer lines to his property, relating his understanding that if he wasn't within 300 feet, he was not required to tie into the city's water and sewer. This was confirmed as being true. Robert stated his intent to do a lot split if possible, to build a second house in the back to live in and to rent or sell the front residence. No additional testimony in support of the application was offered. Testimony in opposition was requested.

Holger Sommer, 2000 Hugo Road, Merlin, announcing he was not particularly opposed to proposal but identified his opposition to the process. He stated his belief that the applicant was misled that he did not have to tie into city services if and when he splits his lot and second, that water/sewer cannot be provided because the lot is further than 300 feet. He also expressed his opinion that the City does not provide police protection so the annexation cannot be approved. He withdrew two issues related to noticing to DLCD and the contiguous status of property identified in his previous email.

Robert Johnson requested verification on the requirement to connect to city services, stating if he had to connect, he would withdraw his request. It was verified that he would not be required to connect to city services.

In rebuttal testimony, **Robert Johnson** responded that he had checked all the appropriate agencies and septic and well options were available and possible.

No additional testimony was offered and the public hearing was closed.

Lynne made a motion to deny the annexation. The motion died for the lack of a second. Dan made a motion to approve the annexation. The motion carried 5-0 on a roll-call vote with Dan, Margaret, Russell, Lynn and Tony voting in assent.

PUBLIC HEARING - ORDINANCE 506-1 (Annexation and Amend Zoning Map): Tony made a motion to dispense with the reading of the exhibits of the Ordinance. The motion carried 5-0 on a roll call vote, with Dan, Margaret, Lynne, Russell and Tony voting in assent. Ordinance 506-1, proclaiming the annexation of a certain property and amending Ordinance 242, regarding the boundaries of the zoning map of the City, was read once in full without the exhibits and once by number and title only. This was the first reading of the Ordinance. The hearing was opened. No testimony was offered and the hearing was continued to the next meeting for the second reading.