



## Staff Report

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**File #:** 22-145

**Version:** 1

**Date:** 4/11/2022

**Item #:** 4.b.

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**TO:** Mayor and City Council

**THROUGH:** Kristin Retherford, Interim City Manager

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

### **SUBJECT:**

Petitioner-Initiated Annexation of Territory Located at 4929 Auburn Road NE (Annexation Case No. C-748)

Ward(s): 6

Councilor(s): Hoy

Neighborhood(s): ELNA

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

### **SUMMARY:**

This is a petitioner-initiated, voter exempt annexation of a 0.31-acre territory located at 4929 Auburn Road NE - 97301 (Marion County Assessor Map and Tax Lot 072W29BA02200). The annexation would include a concurrent application of City zoning of RA (Residential Agriculture). A vicinity map is included as Attachment 1.

### **ISSUE:**

Shall city Council adopt Order No. 2022-5 determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal from Marion County Fire District #1?

### **RECOMMENDATION:**

Adopt Order No. 2022-5 determining that the proposal meets the applicable criteria, applying City zoning for the territory, and approving withdrawal from Marion County Fire District #1.

### **FACTS AND FINDINGS:**

1. 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; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public; and 3) all documents referenced in this report. 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: 21 117695.

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. 2022-5 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).

On September 20, 2021, the owner of a 0.31-acre property at 4929 Auburn Road NE - 97301 (Marion County Assessor Map and Tax Lot Number 072W29BA02200), Julio Lara, filed an application and petition for annexation of that property. On November 12, 2021, staff determined that the annexation application was complete.

The owners of all of the parcels in the territory have requested annexation and submitted a valid triple majority annexation petition (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 developed with a single- family dwelling and accessory structures.
4. The territory has frontage on Auburn Road NE. The territory is contiguous to the city limits on the south along its frontage on Auburn Road NE. The territory is zoned Marion County UT-5 (Urban Transition - 5 Acres) and abuts properties on the north, east, and west that are zoned Marion County UT-5 (Urban Transition - 5 Acres).
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, 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.

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). The subject property is outside the one-half mile service area for Royal Oaks Park, a Neighborhood Park.
  - 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 five minutes and 15 seconds from receipt of call. Primary fire protection and EMS service would be provided from Fire Station No. 10 located at 3611 State St (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 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 (Attachment 8).
  - E. The Finance Department submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (Attachment 9).
  - F. Salem-Keizer School District submitted comments estimating the number of students

that would be added to schools if the property is full developed (Attachment 10).

7. 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.

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. 2022-5 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. 2022-5 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. 2022-5 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.

**BACKGROUND:**

On March 17, 2021, the City received a water permit application (21-105706-WA) for a 0.31-acre property at 4929 Auburn Road NE (Marion County Assessor Map and Tax Lot Number

072W29BA02200).

On June 14, 2021, Council approved a request to provide water service beyond City limits for the property at 4929 Auburn Road NE, conditioned on the property owner filing a complete application for annexation, executing an annexation agreement, paying all usual customary fees and service charges, and complying with applicable codes and standards.

On August 11, 2021, the property owner recorded an annexation agreement with Marion County.

On September 20, 2021, the owner filed an application and petition for annexation of the property. On November 12, 2021, staff determined that the annexation application was complete.

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. 2022-5 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. 2022-5 ANX
6. Public Works Department Parks Comments
7. Fire Department Comments
8. Public Works Department Development Services Section Comments
9. Finance Department Comments
10. Salem-Keizer School District Comments