Staff Report

File #: 19-284
Version: 1

Date: 6/24/2019
Item #: 4.b.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

Petitioner-Initiated Annexation of Territory Located at 1235 Hoffman Road NE - 97301 (Annexation Case No. C-732)

Ward(s): 6
Councilor(s): Hoy
Neighborhood(s): ELNA
Result Area(s): Good Governance; Safe Community; Safe, Reliable and Efficient Infrastructure.

ISSUE:

Shall the City Council:

1. Find that the Petitioners have signed a valid triple majority petition for annexation of the Territory, in conformance with Oregon Revised Statutes (ORS) Chapter 222;

2. Determine that the Petition satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2019-02-ANX (Attachment 2);

3. Apply the City of Salem RS (Single Family Residential) zone to the Territory from Marion County UD (Urban Development); and

4. Withdraw the Territory from Marion County Fire District #1 and the East Salem Sewer & Drainage District?

RECOMMENDATION:

1. Find that the Petitioners have signed a valid triple majority petition for annexation of the Territory, in conformance with Oregon Revised Statutes (ORS) Chapter 222;

2. Determine that the Petition satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2019-02-ANX (Attachment 2);

3. Apply the City of Salem RS (Residential Agriculture) zone to the Territory from Marion County UD (Urban Development); and

4. Withdraw the Territory from Marion County Fire District #1 and the East Salem Sewer & Drainage District.

SUMMARY:

This is a petitioner-initiated annexation of a 0.555-acre territory located at 1235 Hoffman Road NE, including approximately 0.457 acres of private property and 0.098 acres of Hoffman Road NE right-of-way. A vicinity map is included as Attachment 1.

FACTS AND FINDINGS:

1. 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.

   The property owner filed the application and petition for annexation of the subject property, which is approximately 0.457 acres. Including public right-of-way that would be annexed adjacent to the property, the "Territory" is approximately 0.555 acres in area.

   The Territory consists of one parcel. The owner has requested annexation and submitted a valid triple majority annexation petition (Attachment 2, Exhibit A).

   The triple majority requirements of ORS 222.170(1) are satisfied because the owner of the petitioned property represents 100 percent of the owners of the land to be annexed and owns 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. The City of Corvallis filed a legal challenge to the new law asserting, among other challenges, that the law violates the home rule authority of cities. The circuit court

rejected Corvallis's arguments, and dismissed the claims. That decision is currently on appeal to the Oregon Court of Appeals. The parties are currently filing their briefs on the issues, and a decision from the Court is not expected in the immediate future.

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.

2. The territory consists of one parcel suitable for development with a single family dwelling.

3. The territory is contiguous on the west to the city limits and property that is zoned City of Salem RA (Residential Agriculture) and abuts properties on the north and south that are zoned Marion County UD (Urban Development). The territory has frontage on Hoffman Road NE. Adjacent properties on the east side of Hoffman Road NE are also zoned Marion County UD (Urban Development).

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 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 Single Family Residential and RS (Single Family Residential) zone will be applied to the territory.

5. 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 Marion County Fire District #1 upon annexation. The Salem Fire Department submitted comments indicating that the response time to this location is approximately six minutes from receipt of call. Primary fire protection and EMS service would be provided from Fire Station No. 3 located at 1884 Lansing Avenue NE (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 inside the Urban Service Area (USA) and adequate facilities are available. An Urban Growth Area Development Permit would not be required if the applicant proposes to develop the property as defined in SRC Chapter 200.

E. The 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 received notice of the proposal and submitted comments indicating that proposed development of the property is estimated to add one elementary school student at a total facilities cost of $51,123 (Attachment 7).

6. Neighborhood Association and Citizen Comments

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

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

7. 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's proposed findings under this criterion conclude that the annexation itself is consistent with the Comprehensive Plan and would further the public interest.

8. As demonstrated by the Facts and Findings and the findings found in Attachment 2, Exhibit C, 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:

1. Find that the Petitioners have signed a valid triple majority petition for annexation of the Territory, in conformance with Oregon Revised Statutes (ORS) Chapter 222.

2. Determine that Annexation Case No. ANXC-732 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2019-02-ANX (Attachment 2).

3. Apply the City of Salem RS (Single Family Residential) zone to the territory from Marion County UD (Urban Development).

4. Withdraw the Territory from Marion County Fire District #1 and the East Salem Sewer & Drainage District.

BACKGROUND:

On January 14, 2019, Sergio Arredondo submitted an annexation application and valid triple-majority annexation petition on behalf of the petitioner and property owner, Excellence Investments & Rentals, Inc. (Sergio Arredondo, Luis Arredondo, and Jose Arredondo) and paid the filing fee.

This petition has been scheduled for a public hearing before the City Council for June 24, 2019. 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.

Pamela Cole
Planner II

Attachments:
1. Vicinity Map
2. Order No. 2019-02-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
7. Salem-Keizer Public Schools Comments