

ORDINANCE BILL NO. 16-21

AN ORDINANCE DECLARING AND PROCLAIMING CERTAIN TERRITORY LOCATED AT 4120 FISHER ROAD NE AND ADJACENT LANDS, NE, ANNEXED TO THE CITY OF SALEM, PRESCRIBING ZONING, AND WITHDRAWING THE TERRITORY FROM THE EAST SALEM SEWER AND DRAINAGE DISTRICT AND MARION COUNTY FIRE DISTRICT #1

The City of Salem ordains as follows:

Section 1. Findings.

(a) **Petition.** On November 27, 2019, Josh Wells of Westech Engineering, Inc., filed an application for an annexation with concurrent zone change and submitted a valid triple majority petition on behalf of applicant and petitioner Kahala Development LLC (Trong (Tony) Truong, Melissa Truong, and the T&L Family Limited Partnership) for certain real property located at 4120 Fisher Road NE and Adjacent Lands (the Territory), as more particularly described in “Exhibit A,” which is attached hereto and incorporated herein by reference.

(b) **Exemption from Voter Approval.** State law (ORS 222.111 to 222.180) was amended in 2016 through Senate Bill 1573 to prohibit cities that have voter approved annexation from submitting an annexation decision to the voters if all of the owners of the property proposed to be annexed have submitted the annexation petition. The law further specifies that in order for the voter approval prohibition to apply, the territory proposed for annexation must be included within an urban growth boundary, subject to an acknowledged comprehensive plan upon annexation, and contiguous to the city limits, and the proposal shall comply with all other requirements of the city’s ordinances.

The annexation is subject to the requirements of Senate Bill 1573 because all the owners of the property have applied for annexation, and the annexation may not be referred to the voters for approval as set forth below:

(1) The territory is within the Salem Urban Growth Boundary (UGB).

(2) The territory is currently subject to the acknowledged Salem Area Comprehensive Plan, and will continue to be subject to the Plan upon annexation.

1 (3) The territory is contiguous to the city limits.

2 (4) The proposal conforms to all other requirements of the city's ordinances.

3 **(c) Hearing and Decision.** The Council held a duly advertised public hearing on
4 November 22, 2021, and received evidence and testimony regarding whether the
5 Petitioner signed a valid triple majority petition for annexation of the Territory; whether
6 the proposed annexation of the Territory was exempt from a vote of the people pursuant
7 to Senate Bill 1573(2016); whether the proposed annexation of the Territory, including
8 the change in zoning from Marion County Urban Development (UD) to City of Salem
9 Multiple Family Residential-I (RM-I) upon annexation, complied with SRC Chapter 260
10 and the applicable land use and other criteria; and whether the withdrawal of the Territory
11 from the East Salem Sewer and Drainage District and Marion County Fire District #1 (the
12 Districts) upon annexation would be in the best interest of the City. At the conclusion of
13 the public hearing, after due consideration of the evidence and testimony, the Council
14 adopted Order No. 2021-5 ANX as its final decision and findings determining that the
15 proposed annexation is exempt from voter approval because it meets the requirements of
16 Senate Bill 1573(2016); the proposed annexation of the Territory, including land use
17 designations, complies with SRC Chapter 260 and the applicable land use and other
18 criteria; and the withdrawal of the Territory from the Districts would be in the best
19 interest of the City.

20 **(d) Additional Finding.** The Council finds that the Petitioner signed a valid triple
21 majority petition for annexation of the Territory.

22 **(e) Withdrawal from Special Districts.** After due consideration of the evidence and
23 testimony, the City Council finds it is in the best interest of the City to withdraw the
24 Territory from the East Salem Sewer and Drainage District and Marion County Fire
25 District #1, and to provide the Territory with city services because the public good of the
26 City and the citizens residing in the annexed Territory would be best served if the citizens
27 residing in the Territory receive city services without the problems attendant with
28 coordination that would result from the Territory being subject to the jurisdiction of
29 overlapping urban service providers. It would not be in the best interest of the City for
30 the citizens residing in newly annexed Territory to pay both City taxes and an additional

1 assessment to the East Salem Sewer and Drainage District and Marion County Fire
2 District #1 to receive services that may readily be supplied by the City without such
3 additional taxation. Leaving the Territory in the East Salem Sewer and Drainage District
4 and Marion County Fire District #1 would lead to a fragmented approach to delivery of
5 public services, unequal tax bases, and resistance to cooperation. Withdrawal would
6 promote efficiency, economy, and sound management in the provision of urban services
7 for newly annexed Territory, and the Territory should be withdrawn from the Districts.

8 **Section 2. Annexation.** The Territory described in “Exhibit A” is hereby annexed to the City of
9 Salem, Oregon.

10 **Section 3. Land Use Designations.** The Territory is designated “Multi-Family Residential” on
11 the Salem Area Comprehensive Plan, and the Plan Map. The zoning of the portion of the
12 Territory is prescribed as “Multiple Family Residential-I.” The Planning Administrator shall add
13 to the official zoning map the Territory herein annexed.

14 **Section 4. Withdrawal.** The Territory is hereby withdrawn from the East Salem Sewer and
15 Drainage District and Marion County Fire District #1, such withdrawal to be effective upon, and
16 contemporaneous with, the date of annexation.

17 **Section 5.** The City Recorder shall submit a copy of this ordinance and such other information
18 as ORS 222.177 requires to the Oregon Secretary of State, and shall provide the notice and
19 reports required by ORS 222.005(1) and ORS 222.010 to the person or entities described therein.

20 PASSED by the City Council this _____ day of _____, 2022.

21 ATTEST:

22
23
24 City Recorder

25 Approved by City Attorney: _____

26
27 Checked by: P. Cole
28
29
30