

Legislation Details (With Text)

File #: 22-481 **Version:** 1

Type: Public Hearings **Status:** Passed

In control: City Council

On agenda: 11/28/2022 **Final action:** 11/28/2022

Title: Annexation Territory located at 3821 Ibex Street NE for future expansion of Fisher Road Park (Annexation Case No. C-750)

Ward(s): 5
Councilor(s): Gonzalez
Neighborhood(s): Northgate
Result Area(s): Good Governance; Safe Community; Safe, Reliable and Efficient Infrastructure

Sponsors:**Indexes:****Code sections:**

Attachments: 1. Vicinity Map, 2. Order No 2022-18 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 Development Services Section Comments, 7. Finance Department Comments, 8. Marion County Comments

Date	Ver.	Action By	Action	Result
11/28/2022	1	City Council	approved	Pass

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Lisa Anderson-Ogilvie, Interim Community Development Director

SUBJECT:

Annexation Territory located at 3821 Ibex Street NE for future expansion of Fisher Road Park (Annexation Case No. C-750)

Ward(s): 5
Councilor(s): Gonzalez
Neighborhood(s): Northgate
Result Area(s): Good Governance; Safe Community; Safe, Reliable and Efficient Infrastructure

SUMMARY:

Annexation of an approximately 2-acre territory, application of PA (Public Amusement) zoning, and withdrawal from the Marion County Fire District #1 and East Salem Sewer and Drainage District for property located at 3821 Ibex Street NE (Marion County Assessor Map and Tax Lot Number 072W07BB02900).

ISSUE:

Shall City Council adopt Order No. 2022-18 ANX determining that the proposal meets the applicable criteria, apply City zoning for the territory, and approve the withdrawal of the territory from the Marion County Fire District #1 and East Salem Sewer and Drainage District?

RECOMMENDATION:

Adopt Order No. 2022-18 ANX determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal of the territory from the Marion County Fire District #1 and East Salem Sewer and Drainage District.

FACTS AND FINDINGS:

1. Proposal:

The annexation request is for an approximately 2-acre territory located at 3821 Ibex Street NE (Marion County Assessor Map and Tax Lot Number 072W07BB02900). A vicinity map is included as Attachment 1.

This is a City owned property, that will be used for an expansion of Fisher Road Park. The Public Works Department submitted an annexation application with concurrent request to change the Salem Area Comprehensive Plan Map to "Parks, Open Space, and Outdoor Recreation" and zone change to PA (Public Amusement).

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: 22-104861 AN.

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. 2022-18 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).

The owner of the parcel in the territory (the City) has requested annexation (Attachment 3). 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 one tax lot (Marion County Assessor Map and Tax Lot Number 072W07BB02900) that is 1.99 acres in size. The territory is contiguous to the city limits on the west.
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.

After the submittal of this application, and the review of the proposed Zone Changes by the Planning Commission, the City Council redesignated the property to "Parks, Open Space, and Outdoor Recreation" in the Our Salem project (Ordinance 10-22). The current Marion County zoning is UD (Urban Development). Pursuant to SRC 206.030 when the existing comprehensive plan designation and county zoning designation of a property does not match any of the comprehensive plan designation and county zoning designation combinations identified under Table 260-1, the applicant shall request a minor comprehensive plan map amendment and/or quasi-judicial zone change. The applicant has requested City of Salem PA (Public Amusement) zoning. 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, receive testimony and deliberate. The Planning Commission recommends that PA zoning be applied to the property.

6. Public and Private Facilities and Services Comments

- A. 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.
- B. The Salem Police Department received notice of the proposal and submitted no comments.
- C. The Development Services Section of the Public Works Department submitted comments stating that the territory is located inside the Urban Service Area (USA) and adequate facilities are available (Attachment 6).
- D. The Finance Department submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (Attachment 7).
- E. Marion County Public Works Department submitted comments stating that public vehicular access to the park should not be provided via Ibex St NE (Attachment 8).

Staff Response: The Public Works Department commented that there no plans to use Ibex St NE for vehicular access aside from an occasional City maintenance vehicle. There will be multiple access points for pedestrians, including from Ibex St NE and Iberis St NE.

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. 2022-18 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. 2022-18 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. 2022-18 ANX determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal of the territory from the Marion County Fire District #1 and East Salem Sewer and Drainage District.

BACKGROUND:

On February 28, 2022, the Public Works Department filed an application on behalf of the applicant, and property owner, the City of Salem, for a 1.99-acre property at 3821 Ibex Street NE (Marion County Assessor Map and Tax Lot Number 072W07BB02900), filed an application for annexation and paid the filing fee.

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.

Lisa Anderson-Ogilvie
Planning Administrator

Attachments:

1. Vicinity Map

2. Order No. 2022-18 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. 2022-18 ANX
6. Public Works Department Development Services Section Comments
7. Finance Department Comments
8. Marion County Public Works Department