



Staff Report

File #: 21-150

Version: 1

Date: 4/26/2021

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 3880 Croisan Creek Road South and City Owned Lands - 97302 (Annexation Case No. C-738)

Ward(s): 7

Councilor(s): Nordyke

Neighborhood(s): SWAN

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. 2021-2 ANX (Attachments 2 through 5);
3. Apply the City of Salem RA (Residential Agriculture) zone to the Territory from Marion County UT-5 (Urban Transition 5 Acres); and
4. Withdraw the Territory from Salem Suburban Rural Fire Protection 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. 2021-2 ANX (Attachments 2 through 5);

3. Apply the City of Salem RA (Residential Agriculture) zone to the Territory from Marion County UT-5 (Urban Transition 5 Acres); and
4. Withdraw the Territory from Salem Suburban Rural Fire Protection District.

SUMMARY:

This is a petitioner-initiated annexation of a 2.65-acre territory located at 3880 Croisan Creek Road South (Marion County Assessor Map and Tax Lot 083W05DD02400) and City Owned Lands (Marion County Assessor Map 083W05DD and Tax Lots 01900, 02000, 02100, 02200, and 03400 and Marion County Assessor Map and Tax lot 083W08A000100). A vicinity map is included as Attachment 1.

This petition has been scheduled for a public hearing before City Council for April 26, 2021.

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 owner of a 0.4-acre property at 3880 Croisan Creek Road S (Marion County Assessor Map and Tax Lot 083W05DD02400), LVI Custom Construction LLC (Vadim Latyshevich), filed an application and petition for annexation of that property on September 17, 2019. On September 23, 2019, City Council authorized a sewer service connection to the existing single-family residence on that parcel, which is outside of, and contiguous to, the City limits, conditioned on the property owner filing a complete application for annexation, an annexation agreement, and paying all usual and customary fees and service charges. On September 26, 2019, Mr. Latyshevich recorded an annexation agreement. On October 21, 2019, Mr. Latyshevich paid required fees and was issued a permit for a sewer connection and tap. According to Marion County Assessor records, LVI Custom Construction LLC sold the property to Vadim Latyshevich and Inna Latyshevich on February 12, 2020. The annexation agreement runs with the land and requires Vadim Latyshevich and Inna Latyshevich to complete the annexation.

Staff reviewed the proposed annexation to prepare the territory legal description and determined that it would be beneficial for the City to annex adjacent right-of-way and City-owned parcels that include a section of the Croisan Trail, designated as a park on the City's geographic information system map and described as a linear park / connector trail. The City Manager submitted a petition on July 29, 2020 to annex the City-owned parcels (Marion County Assessor Map 083W05DD and Tax Lots 01900, 02000, 02100, 02200, and 03400 and Marion County Assessor Map and Tax lot 083W08A000100).

The Territory of 2.65 acres consists of seven tax lots and 0.847 acres of adjacent rights-of-way (Attachment 4, Exhibit B of Order No. 2021-2 ANX).

The owners of all of the parcels in the territory have requested annexation and submitted valid triple majority annexation petitions (Attachment 3, Exhibit A of Order No. 2021-2 ANX).

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.

2. The territory consists of one parcel developed with a single family dwelling, four parcels designated as a park on the City's geographic information system map and described as a linear park / connector trail, two undeveloped parcels owned by the City, and adjacent rights-of-way.
3. The territory is contiguous on the north and east to properties within the city limits that are zoned City of Salem RA (Residential Agriculture) and on the south to properties within the city limits that are zoned RS (Single Family Residential), respectively. The territory abuts properties on the east, west, and south that are zoned Marion County UT-5 (Urban Transition 5 Acres). The territory has no frontage on Croisan Creek Road S, but the dwelling is served by a driveway from Croisan Creek Road S. The right-of-way through the territory is unnamed.
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 Developing Residential and RA (Residential Agriculture) zone will be applied to the territory.

5. Annexation of the territory would create an enclave consisting of two properties east of the territory, 4005 Cloudview Drive S (Marion County Assessor Map and Tax Lot 083W05DD03301) and Marion County Assessor Map and Tax Lot 083W04C00300). Staff notified the owners of those properties of the proposed annexation in April, 2020 and asked if they would like to submit petitions to include their properties in the proposed annexation territory. Staff received no responses.
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).
 - 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 five minutes and fifty-three seconds from receipt of call. Primary fire protection and EMS service would be provided from Fire Station No. 4 located at 200 Alice Street S (Attachment 7).
 - 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 8) stating that the territory is located outside the Urban Service Area (USA) and an Urban Grown Area Development Permit is 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 9).
 - F. Salem-Keizer School District received notice of the proposal and has submitted no comments.
7. Neighborhood Association and Citizen Comments

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

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

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. 2021-2 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. 2021-2 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:

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-738 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2021-2 ANX (Attachments 2 through 5).
3. Apply the City of Salem RA (Residential Agriculture) zone to the territory from Marion County UT-5 (Urban Transition 5 Acres).
4. Withdraw the Territory from Salem Suburban Rural Fire Protection District.

BACKGROUND:

On September 17, 2019, Vadim Latyshevich submitted an annexation application and valid triple-majority annexation petition on behalf of the petitioner and property owner of 3880 Croisan Creek Road S, LVI Custom Construction LLC, and paid the filing fee. On September 23, 2019, City Council authorized a sewer service connection to the existing single-family residence on that parcel, which is

outside of, and contiguous to, the City limits, conditioned on the property owner filing a complete application for annexation, an annexation agreement, and paying all usual and customary fees and service charges. On September 26, 2019, Mr. Latyshevich recorded an annexation agreement. On October 21, 2019, Mr. Latyshevich paid required fees and was issued a permit for a sewer connection and tap. According to Marion County Assessor records, LVI Custom Construction LLC sold the property to Vadim Latyshevich and Inna Latyshevich on February 12, 2020. The annexation agreement runs with the land and requires Vadim Latyshevich and Inna Latyshevich to complete the annexation.

On July 29, 2020, the City Manager submitted a valid triple-majority annexation petition on behalf of the property owner of six adjacent tax lots, the City of Salem.

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. 2021-2 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. 2021-2 ANX
6. Public Works Department Parks Comments
7. Fire Department Comments
8. Public Works Department Development Services Section Comments
9. Finance Department Comments