



## Staff Report

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**File #:** 18-309

**Version:** 1

**Date:** 7/9/2018

**Item #:** 4.a.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Norman Wright, Community Development Director

**SUBJECT:**

City-Initiated Septic Failure Annexation of Territory Located at 3641 Boone Road SE 97317  
(Annexation Case No. C-720)

Ward(s): 3

Councilor(s): Nanke

Neighborhood(s): SEMCA

**ISSUE:**

Shall the City Council:

1. Find that 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, in conformance with Oregon Revised Statutes (ORS) Chapter 222;
2. Determine that Annexation Case No. C-720 is exempt from the public vote requirement due to the existence of a health hazard (failing septic system), pursuant to Section 61 of the Salem City Charter and SRC 260.020(b);
3. Determine that Annexation Case No. C-720 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2018-05-ANX (Attachment 2);
4. Apply the City of Salem IG (General Industrial) zone to the Territory from Marion County IG (General Industrial); and
5. Withdraw the Territory from Salem Suburban Rural Fire District?

**RECOMMENDATION:**

1. Find that 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, in conformance with Oregon Revised Statutes (ORS) Chapter 222;
2. Determine that Annexation Case No. C-720 is exempt from the public vote requirement due to the existence of a health hazard (failing septic system), pursuant to Section 61 of the Salem City Charter and SRC 260.020(b);
3. Determine that Annexation Case No. C-720 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2018-05-ANX (Attachment 2);
4. Apply the City of Salem IG (General Industrial) zone to the Territory from Marion County IG (General Industrial); and
5. Withdraw the Territory from Salem Suburban Rural Fire District.

## **SUMMARY AND BACKGROUND:**

This is a city-initiated health hazard annexation of a 1.88-acre territory located at 3641 Boone Road SE due to a failed septic system. A vicinity map is included as Attachment 1.

The territory at 3641 Boone Road SE is eligible for a voter-exempt annexation due to its failed septic system. The property owners, Carter Investments, LLC (Laurence J Carter and Diana Carter, members) are in need of city water and sewer services, and have consented to annexation, and are therefore eligible for a voter-exempt septic failure annexation.

Council authorized connection of the existing dwelling to the City's sewer and water system on February 22, 2016, conditioned on the property owner's consent to annexation, with the effective date of the annexation to be delayed three years from the date of the annexation as allowed by state law.

Council approved Resolution No. 2016-16 on May 23, 2016 to initiate the annexation.

This annexation has been scheduled for a public hearing before the City Council for July 9, 2018. 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.

## **SUMMARY OF RECORD**

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; any materials and comments from public

agencies, City departments, neighborhood associations, and the public; and all documents referenced in this report.

## **FACTS AND FINDINGS:**

1. Pursuant to SRC 260.020(b), annexations requested in order to resolve failing septic systems or health hazards are exempt from voter approval. The septic system serving the property failed, and the property owners consented to annexation in order to receive city services.
2. Council authorized connection of the existing dwelling to the City's sewer and water system on February 22, 2016, conditioned on the property owner's consent to annexation, with the effective date of the annexation to be delayed three years from the date of the annexation as allowed by state law.
3. The property owners submitted a consent to annexation on February 25, 2016 and a recorded annexation agreement on March 4, 2016.
4. In 2016 City work in the adjacent right of way damaged the property's septic drain field, and existing conditions prevented reestablishing the drainfield, and therefore caused the health hazard. In order to obtain water and sewer service, the property owner was required to consent to annexation by the City. The City and the property owner executed a Settlement Agreement and Release that requires the City to initiate the annexation process, cover the fees associated with annexing the property into the City, and delay the effective date of the annexation for three years as allowed by state law. On February 22, 2016, Council approved the extension of City water and sewer service to the property.
5. On May 23, 2016, Council approved Resolution No. 2016-16 to initiate the annexation.
6. The property owners filed a consent for annexation of the Territory, representing all of the owners of the Territory and all of the electors in the Territory, which complies with the double majority requirements of ORS 222.125 (Exhibit A of Attachment 2).
7. The Territory consists of a total of 1.88 acres, including a single parcel of 1.65 acres and adjacent right-of-way on Boone Road SE of 0.23 acres (Exhibit B of Attachment 2). The territory is contiguous on the north to properties zoned City of Salem IG (General Industrial). The territory has frontage on Kuebler Boulevard SE and frontage and access on Boone Road SE.
8. The Territory is located inside the Urban Growth Boundary.

9. The Salem Area Comprehensive Plan (SACP) Map designates the Territory as "Industrial." The Territory is currently zoned IG (General Industrial) in Marion County and contains a single family residence and accessory buildings.
10. 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 propose a new Comprehensive Plan/zone designation.

The property owners of the Territory have not proposed a new Comprehensive Plan or zone designation, and unless the City Council proposes a different designation, the City equivalent Comprehensive Plan designation of "Industrial" and IG (General Industrial) zone will be applied to the Territory.

11. Public and Private Facilities and Services Comments
  - A. The Public Works Department has reviewed the proposal and submitted a memorandum regarding parks (Attachment 3).
  - B. The territory will be withdrawn from Salem Suburban Rural Fire Protection District upon annexation. The Salem Fire Department submitted comments indicating that the response time to this location is approximately four minutes 41 seconds from time of dispatch. Primary fire protection and EMS service would be provided from Fire Station No. 9 located at 5080 Battle Creek Road SE (Attachment 4).
  - 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 (Attachment 5) stating that the territory is located outside the Urban Service Area (USA) and an Urban Growth Area Development Permit is required if the applicant proposes to develop the property as defined in SRC Chapter 200.005(e).
  - E. The Administrative Services Department, Finance Division submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (Attachment 6).
  - F. Salem-Keizer School District reviewed the proposed annexation and commented that the subject property is located in the school attendance areas of Lee Elementary School, Judson Middle School, and South Salem High School.

12. Neighborhood Association and Citizen Comments

The City notified the Southeast Mill Creek Association (SEMCA) of the proposed annexation. No comments were submitted by the Neighborhood Association.

Staff has not received any written citizen comments regarding the annexation.

13. 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 2, Exhibit C, 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 proposed findings under this criterion conclude that the annexation itself is consistent with the Comprehensive Plan, and would further the public interest.

14. As demonstrated by the Facts and Findings and the findings found in Attachment 2, the proposed annexation and service district withdrawal conforms 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:

1. Find that 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, in conformance with Oregon Revised Statutes (ORS) Chapter 222;
2. Determine that Annexation Case No. C-720 is exempt from the public vote requirement due to the existence of a health hazard (failing septic system), pursuant to Section 61 of the Salem City Charter and SRC 260.020(b);
3. Determine that Annexation Case No. C-720 satisfies the criteria of Salem Revised Code

(SRC) 260.060(c) and adopt Order No. 2018-05-ANX (Attachment 2);

4. Apply the City of Salem IG (General Industrial) zone to the Territory from Marion County IG (General Industrial); and
5. Withdraw the Territory from Salem Suburban Rural Fire District.

Pamela Cole  
Planner II

**Attachments:**

1. Vicinity Map
2. Order No. 2018-05-ANX Adopting the Final Decision and Findings of Compliance
3. Public Works Department Parks Comments
4. Fire Department Comments
5. Public Works Department Development Services Section Comments
6. Finance Division Comments