

ORDINANCE BILL NO. 4-21

AN ORDINANCE DECLARING CERTAIN TERRITORY LOCATED AT 2527 AND 2547 ROBINS LANE, SE, ANNEXED TO THE CITY OF SALEM, PRESCRIBING ZONING, AND WITHDRAWING THE TERRITORY FROM SALEM SUBURBAN RURAL FIRE PROTECTION DISTRICT AND TURNER FIRE DISTRICT

The City of Salem ordains as follows:

Section 1. Findings.

(a) **Petition.** On October 16, 2018, Brandie Dalton of Multi-Tech Engineering submitted an annexation application on behalf of the petitioner and property owner, BC Salem Property LLC (Kelley D. Hamilton, Chris Jundt, and Anthony R. Kreitzberg, Managers), submitted a valid triple-majority petition signed by the property owner, and paid the filing fee, for certain real property located at 2527 and 2547 Robins Lane SE (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.

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

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

1 **(c) Hearing and Decision.** The Council held a duly advertised public hearing on April
2 26, 2021, and received evidence and testimony regarding whether the Petitioner signed a
3 valid triple majority petition for annexation of the Territory; whether the proposed
4 annexation of the Territory was exempt from a vote of the people pursuant to Senate Bill
5 1573(2016); whether the proposed annexation of the Territory, including the proposed
6 change in the Territory's zone designation from Marion County Urban Transition – 5
7 Acres (UT-5) and Marion County Urban Transition – 10 Acres (UT-10) to City of Salem
8 Residential Agriculture (RA) upon annexation, complied with SRC Chapter 260 and the
9 applicable land use and other criteria; whether the withdrawal of the Territory from the
10 Salem Suburban Rural Fire Protection District and Turner Fire District (the Districts)
11 upon annexation would be in the best interest of the City; and whether the annexation
12 should be approved subject to three conditions proposed by the petitioner as mitigation
13 for tree removal conducted through a lawful timber harvest between April, 2018 and
14 June, 2018:

- 15 (1) Any future development of the Subject Property shall require compliance with SRC
16 808.050 tree planting requirements; however, the minimum diameter of the trees to be
17 planted shall be increased from a 1.5-inch caliper to a 2-inch caliper standard and
18 replacement tree diversity shall be increased by planting not less than five species
19 authorized in the City's Tree and Vegetation Technical Manual; and
20 (2) Prior to recordation of a final plat for any partition, subdivision, or planned unit
21 development, or occupancy of a commercial development, the applicant shall grant
22 \$15,000 to the Salem City Tree Fund; and
23 (3) Prior to submittal of any application for a land use approval, limited land use
24 approval, or permit for developing the Subject Property, Applicant shall enter into an
25 agreement with the City of Salem acknowledging and agreeing that the City of Salem
26 will not record a final plat for any partition, subdivision, or planned unit development
27 on or before July 1, 2023.

28
29 **(d) Additional Finding.** The Council finds that the Petitioner signed a valid triple
30 majority petition for annexation of the Territory.

1 **(e) Withdrawal from Special Districts.** After due consideration of the evidence and
2 testimony, the City Council finds it is in the best interest of the City to withdraw the
3 Territory from Salem Suburban Rural Fire Protection District and Turner Fire District,
4 and to provide the Territory with city services because the public good of the City and the
5 citizens residing in the annexed Territory would be best served if the citizens residing in
6 the Territory receive city services without the problems attendant with coordination that
7 would result from the Territory being subject to the jurisdiction of overlapping urban
8 service providers. It would not be in the best interest of the City for the citizens residing
9 in newly annexed Territory to pay both City taxes and an additional assessment to the
10 Salem Suburban Rural Fire Protection District and Turner Fire District to receive services
11 that may readily be supplied by the City without such additional taxation. Leaving the
12 Territory in the Salem Suburban Rural Fire Protection District and Turner Fire District
13 would lead to a fragmented approach to delivery of public services, unequal tax bases,
14 and resistance to cooperation. Withdrawal would promote efficiency, economy, and
15 sound management in the provision of urban services for newly annexed Territory, and
16 the Territory should be withdrawn from the Districts.

17 **(f) Public Testimony.** The City Council received testimony from persons in favor of the
18 annexation. These parties stated that the annexation would bring consistency in services,
19 market values and tax rates; allow development of needed subdivision lots and houses;
20 and allow development that would bring jobs, strengthen the economy, and increase tax
21 revenue. The City Council received testimony from persons in opposition to the
22 annexation. These parties stated that development of the property should not be allowed
23 within five years of a timber harvest that was conducted in April, 2018 through June,
24 2018; neighboring property owners and taxpayers have not had time, due to the
25 pandemic, to decide whether to sell their properties; additional mitigation for the tree
26 removal should be required beyond the conditions proposed by the petitioner; road
27 improvements should be required; and a property at 2447 Robins Lane SE that contains a
28 privately developed recreational facility and would become an enclave as the result of the
29 proposed annexation should not be forced to annex, and no road should be built through
30 that property without its owners' permission.

Council finds that:

- (1) The annexation meets applicable criteria.
- (2) The conditions proposed by the petitioner are not required to meet the criteria for annexation. The conditions are a voluntary effort by the petitioner to mitigate for the impact of the lawful timber harvest.
- (3) Road improvements are not required for the annexation. Required road, public utility, and park improvements will be determined when development applications are submitted after annexation of the Territory.
- (4) The property at 2447 Robins Lane SE is not being annexed at this time. The City may initiate annexation of this property after it becomes an enclave surrounded by the City limits, and annexation of an enclave must be referred to the voters.
- (5) No road is being built through the property at 2447 Robins Lane SE in association with this annexation. Jonah Avenue SE extends to the western boundary of 2447 Robins Lane SE. When the Territory is developed, additional streets may be extended to the boundary of 2447 Robins Lane SE to provide street connections for future development of 2447 Robins Lane SE.

At the conclusion of the public hearing, after due consideration of the evidence and testimony, the Council adopted Order No. 2021-1 ANX as its final decision and findings determining that the proposed annexation is exempt from voter approval because it meets the requirements of Senate Bill 1573(2016); the proposed annexation of the Territory, including land use designations, complies with SRC Chapter 260 and the applicable land use and other criteria; the withdrawal of the Territory from the Districts would be in the best interest of the City; and the annexation would be subject to the three conditions.

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

Section 3. Land Use Designations. The Territory is designated “Developing Residential” on the Salem Area Comprehensive Plan, and the Plan Map. The zoning for the Territory is

1 prescribed as “Residential Agriculture.” The Planning Administrator shall add to the official
2 zoning map the Territory herein annexed.

3 **Section 4. Withdrawal.** The Territory is hereby withdrawn from the Salem Suburban Rural
4 Fire Protection District and Turner Fire District, such withdrawal to be effective upon, and
5 contemporaneous with, the date of annexation.

6 **Section 5. Conditions.** The Annexation shall be subject to the following conditions:

- 7 (1) Any future development of the Subject Property shall require compliance with SRC
8 808.050 tree planting requirements; however, the minimum diameter of the trees to be
9 planted shall be increased from a 1.5-inch caliper to a 2-inch caliper standard and
10 replacement tree diversity shall be increased by planting not less than five species
11 authorized in the City’s Tree and Vegetation Technical Manual; and
12 (2) Prior to recordation of a final plat for any partition, subdivision, or planned unit
13 development, or occupancy of a commercial development, the applicant shall grant
14 \$15,000 to the Salem City Tree Fund; and
15 (3) Prior to submittal of any application for a land use approval, limited land use
16 approval, or permit for developing the Subject Property, Applicant shall enter into an
17 agreement with the City of Salem acknowledging and agreeing that the City of Salem
18 will not record a final plat for any partition, subdivision, or planned unit development
19 on or before July 1, 2023.

20 **Section 6.** The City Recorder shall submit a copy of this ordinance and such other information
21 as ORS 222.177 requires to the Oregon Secretary of State, and shall provide the notice and
22 reports required by ORS 222.005(1) and ORS 222.010 to the person or entities described therein.

23 PASSED by the City Council this _____ day of _____, 2021.

24 ATTEST:

25
26
27 City Recorder

28 Approved by City Attorney: _____
29

30 Checked by: P. Cole