



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/14/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Cave Junction Plan Amendment
DLCD File Number 001-09

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: Wednesday, August 26, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Helen Early, City of Cave Junction
Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative

<paa> YA

FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

AUG 07 2009

**LAND CONSERVATION
AND DEVELOPMENT**

▲ For DLCD Use Only

**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-235-89**

Date of Adoption: **7/27/09**

Date Mailed: **8/5/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: **5/7/09**

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".

Amended the Comprehensive Plan Map and Zoning Map from Multiple Family Residential to Public for 1400 N. Sawyer Ave., which is adjacent to the City's Wastewater Treatment Plant. The City purchased the lot in order to increase future wastewater holding and drying bed capacity.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **MR**

to: **P**

Zone Map Changed from: **MR**

to: **P**

Location: **1400 N. Sawyer Ave.**

Acres Involved: **3.5**

Specify Density: Previous: **7,000 sq ft**

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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. 0001-09

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Cave Junction, Josephine County, State of Oregon Department of Environmental Quality, Oregon Department of Transportation, Fish and Wildlife, Department of State Lands

Local Contact: **Helen Early**

Phone: (541) 592-2156 Extension:

Address: PO Box 1396

Fax Number: - -

City: Cave Junction

Zip: 97523

E-mail Address: cjplanning@cavenet.net

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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing larry.french@state.or.us.
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 now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also 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 - **Attention: Plan Amendment Specialist.**

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

**Regarding: Zone Change -1400 N. Sawyer Ave.
(Multiple Residential District to Public Uses District)**

**Property Owner: City of Cave Junction
Applicant: City of Cave Junction**

This request came before the Common Council of the City of Cave Junction on July 13, 2009 and July 27, 2009 for a public hearing at the request of the City of Cave Junction who requested approval of a zone change from Multiple Residential (MR) to Public Uses (P) for 1400 N. Sawyer Ave., more particularly described as 39-08-16 TL 809.

There being no objection to the authority of the Council to hear the matter, 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 17.18.010 - Purpose of the Public Uses District
- 1.2.2 Municipal Code 17.18.020 - Permitted Uses
- 1.2.3 Municipal Code 17.24.010 - Purpose of the Multiple Residential Dist
- 1.2.4 Municipal Code 17.14.510 - Criteria for a Zone Change
- 1.2.5 City of Cave Junction Comprehensive Plan
- ODOT Access Management Administrative Rule 734-051
- Illinois Valley Fire Protection District

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

2.1 TESTIMONY:

1.1 Written and oral testimony from staff, who discussed the salient aspects of the application from written staff report;

2.1. Oral testimony from John Bowler, PO Box 3151, Kerby 97531

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

3.1 CURRENT ZONING/COMPREHENSIVE PLAN

Current Zone: MR (Multiple Residential)

Comprehensive Plan: MR (Multiple Residential)

3.2 Proposed Zoning/Comprehensive Plan

Proposed Zone: P (Public Uses)

Proposed Comprehensive Plan: P (Public Uses)

3.3 Consistency with 2000 Comprehensive Plan

3.3.1 Goal #2 - Land Use Planning: The Comprehensive Plan Land Use Plan Map which indicates anticipated location of various Public uses, would be amended to accommodate the new Public Zoning. 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. The parcel's proximity to the city's sewer lagoon and its easement access across City property diminishes its desirability for residential use.

3.3.2 Goal #6 - Air, Water, & 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. Providing additional land for wastewater treatment facilities protects Cave Junction's future.

3.3.3 Goal #8 - 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 of 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. The proposed Public zone will provide a buffer between more intensive urban uses and the golf course.

3.3.4 Goal #9 - Economy of the State: The property has a Multiple Residential Comprehensive Plan designation, having been changed from a Commercial designation that reflected its past use as a radio station. The radio station was abandoned and the property has not been actively used since, and 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 updated Housing Element states:

Approximately 1524 acres are included in the city and urban growth boundary. Nearly 1000 acres are vacant or have room for additional dwellings where one already exists. Oregon's handbook for developing buildable lands inventories suggests subtracting between 23 and 31 percent for future streets and public facilities. Even subtracting the highest percentage leaves 644 acres available for residential development. The City anticipates a density of six units per acre, resulting in a capacity of 3864 homes. At a rate of 2.13 persons per household, more than 8230 additional residents could be accommodated on available land, for a total population of 9645 residents in the urban growth boundary. This is more than five times the projected 2017 population of 1800 shown in the transportation system plan.

The previous finding is made without consideration of additional densities that could be realized through development of high-density residential uses. It is clear that applying a Public Uses zoning designation to the property will not significantly reduce the city's 20-year housing potential.

3.3.5. Goal #11 - Public Facilities and Service - Government, Civic, Social Organizations and Churches. The City's expanded water and sewage treatment facilities were completed in the late 1990s. Tax Lot 809 is adjacent to the sewage treatment lagoons and can be used in conjunction with the treatment plant. A 6-inch water line crosses the property.

The Illinois Valley Fire District provides Fire Protection and has no concerns at this time. The urban area has a fire insurance rating of 5. Police protection is provided through a contract with the Josephine County Sheriff's Office

3.3.6 Goal #12 - 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 a September 29, 2006, comment, ODOT stated that it had no concerns with the proposal for multi-family housing. The Public zone wastewater treatment use will generate less traffic than residential uses.

3.3.7 Goal #14 - Land Use and Urbanization - Land Use Designation
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, but the parcel's proximity to the city's sewer lagoon and its easement access across City property diminishes its desirability for residential use.

3.4 Consistency with the Zoning Ordinance

- 3.4.1 Section 17.24.010 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.
- 3.4.2 Section 17.18.010 states that the purpose of the Public Uses District is to provide for the uses of various units of government as they serve the public interest. Generally, the land and waters of the Public Uses district will be in Public ownership. Uses in the P district are to operate with buffering or other mitigating measures so they are compatible with adjacent residential and commercial areas and special features of the environment.
- 3.4.3 Section 17.14.490 establishes the criteria for an amendment, which are listed in Section 2 and addressed in Section 3 of this report.

4. CONCLUSION: The proposed comprehensive plan amendment and zone change is the result of the applicant's desire to bring the zoning of the property into compliance with the actual use.

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 Margaret Miller and a vote of 5-0, approved the request for the zone change from Multiple Residential (MR) to Public Uses (P) for the property located at 1400 N. Sawyer Ave., 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
John Bowler	PO Box 3151 Kerby , OR 97531

(13)

(1)

For Accom

ORDINANCE NO. 522

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

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WHEREAS, the Common Council of the City of Cave Junction approved the zone change requested by the City of Cave Junction, 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 re-zoned from City of Cave Junction Zone Multi-Family Residential (MR) to City of Cave Junction Zone Public (P) 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 27th day of July, 2009.

SUBMITTED TO AND APPROVED by the Mayor of the City of Cave Junction this 28th day of July, 2009.

Signed: *Donald G. Moore*
DONALD G. MOORE, Mayor

Attest: *Charles J. Polk*
CHARLES J. POLK, Recorder

JOSEPHINE COUNTY OFFICIAL RECORDS
ART HARVEY, COUNTY CLERK **2009-012413**
DEE-CIO
Cm=1 Pgs=3 Str=4 RECEIPTS 07/31/2009 10:49 AM
\$15.00 \$11.00 \$4.00 Total: \$30.00



I, Art Harvey, County Clerk, certify that the within document was received and duly recorded in the official records of Josephine County.

This instrument filed for record as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.
First American Title Co.

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-EXHIBIT "A" of Ordinance 522

Parcel: Assessor's Map 39-08-16

Tax Lot 809
1400 N. Sawyer Avenue

(3)

EXHIBIT "B" of Ordinance 522

Parcel: 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:

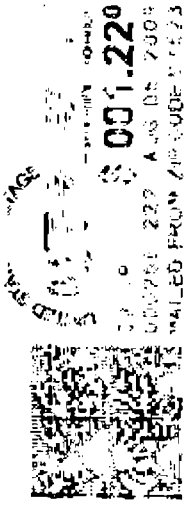
Commencing at the Southwest corner of the North Half of the South Half of said D.L.C. No. 43; thence along the West line of said D.L.C. No. 43, North 0° 15' 48" West 51.83 feet; thence South 89° 04' 51" East 5 feet to an iron rod; thence parallel with said West line, North 0° 15' 48" West 1273.10 feet 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.

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Attention Van Amendment Specialist
Dept of Land Conservation & Dev,
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540