

**BEFORE THE CITY COUNCIL
OF THE CITY OF SALEM, OREGON**

IN THE MATTER OF THE	)	ORDER NO. 2018-05-ANX
CITY-INITIATED HEALTH HAZARD	)	
ANNEXATION OF TERRITORY	)	FINAL ORDER ADOPTING THE
LOCATED AT	)	FINAL DECISION AND FINDINGS OF
3641 BOONE ROAD SE	)	COMPLIANCE WITH SRC CHAPTER 260
	)	IN ANNEXATION CASE NO. C-720

Whereas, on July 9, 2018, after due notice was given, the City Council of the City of Salem held a public hearing to take testimony and evidence on annexation proposal (the Annexation Proposal), as required by SRC 260.060(a); and

Whereas, after receiving evidence and hearing testimony, and upon consideration of the Staff Report and Recommendation, and being fully advised, the City Council hereby finds that the Annexation Proposal complies with SRC 260.060(c); and

Whereas, a majority of the property owners constituting a majority of the electors of the Territory have signed a valid consent for annexation of the Territory (Exhibit A), in conformance with Oregon Revised Statutes (ORS) Chapter 222; and

Whereas, the annexation proposal meets the requirements of SRC 260.020(b) as a health hazard (septic failure) annexation, and is therefore exempt from voter approval; and

Whereas, the public interest would be furthered by the annexation; and

Whereas, the Comprehensive Plan designation will not be changed and the zoning designation will be the equivalent zoning that is consistent with the Comprehensive Plan set forth in SRC 260.045 and Table 260-1 of SRC Chapter 260; and

Whereas, the withdrawal of the Territory from Salem Suburban Rural Fire District is in the best interest of the City; and

Whereas, the property owner has requested that the effective date of annexation shall be delayed three years from the date the City Council proclaims the annexation approved; and

Whereas, this FINAL ORDER constitutes the final land use decision in the Annexation Proposal and any appeal hereof must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal, as provided in SRC 260.060(e).

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:

Section 1: Proposed Annexation C-720, of the Territory more particularly described in the attached Exhibit B, which is incorporated herein by this reference, satisfies the criteria set forth in SRC 260.060(c) and is hereby approved based on the facts and findings stated in

the attached Exhibit C, which is incorporated herein by reference.

Section 2: The 1.88-acre Territory shall, pursuant to SRC 260.045, be designated Industrial on the City of Salem Comprehensive Plan Map and be zoned Salem General Industrial (IG).

Section 3: The Territory shall be withdrawn from Salem Suburban Rural Fire District.

Section 4: The effective date of the annexation shall be delayed for three years from the date the City Council proclaims the annexation approved.

DATED this _____ day of _____, 2018.

ATTEST:

City Recorder
City of Salem

Checked by: P. Cole

City of



RECEIVED

FEB 25 2016

COMMUNITY DEVELOPMENT

PERMIT APPLICATION CENTER/CITY HALL
 555 LIBERTY STREET SE/ROOM 320
 SALEM, OREGON 97301
 (503) 588-6256
 Website: www.cityofsalem.net

PETITION AND CONSENT TO ANNEXATION
 AND WAIVER OF BALLOT MEASURE 49 CLAIMS

TO: The Honorable Mayor and City Council of the City of Salem, Marion County, State of Oregon

Carter Investments LLC (Laurence J Carter and Diana Carter, members) is/are the legal owner(s) and electors of the following described real property (the Territory) comprising approximately 1.65 acres, and located outside of, but contiguous to, the corporate boundaries of the City of Salem: 3641 Boone Road SE (Marion County Assessor's Map and Tax Lot Number 082W07C 01700).

I/WE respectfully request(s) that the Territory be annexed to the City of Salem, and by my/our signature(s) hereon, (does)(do) hereby consent to such annexation, and (does)(do) hereby request that the City Council take such steps as are necessary to determine whether the Territory should be annexed and to submit the annexation to the electors of the City of Salem, as required by Salem City Charter, Section 61.

I/WE knowingly and willingly waive(s) any and all claims that I/we might assert against the City of Salem arising out of, or resulting from, or are in any way connected to Oregon Revised Statutes 195.300 to 195.336, and that might accrue as a result of the annexation of the territory into the City of Salem, or the imposition of City of Salem land use regulations pursuant thereto, whether the claims be past, present or future. We/I hereby consent(s) to the imposition of such land use regulations that are in existence at the time of annexation, and to which the territory becomes subject as a result of the annexation into the corporate limits of the City of Salem.

Owners and Electors:

Laurence J Carter
 Owner/Elector

Address: 6220 Crooked Stick Loop SE
Salem, OR 97306
 Address

STATE OF OREGON)

County of Marion)

Signed and sworn to (or affirmed) before me on 7/24, ²⁰¹⁶~~2015~~ by Laurence J. Carter.



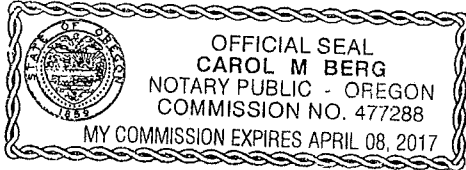
Carol M Berg
 Notary Public State of Oregon
 My commission expires: 4/8/17

Diana Carter
Owner/Elector

6220 Crooked Stick Lp SE
Salem, OR 97306
Address

STATE OF OREGON)
County of Marion)

Signed and sworn to (or affirmed) before me on 2/24, ²⁰¹⁶~~2015~~ by Diana Carter.



Carol M Berg
Notary Public State of Oregon
My commission expires: 4/8/17

Owner/Elector

Address

STATE OF OREGON)
County of _____)

Signed and sworn to (or affirmed) before me on _____, ²⁰¹⁶~~2015~~ by _____.

Notary Public State of Oregon
My commission expires:

3641 Boone Road SE

Beginning at the intersection of the West Line of that tract of land described in Reel 3583, Page 259, Marion County Deed Records, and the South Right-of-way Line of Kuebler Boulevard SE described in Reel 607, Page 488, Marion County Deed Records, said intersection being situated in the Southwest One Quarter of Section 7, Township 8 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, said intersection also being on the now existing City Limits Line; and running thence,

South 81°09' East along the South Right-of-way Line of Kuebler Boulevard SE and the now existing City Limits Line, a distance of 38.39 feet, more or less, to the East Line of that tract of land described in said Reel 3583, Page 259;

thence leaving the South Right-of-way Line of Kuebler Boulevard SE and the now existing City Limits Line South 16°47' East along the East Line of said tract, a distance of 617.89 feet, more or less, to the southeast corner of said tract, said corner being on the North Line of Henshaw Fruit Farms and is reported as being 607.05 feet, South 89°00' East from the northwest corner of said Henshaw Fruit Farms, said corner also being on the centerline of Boone Road SE;

thence South 01°00' West perpendicular to said centerline, a distance of 20.00 feet to the South Right-of-way Line of Boone Road SE;

thence North 89°00' West along the South Right-of-way Line, a distance of 72.59 feet, more or less, to an angle point in said South Right-of-way Line, said point being on the East Line of that tract of land conveyed to Marion County for public road purposes, recorded in Reel 1172, Page 113, Marion County Deed Records;

thence South 00°00' West along said East Line, a distance of 10.00 feet to the southeast corner of said tract;

thence North 89°00' West along the South Line of said tract, a distance of 147.73 feet, more or less, to the southerly extension of the West Line of that tract of land described in Reel 3583, Page 259;

thence North 00°24'30" East along said West Line extended, a distance of 30.00 feet to the southwest corner of said tract;

thence North 00°24'30" East along said West Line, a distance of 593.64 feet, more or less, to the Point of Beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

[Signature]

10-04-17

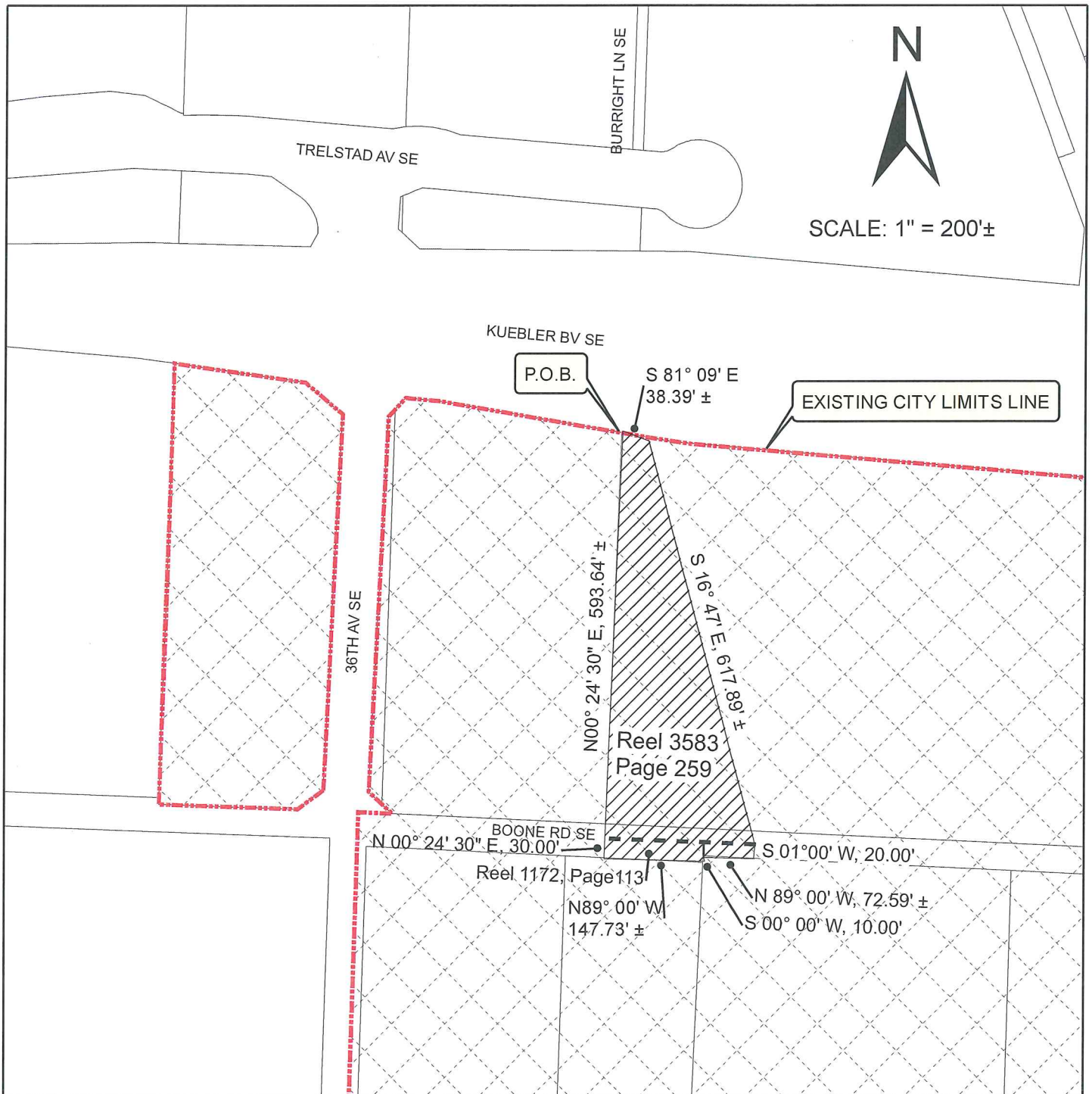
OREGON
JULY 17, 1981
GERARD A. PAPPE
1951

RENEWABLE: DECEMBER 31, 2018

Approved: *K.R.I.*
September 27, 2017
Annexation No.: C-720

DOR No.: *24-P226-2017*

DOR Date: *Oct. 17, 2017*



THIS PROPERTY IS IN THE S.W. 1/4
OF SECTION 7 AND THE NW 1/4 OF
SECTION 18, T. 8, S. R. 2, W, W.M.



Property in
County

PROPERTY PROPOSED
TO BE ANNEXED
INTO CITY

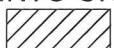


EXHIBIT MAP

**CITY OF SALEM, OREGON
PUBLIC WORKS DEPARTMENT**

3641 BOONE ROAD SE

CITY OF SALEM ORDINANCE NO. XX

ANNEXED: XXXXXX XX XXXX

CONTAINING 1.88 ACRES

ADJACENT TO WARD 3

CASE NO. C-720

TRACT NO.

EXHIBIT C, ORDER NO. 2018-05-ANX
FINDINGS:
COMPLIANCE OF ANNEXATION ANXC-720
WITH SRC CHAPTER 260 AND 260.060(c)

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

1. The proposed city-initiated annexation of that certain Territory more specifically described in Exhibit B, Council Order No. 2018-05-ANX in Annexation Case No. ANXC-720 (Territory) conforms to the following criteria found in SRC 260.060(c):

Criterion 1: The proposed land use designations are consistent with the Salem Area Comprehensive Plan and applicable Statewide Planning Goals.

Under Salem Revised Code (SRC) 260.045, territory annexed to the City is automatically given the Salem Area Comprehensive Plan and zoning designations that are equivalent to the applicable County zoning designations, as set forth in Table 260-1, unless the petitioner or City Council proposes a new Comprehensive Plan/zone designation under SRC 260.045(a).

A. **Statewide Planning Goals** -- Statewide Planning Goals applicable to the proposed annexation are:

- (1) **GOAL 9. Economic Development.** Goal 9 requires cities to provide adequate opportunities for economic activities including commercial and industrial uses. The proposed annexation is a positive factor in providing opportunities for economic activities because it will increase the inventory of land available for industrial use. The site was deemed appropriate for industrial use through previous comprehensive plan map analysis which took into account factors such as projected economic patterns, site suitability analysis, and compatibility with adjacent uses. The proposed General Industrial zone district implements the current "Industrial" Comprehensive Plan Map designation. The proposed annexation is consistent with Goal 9.
- (2) **GOAL 11. Public Facilities and Services.** Goal 11 requires a plan or program for orderly and efficient arrangements of public facilities. The city adopted a Public Facilities Plan (the Plan) consistent with Goal 11. The city applies the Plan to development of property within the city to achieve a timely, orderly and efficient arrangement of public facilities and services in a manner that supports both existing and planned growth. The Plan is implemented by the city's adopted master plans, Capital Improvement Plan (CIP), and the Urban Growth Management Process set forth in SRC Chapter 200. The Territory is outside of the Salem Urban Service Area (USA). If the property is to be developed as defined in SRC Chapter 200, an Urban Growth Preliminary Declaration will be required for the purpose of determining the necessary public facilities and services required to serve the subject property. These services will be provided, either by a future developer at the developer's

expense or by the City at public expense (under the City's adopted master plans, the CIP, etc.). The proposed annexation is consistent with Goal 11.

- (3) **GOAL 12. Transportation.** Goal 12 requires a jurisdiction to adopt a Transportation System Plan (TSP) that provides a safe, convenient and economic transportation system. The City has adopted a transportation plan acknowledged by the Oregon Department of Land Conservation and Development (DLCD) to further this goal. The TSP is applied to the transportation elements of new development under SRC Chapter 200 and other provisions of the Salem Area Comprehensive Plan and Zoning Code and to the transportation elements of the city's adopted master plans, the CIP, etc. as set forth in the discussion of Goal 11 above to provide safe and convenient pedestrian, bicycle, and vehicular circulation that is consistent with the TSP and the requirements of the State Transportation Planning Rule. As described in the finding for Goal 11 compliance above, and as described in the discussion of Criterion 3 below, the Territory will comply with Goal 12 when any new development occurs, and will be served by facilities compliant with Goal 12 to the extent that transportation-related improvements occur under the city's adopted master plans, the CIP, SRC Chapter 200 and the Zoning Code. The proposed annexation is consistent with Goal 12.
- (4) **GOAL 14. Urbanization.** Goal 14 mandates provisions for an orderly and efficient transition from rural to urban land use. The Territory is within the Salem-Keizer Urban Growth Boundary (UGB), which, by definition, makes this territory "urbanizable." The incorporation of enclave areas, including the Territory, into the overall composition of the city provides order and efficiency in the provision of municipal facilities and services as well as in the facilitation of orderly urbanization. This is because the Salem Area Comprehensive Plan (SACP), Zoning Code and other applicable implementation measures have been acknowledged as being in compliance with Goal 14 and these measures will be made applicable to the Territory upon annexation. The applicable implementation measures are designed to provide order and efficiency in the provision of facilities and services, and to facilitate orderly urbanization by uniformly integrating the Territory into the City's municipal facilities and services system. This integration would provide for a uniform rather than an isolated, discontinuous, and fragmented system of services provided to areas not within the Salem city limits. The application of the city's Goal 14 acknowledged Salem Area Comprehensive Plan, Master Plans, and implementation ordinances to the Territory furthers the conversion of urbanizable land to urban uses consistent with Goal 14 for the reasons cited above. The proposed annexation is consistent with Goal 14.

In summary, the proposed annexation is consistent with the applicable Statewide Goals.

- B. **Salem Area Comprehensive Plan (SACP)** -- The SACP goals, policies and intent statements applicable to the proposed annexation are:

- (1) **SACP Chapter II (Definitions and Intent Statements), Section A (Land Use Map), Subsection 3 (Plan Map Designations), Part f (Industrial), (SACP page 9):** The intent of the “Industrial” designation is to provide a variety of industrial sites for all types of industrial uses through the Salem urban area. The future use of these areas is primarily industrial. The City’s IG (General Industrial) zone implements this Plan map designation by providing additional land used primarily for industrial uses. The Territory zoning will be automatically zoned IG (General Industrial). The proposed annexation is consistent with the above SACP provision.
- (2) **SACP Chapter II (Definitions and Intent Statements), Section A (Land Use Map), Subsection 3 (Plan Map Designations), Part a (Residential), Subpart 4 (Conversion of Developing Residential or Urbanizable Areas to Urban Development) (SACP page 7):** Urbanizable lands located outside the city limits must be annexed to the city to receive urban services. Some of the reasons for converting urbanizable land to urban land include: (1) providing for the orderly and economic extension of public facilities and services; (2) providing adequate land area for a variety of housing types and locations; and (3) maintaining an adequate supply of serviced or serviceable undeveloped land to meet the market demand for a variety of uses.

Annexation of the Territory allows for the future extension of public facilities and services consistent with the Salem Urban Growth Management Program through the master planning, CIP and SRC Chapter 200 (UGA) processes. Publicly funded capital improvements will depend on funding availability. Most new development in newly annexed areas requires developer responsibility for extending public facilities as part of a common city infrastructure under an orderly plan for their extension. In addition, annexation of the Territory with General Industrial zoning will provide the city with additional land area that expands the availability of a variety of industrial land and locations within the city. The proposed annexation is consistent with the above SACP provision.

- (3) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section A (Coordination Policies), Subsection 6 (Annexation Coordination) (SACP page 23):** The city must provide an opportunity for the affected county to comment on proposals for annexation of territory to the City of Salem.

Marion County was notified of the annexation and provided an opportunity to comment on the annexation. The county did not indicate any objections or comments. Therefore, the intent of the policy is met. The proposed annexation is consistent with the above SACP provision.

- (4) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section C (Urban Growth), Subsection 1 (Annexation) (SACP page 26):** Marion and Polk Counties should encourage the orderly annexation to the City of Salem of land within the Salem Urban Area.

The Territory is located within the Salem Urban Area and is contiguous to the city limits. Annexation of the Territory allows for the orderly annexation of urbanizable land to the City of Salem. The proposed annexation is consistent with this policy.

- (5) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section C (Urban Growth), Subsection 3 (UGB is Urbanizable) (SACP page 26):** Territory is considered available for annexation and development to the extent that it is urbanizable and located within the UGB.

The Territory is considered urbanizable because it is located within the UGB, and all needed facilities to support urban development are or can be made available under the city's existing public facilities plans and urban growth management program. Therefore, the Territory is considered available for annexation. The proposed annexation is consistent with the above SACP provision.

- (6) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section D (Growth Management), Subsection 1 (Development Guided by Growth Management) (SACP page 27):** The conversion of urbanizable land shall be guided by the Growth Management Program (SRC Chapter 200).

SRC Chapter 200 establishes a comprehensive growth management program for the City of Salem. The Territory would lie within the Salem Urban Growth Area, as defined by SRC Chapter 200. Conversion of the Territory to urban uses will be guided by the City's growth management program. The proposed annexation is consistent with the above SACP provision.

- (7) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section D (Growth Management), Subsection 3 (Programming Development) (SACP pages 28):** The City shall provide levels of services to city residents consistent with community needs as determined by the City Council, within the financial capability of the city, and subject to relevant legal constraints on revenues and their applications. Considerations for the programming of development are: (a) The financial capability of the city to provide certain facilities and services as authorized through the budgetary process; (b) The technical requirements of public facility master plans; (c) The need for sufficient amounts of buildable land to maintain an adequate supply in the marketplace; and (d) The willingness of the development community to assume the burden of funding the cost of providing certain facilities.

These criteria are factored into the proposed annexation because the Growth Management Program imposes an equitable share of public facility costs on new development by requiring provisions for required facilities by the developer and/or system development charges in connection with the provision of required facilities by the City. Therefore, this policy is satisfied. The proposed annexation is consistent with the above SACP provision.

- (8) **SACP Chapter IV (Salem Urban Area Goals and Policies), Section D (Growth Management), Subsection 7 (Development Requiring Water and Sewer) (SACP page 29):** Development will only be allowed within the city limits where public sewer and water services are available and other urban facilities are scheduled pursuant to an adopted Growth Management Program.

The City of Salem adopted a Growth Management Program (SRC Chapter 200) that applies to the development of the Territory in the future. City services can be provided to the Territory in the future pursuant to the city's Growth Management Program. The proposed annexation is consistent with the above SACP provision.

In summary, the proposed annexation is consistent with the applicable provisions of the SACP.

Criterion 2: The annexation will result in a boundary in which services can be provided in an orderly, efficient and timely manner;

The annexation of unincorporated territory contiguous to the city limits will result in urban services being provided in a more orderly, efficient and timely manner. Unincorporated territory adjacent to the city limits prevents the orderly expansion of city services because gaps are created in the city's infrastructure, and services within those gaps must be provided by the county, or by the city pursuant to intergovernmental or other agreements. This results in inefficiencies due to discontinuous and fragmented methods of providing infrastructure and inefficiencies, as well as additional delays for any development proposal. The boundary resulting from the proposed annexation will provide a more compact and efficient urban form for providing urban services, because the services will be integrated into the existing city infrastructure that exists adjacent to the property, and potential jurisdictional conflicts will not exist. The proposed annexation complies with this criterion.

Criterion 3: The uses and density that will be allowed can be served through the orderly, efficient and timely extension of key urban facilities and services;

Comments provided by the various city departments indicate that the Territory in the proposed annexation may be served through the orderly, efficient and timely extension of key urban facilities and services as outlined in the city's adopted master plans, CIP and public works and parks design and construction standards. No improvements to urban facilities and services are needed at this time to serve the Territory.

If new development is proposed for the Territory, additional urban facilities and services will be required and will be provided in accordance with the city's adopted master plans, CIP and Urban Growth Management process as set forth in SRC Chapter 200. The territory proposed for annexation lies outside of the Urban Service Area. Pursuant to the City's adopted growth management program found in SRC Chapter 200, future development of the Territory must first obtain an Urban Growth Area (UGA) Permit to provide adequate public facilities, including water, sewer, stormwater, transportation, and park services that may be necessitated by the proposed new development. If such facilities are not provided at public expense

under the city's adopted master plans, the CIP, etc., they will be provided at the developer's expense at the time of development. The proposed annexation complies with this criterion.

Criterion 4: The public interest would be furthered by the referral of the annexation to the voters.

Pursuant to SRC 260.020(b), annexations requested in order to resolve failing septic systems or health hazards are exempt from voter approval. Therefore, the city is not required to refer this proposed annexation to the voters. Regardless of this, the proposed annexation of the Territory conforms to the Salem Area Comprehensive Plan. Services can be provided consistent with the city's adopted master plans and Public Works design and construction standards. The annexation of unincorporated territory contiguous to the city limits will result in urban services being provided in a more orderly, efficient and timely manner. Therefore, although this proposed annexation is exempt from a referral to the voters, the proposal still meets the intent of this criterion, to be in the "public interest," for the reasons stated above.

2. Health Hazard.

There exists a health hazard on the Territory which exempts the proposed annexation from the city-wide vote requirement of Section 61 of the Salem City Charter. According to SRC 260.005(d), a health hazard means "a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including impure or inadequate domestic water; inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste; or inadequate improvements for drainage of surface water and other fluid substances."

A. Current Water/Sewer Service:

- (1) The Territory is served by City water service.
- (2) The Territory is served with City sewer service that is currently adequate to serve the Territory. The Territory had been previously served with a septic system.
- (3) Permission to connect the existing single family dwelling in the Territory to the existing City sewer service was provided on February 22, 2016.

B. Certification of a health hazard:

- (1) As noted in the February 29, 2016 staff report to City Council, City right-of-way work adjacent to the subject property damaged the property's septic drain field, and existing conditions prevented reestablishing the drainfield, therefore causing the health hazard.

3. The proposed withdrawal of the Territory more specifically described in Exhibit 2 conforms to the following criteria found in SRC 260.065:

When withdrawal from a special service district is not automatic, the City Council

shall decide on withdrawal from those special service districts. These withdrawals shall be made according to applicable state statutes governing the specific withdrawal.

The City will withdraw the Territory from Salem Suburban Rural Fire District and replace those services with service from the City of Salem Fire Department.

ORS 222.520 establishes the process by which the Territory may be withdrawn from the Fire District at the same time as the annexation.

No comprehensive plan provision or implementing ordinance of the City applies to the withdrawal decision, and none is amended in the process of making the decision. In addition, the decision to withdraw territory and serve the territory with city-supplied urban services rather than district-supplied services, does not have significant impacts on present or future land uses. Consequently, the withdrawal decision is not the kind of decision that requires application of land use laws.

<http://www.cityofsalem.net/planning>

G:\CD\PLANNING\CASE APPLICATION Files 2011-On\ANNEXATIONS\2017\ANXC-720, 3641 Boone Rd SE (Pamela)\Exhibit C (Findings) for Order.doc