



Staff Report

File #: 22-415

Version: 1

Date: 9/12/2022

Item #: 4.a.

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

Annexation of Territory Located at 4650 & 4680 Hazelgreen Road NE and land adjacent (Annexation Case No. C-749)

Ward(s): 5

Councilor(s): Gonzalez

Neighborhood(s): Northgate

Result Area(s): Good Governance; Safe Community; Safe, Reliable and Efficient Infrastructure

SUMMARY:

An annexation of territory approximately 16.06 acres in size located at 4650 & 4680 Hazelgreen Road NE including a change in the Comprehensive Plan map designation to "Mixed Use" and concurrent change in zoning MU-I (Mixed Use-I) for 1.8 acres of the territory and the application of City of Salem RM-II (Multiple Family Residential II) zoning for the remaining 13.7 acres.

ISSUE:

Shall City Council adopt Order No. 2022-14 ANX determining that the proposal meets the applicable criteria, changes the comprehensive plan designation and zoning for the territory, and approve the withdrawal of the territory from the Salem Suburban Rural Fire Protection District?

RECOMMENDATION:

Adopt Order No. 2022-14 determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal of the territory from the Salem Suburban Rural Fire Protection District.

FACTS AND FINDINGS:

1. Proposal:

The property owners submitted an annexation application with concurrent request to change the Salem Area Comprehensive Plan Map designation from "Industrial" to "Multi-Family Residential" and a Zone Change to City of Salem RM-II (Multiple Family Residential II) for approximately 13.7 acres of the territory and to change the Comprehensive Plan Map designation from "Industrial" to "Commercial" and a Zone Change to CG (Commercial General) for approximately 1.8 acres of the territory.

After the submittal of this application, and the review of the proposed Zone Changes by the Planning Commission, the City Council has redesignated the entire property to "Multi-Family Residential" in the Our Salem project (Ordinance 10-22). Pursuant to SRC 206-1 the zoning designations that are equivalent to the Comprehensive Plan designation shall be applied upon annexation. Therefore, the City of Salem RM-II (Multiple Family Residential II) zoning shall be applied to the 13.7 acres of the territory.

Additionally, as discussed below, the Planning Commission is recommending that MU-I (Mixed Use-I) zoning be applied to a portion of the territory, instead of the applicant's requested CG (Commercial General) zone.

The Planning Commission recommendation includes the following condition of approval to be placed on the Zone Change:

Condition 1: The transportation impacts from the 15.62-acre site shall be limited to a maximum cumulative total of 2,992 average daily vehicle trips.

The annexation request is for an approximately 16.06-acre territory (including adjacent right-of-way) located at 4650 & 4680 Hazelgreen Road NE (Marion County Assessor Map 062W32C / 000500 and 000400). A vicinity map is included as Attachment 1.

2. Summary of Record:

The following items are submitted to the record and are available: 1) All materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 20 115327.

2. The Petitioner has met the annexation, petition, application, information submission, fee, waiver, and all other requirements for petitioner-initiated annexations including, but not limited to, those found in ORS Chapter 222, SRC Chapter 260, SRC 260.030, SRC 260.035, and SRC 260.040.

Order No. 2022-14 ANX is included as Attachment 2. Its Exhibits include Exhibit A - Petition (Attachment 3), Exhibit B - Territory Legal Description and Map (Attachment 4), and Exhibit C - Findings (Attachment 5).

On September 22, 2020, Brandie Dalton of Multi/Tech filed an application on behalf of the applicant, I and E Construction (Karl Ivanov) and property owner, Arnes Trust (Arne C Gjonnes, Beverly Gjonnes) for a 16.06-acre property at 4680 Hazelgreen Road NE (Marion County Assessor Map 062W32C / 000500 and 000400), filed an application for annexation and paid the filing fee. After additional requested information was provided by the applicant, the application was deemed complete for processing on February 5, 2021.

The owners of all of the parcels in the original territory have requested annexation and submitted a valid triple majority annexation petition (Attachment 3). The annexation agreement submitted by the petitioners runs with the land and binds subsequent property owners to complete the annexation.

The triple majority requirements of ORS 222.170(1) are satisfied because the owners of the petitioned property represent 100 percent of the owners of the land to be annexed and own 100 percent of the land to be annexed, which is 100 percent of the assessed value of the territory.

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, be subject to an acknowledged comprehensive plan upon annexation, be contiguous to the city limits, and the proposal shall comply with all other requirements of the city's ordinances.

This annexation is subject to SB 1573 because all the owners of the property have applied for annexation. The law prohibits a city only from referring the question of annexation to voters, but does not mandate a city to annex a property simply because a petition has been received. The city council, as the governing body, retains ultimate authority of whether to annex a property.

3. The territory (Attachment 4) consists of two tax lots (Marion County Assessor Map 062W32C / 000500 and 000400). The territory is contiguous to the city limits on the west. Adjacent to Marion County Assessor Map 062W31D / 000100. The territory, zoned Marion County UT-20-IND (Urban Transition 20 Acres - Industrial), abuts properties that are zoned PA (Public Amusement) on the west and RS (Single Family Residential) on the south.
4. Under SRC 260.045, territory annexed into the City is automatically given the Salem Area Comprehensive Plan and zoning designations that are equivalent to the applicable county

zoning designations, unless the petitioner or City Council proposes a new Comprehensive Plan/zone designation. The applicant requested a Comprehensive Plan change and Zone change for the subject property.

For annexations that propose a change in the comprehensive plan designation or a zoning designation that is different from the equivalent zoning designation set forth in Table 260-1, SRC 260.045(b) provides that the Planning Commission shall hold a public hearing to review the proposed designations, and shall make recommendation to the Council whether to adopt the proposed designation, the equivalent designation, or a different designation. The Planning Commission's review shall determine whether the proposal meets the following criteria:

- A. The comprehensive plan and zone designation provides for the logical urbanization of land;
- B. The comprehensive plan and zone designation is compatible with development patterns in the nearby vicinity;
- C. Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate; and
- D. It is in the public interest that the proposed change be made.

The Planning Commission held a public hearing to review the proposed designations on July 5, 2022, received testimony, and held deliberations. The Planning Commission found that the applicant did not meet the criteria for the requested change to from the Salem Area Comprehensive Plan Map designation "Industrial" to "Commercial" and the zone change request from Marion County UT-20-IND (Urban Transition 20 Acres - Industrial) to City of Salem CG (General Commercial).

Pursuant to SRC 260.045(b) the Planning Commission "shall make recommendation to the Council whether to adopt the proposed designation, the equivalent designation, or a different designation." The Planning Commission determined that the "Mixed-Use" Comprehensive Plan designation and MU-1 (Mixed Use-1) zone were more appropriate zone for the 1.8 acres of the territory. This decision was based on a comparison of the permitted uses in the CG and MU-I Zones. The recommended MU-I (Mixed Use I) zoning would permit multi-family residential uses and would also allow a variety of pedestrian-oriented land uses within walking distance of the proposed multi-family development. Existing trees in the northwestern area of the site would be a desirable amenity and help to meet landscaping standards for mixed use development.

The Planning Commission recommendation includes the following condition of approval to be placed on the Zone Change:

Condition 1: The transportation impacts from the 15.62-acre site shall be limited to a maximum cumulative total of 2,992 average daily vehicle trips.

The Planning Commission recommendation and findings of compliance with the applicable criteria are set forth in Attachment 7.

The Council may adopt, modify, or reject the Planning Commission's recommendation for land use designations.

6. Public and Private Facilities and Services Comments

- A. The Public Works Department has reviewed the proposal and submitted a memorandum regarding parks (Attachment 6). The territory abuts the Hazelgreen Road Park and is within its one-half mile neighborhood park service area.
- B. The territory will be withdrawn from the Salem Suburban Rural Fire Protection District upon annexation. The Salem Fire Department received notice of the proposal and submitted no comments.
- C. The Salem Police Department received notice of the proposal and submitted no comments.
- D. The Development Services Section of the Public Works Department submitted comments stating that the territory is located outside the Urban Service Area (USA) and if the applicant proposes to develop the property, an Urban Growth Area (UGA) Development permit will be required (Attachment 7).
- E. The Finance Department submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (Attachment 8).
- F. Salem-Keizer School District submitted comments estimating the number of students that would be added to schools if the property is fully developed (Attachment 9).

7. Neighborhood Association and Citizen Comments

The City notified the Northgate Neighborhood Association (Northgate) of the proposed annexation. No comments were submitted by the Neighborhood Association.

Staff received no written comments from citizens.

8. Salem Revised Code (SRC) 260.060(c) requires the Council to determine whether or not the proposed annexation meets the following criteria:

- (1) The proposed land use designations are consistent with the Salem Area Comprehensive Plan and applicable Statewide Planning Goals;

- (2) The annexation will result in a boundary in which services can be provided in an orderly, efficient, and timely manner;
- (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;
- (4) The public interest would be furthered by the referral of the annexation to the voters.

Attachment 5, Exhibit C of Order No. 2022-14 ANX, contains findings demonstrating compliance with these criteria. In regard to the "public interest" criterion, because the annexation will not be referred to the voters, this criterion is not directly applicable. However, staff's proposed findings under this criterion conclude that the annexation itself is consistent with the Comprehensive Plan and would further the public interest.

9. As demonstrated by the Facts and Findings and the findings found in Attachment 5, Exhibit C of Order No. 2022-14 ANX, the proposed annexation and service district withdrawal conform to State law requirements and the criteria found in SRC 260.060(c). The annexation and application of City zoning of the Territory are consistent with the public interest.

For these reasons, staff recommends that the City Council:

Adopt Order No. 2022-14 ANX determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal of the territory from the Salem Suburban Rural Fire Protection District.

BACKGROUND:

On September 22, 2020, Brandie Dalton of Multi/Tech filed an application on behalf of the applicant, I and E Construction (Karl Ivanov) and property owner, Arnes Trust (Arne C Gjonnes, Beverly Gjonnes) for a 16.06-acre property at 4680 Hazelgreen Road NE (Marion County Assessor Map 062W32C / 000500 and 000400), filed an application for annexation and paid the filing fee. After additional requested information was provided by the applicant, the application was deemed complete for processing on February 5, 2021.

Notice of the public hearing was duly mailed to those entitled to notice at least 10 days before the hearing in accordance with SRC 260.060(b) and published once a week for two successive weeks prior to the day of the hearing and posted in four public places for a like period in accordance with ORS Chapter 222.

Liz Olmstead
Planner III

Attachments:

1. Vicinity Map

2. Order No. 2022-14 ANX Adopting the Final Decision and Findings of Compliance
3. Exhibit A - Petition
4. Exhibit B - Territory Legal Description and Map
5. Exhibit C - Findings for Order No. 2022-14 ANX
6. Public Works Department Parks Comments
7. Public Works Department Development Services Section Comments
8. Finance Department Comments
9. Salem-Keizer School District Comments