



Staff Report

File #: 21-391

Version: 1

Date: 9/13/2021

Item #: 4.a.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Norman Wright, Community Development Director

SUBJECT:

Petitioner-Initiated Annexation of Territory Located at 681 Rees Hill Road SE - 97306 (Annexation Case No. C-739)

Ward(s): 4

Councilor(s): Leung

Neighborhood(s): SGNA

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

SUMMARY:

This is a City-initiated, voter-exempt annexation of an 18.05-acre territory located at 681 Rees Hill Road SE 97306 (Marion County Assessor Map and Tax Lot Number 083W22C00400) for the purpose of developing a City park. The annexation would include a concurrent change in the Salem Area Comprehensive Plan map designation to "Parks, Open Space, and Outdoor Recreation" and concurrent change in zoning to City PA (Public Amusement) for the portion of territory east of the centerline of the proposed extension of Lone Oak Road SE and concurrent change in zoning to City RA (Residential Agriculture) for the portion of the territory west of the centerline of the proposed extension of Lone Oak Road SE. A vicinity map is included as Attachment 1.

ISSUE:

Shall City Council:

1. Find that the Petitioner (City) has 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-739 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2021-3 ANX (Attachment 2);
3. Change the Salem Area Comprehensive Plan (SACP) map designation of the portion of the Territory east of the centerline of the proposed extension of Lone Oak Road SE from

“Developing Residential” to “Parks, Open Space, and Outdoor Recreation”;

4. Change the zoning of the area of the Territory east of the centerline of the proposed extension of Lone Oak Road SE from Marion County UT-10 (Urban Transition - 10 Acre) to City of Salem PA (Public Amusement), subject to the following condition:

Condition 1: The proposed legal description of the boundary between the PA (Public Amusement) zone and RA (Residential Agriculture) zone, and the corresponding boundary between the "Parks, Open Space, and Outdoor Recreation" Salem Comprehensive Plan Map designation and "Developing Residential" Salem Comprehensive Plan Map designation, shall be submitted to the Planning Administrator for review and approval within one year of the effective date of the annexation or at the time of final approval of public construction plans for the extension of Lone Oak Road SE, whichever is later;

5. Apply City of Salem RA (Residential Agriculture) zoning from Marion County UT-10 (Urban Transition - 10 Acre) zoning to the portion of the Territory west of the centerline of the proposed extension of Lone Oak Road SE; and
6. Withdraw the Territory from Salem Suburban Rural Fire Protection District?

RECOMMENDATION:

1. Find that the Petitioner (City) has 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-739 satisfies the criteria of Salem Revised Code (SRC) 260.060(c) and adopt Order No. 2021-3 ANX (Attachment 2);
3. Change the Salem Area Comprehensive Plan (SACP) map designation of the portion of the Territory east of the centerline of the proposed extension of Lone Oak Road SE from “Developing Residential” to “Parks, Open Space, and Outdoor Recreation”;
4. Change the zoning of the area of the Territory east of the centerline of the proposed extension of Lone Oak Road SE from Marion County UT-10 (Urban Transition - 10 Acre) to City of Salem PA (Public Amusement), subject to the following condition:

Condition 1: The proposed legal description of the boundary between the PA (Public Amusement) zone and RA (Residential Agriculture) zone, and the corresponding boundary between the "Parks, Open Space, and Outdoor

Recreation" Salem Comprehensive Plan Map designation and "Developing Residential" Salem Comprehensive Plan Map designation, shall be submitted to the Planning Administrator for review and approval within one year of the effective date of the annexation or at the time of final approval of public construction plans for the extension of Lone Oak Road SE, whichever is later;

5. Apply City of Salem RA (Residential Agriculture) zoning from Marion County UT-10 (Urban Transition - 10 Acre) zoning to the portion of the Territory west of the centerline of the proposed extension of Lone Oak Road SE; and
6. Withdraw the Territory from Salem Suburban Rural Fire Protection District.

FACTS AND FINDINGS:

1. The Petitioner (City) 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 City, owner of a 17.47-acre property located at 681 Rees Hill Road SE (Marion County Assessor Map and Tax Lot Number 083W22C00400), filed an application for annexation and submitted a valid triple majority petition (Attachment 3). Including adjacent right-of-way of Devon Avenue SE, the Territory is 18.05 acres (Attachment 4).

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.

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 with a single-family dwelling and accessory structures.
3. The territory is inside the Urban Growth Boundary (UGB) and contiguous on the north to city limits and property zoned City of Salem RS (Single Family Residential). The territory has frontage on Devon Avenue SE, a local street, and Rees Hill Road SE, a collector street. A future extension of Lone Oak Road SE, a collector street, is proposed from the northern property boundary to Rees Hill Road SE.
4. The SACP Map designates the Territory as "Developing Residential."

The petitioner is requesting that the designation be changed to "Parks, Open Space, and Outdoor Recreation" upon annexation for the area of the Territory east of the centerline of the proposed extension of Lone Oak Road SE. A map of the approximate boundary of the area subject to the proposed Comprehensive Plan map designation change is included as Attachment 6.

The SACP designations for the surrounding area are:

North: "Developing Residential"

South: Outside of the Urban Growth Boundary

East: Across Devon Avenue SE, "Developing Residential"

West: "Developing Residential"

The "Parks, Open Space, and Recreation" designation is implemented in the City through the P (Public) zones. The Territory is currently zoned Marion County UT-10 (Urban Transition - 10 Acre). The petitioner is requesting that the zoning be changed to PA (Public Amusement) upon annexation for the area of the Territory east of the centerline of the proposed extension of Lone Oak Road SE. The petitioner is requesting that City of Salem zoning of RA (Residential Agriculture) be applied upon annexation to the area of the Territory west of the centerline of the proposed extension of Lone Oak Road SE. A map of the approximate boundary of the area subject to the proposed zone change is included as Attachment 7.

Surrounding properties are zoned as follows:

North: RS (Single Family Residential)

South: Across Rees Hill Road SE, Marion County SA (Special Agriculture)

East: Across Devon Avenue SE, Marion County UT-10 (Urban Transition - 10 Acre)

West: Marion County UT-10 (Urban Transition - 10 Acre)

5. 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 in Table 260-1, unless the petitioner or City Council proposes a new Comprehensive Plan/zone designation.

In Table 260-1, the designations equivalent to the Marion County zoning of UT-10 would be "Developing Residential" in the SACP and RA (Residential Agriculture) or RS (Single Family Residential) zoning. For the area of the Territory west of the centerline of the proposed Lone Oak Road SE extension, the current "Developing Residential" SACP designation and proposed application of City of Salem RA (Residential Agriculture) zoning are consistent with the county zoning. For the area of the Territory east of the centerline of the proposed Lone Oak Road SE extension, the petitioner has proposed a new Comprehensive Plan designation of "Parks, Open Space, and Outdoor Recreation" and a new zone of City of Salem PA (Public Amusement) to accommodate future development of a City park.

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 May 18, 2021 and received a request from the Department of Land Conservation and Development to hold the record open. The Planning Commission granted the request to hold the record open until May 25, 2021 for additional testimony and until June 1, 2021 for responses. On June 1, 2021, the Planning Commission received additional testimony, held deliberations, and voted to recommend that the City Council adopt the petitioner-initiated Comprehensive Plan change and zone change, subject to a condition of approval requiring that the applicant submit a legal description of the proposed boundary between the RA (Residential Agriculture)

and PA (Public Amusement) zones.

The Planning Commission recommendation and findings of compliance with the applicable criteria are set forth in Attachment 8.

6. Public and Private Facilities and Services Comments

A. The territory will be withdrawn from Salem Suburban Rural Fire Protection District upon annexation. The Salem Fire Department estimates response times to 681 Rees Hill Rd S to be approximately six minutes of travel plus one minute 30 seconds for call processing and turnout time, for a total response time of seven minutes 30 seconds. Primary fire protection and emergency medical services would be from Fire Station #7, located at 5021 Liberty Road S. Secondary emergency response would be from Fire Station #9, located at 5080 Battlecreek Road SE (Attachment 9).

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 (Attachment 10) stating that the territory is located outside the Urban Service Area (USA). An Urban Growth Area Development Permit would be required if the applicant proposes to develop the property as defined in SRC Chapter 200.005.

D. The Finance Division submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (Attachment 11).

E. Salem-Keizer Public Schools received notice of the proposal and commented that the territory is served by Sumpter Elementary School, Crossler Middle School, and Sprague High School (Attachment 12).

7. Neighborhood Association and Citizen Comments

The property is not subject to a homeowner's association.

The Territory is adjacent to the South Gateway Neighborhood Association boundary.

The applicant's representative presented the annexation and comprehensive plan change and zone change proposal to the South Gateway Neighborhood Association at a virtual meeting on November 12, 2020, reported receiving no concerns regarding the annexation, and reported that staff received and answered questions regarding master planning and development of the park and the location of the proposed extension of Lone Oak Road SE.

The City notified the South Gateway Neighborhood Association (SGNA) of the proposed annexation. No comments were submitted by SGNA regarding the annexation prior to the

deadline for this staff report or for the proposed land use designations for the Planning Commission hearing. Staff has not received any citizen comments regarding the annexation hearing prior to the deadline for this staff report. Citizen comments and testimony regarding the proposed land use designations are summarized in Attachment 8.

8. Salem Revised Code (SRC) 260.060(c) requires the Council to determine whether the proposed annexation meets the following criteria:
 - A. The proposed land use designations are consistent with the Salem Area Comprehensive Plan and applicable Statewide Planning Goals;
 - B. The annexation will result in a boundary in which services can be provided in an orderly, efficient, and timely manner;
 - C. The uses and density that will be allowed can be served through the orderly, efficient and timely extension of key urban facilities and services;
 - D. The public interest would be furthered by the referral of the annexation to the voters.
 - E. 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, that
 - (1) The comprehensive plan and zone designation provides for the logical urbanization of land;
 - (2) The comprehensive plan and zone designation is compatible with development patterns in the nearby vicinity;
 - (3) Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate; and
 - (4) It is in the public interest that the proposed change be made.

Attachment 5 (Exhibit C - Findings for Order No. 2021-3 ANX) contains findings that demonstrate compliance with these criteria. Regarding 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 - Findings for Order No. 2021-3 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 proposed land use designations of the Territory are consistent with the public interest.

BACKGROUND:

On December 5, 2019, Toni Whitler of City of Salem Public Works submitted an annexation application and valid triple-majority annexation petition signed by City Manager Steven D. Powers on behalf of the property owner and petitioner, the City of Salem, and paid the filing fee.

This petition has been scheduled for a public hearing before the City Council for September 13, 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.

Pamela Cole
Planner II

Attachments:

1. Vicinity Map
2. Order No. 2021-3 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. 2021-3 ANX
6. Map of Area Subject to Proposed Comprehensive Plan Map Amendment
7. Map of Area Subject to Proposed Zone Change
8. Planning Commission Recommendation on Land Use Designations
9. Fire Department Comments
10. Public Works Department Comments
11. Finance Department Comments
12. Salem-Keizer Public Schools Comments