



## Staff Report

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**File #:** 23-382

**Version:** 1

**Date:** 11/13/2023

**Item #:** 4.a.

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**TO:** Mayor and City Council

**THROUGH:** Keith Stahley, City Manager

**FROM:** Kristin Retherford, Community and Urban Development Department

### **SUBJECT:**

An Annexation of an approximately 48-acre territory located at 7006 Sunnyside Road SE and 7102 Cains Place SE.

Ward(s): 4

Councilor(s): Gwyn

Neighborhood(s): South Gateway

Result Area(s): Welcoming and Livable Community

### **SUMMARY:**

Annexation of an approximately 48-acre territory located at 7006 Sunnyside Road SE and 7102 Cains Place SE.

### **ISSUE:**

Shall City Council approve the annexation of the territory located at 7006 Sunnyside Road SE and 7102 Cains Place SE, including the withdrawal from the Salem Suburban Rural Fire Protection District and the application of RA (Residential Agriculture) zoning and forward to first reading?

### **RECOMMENDATION:**

Approve the annexation of the territory located at 7006 Sunnyside Road SE and 7102 Cains Place SE, including the withdrawal from the Salem Suburban Rural Fire Protection District and the application of RA (Residential Agriculture) zoning and forward to first reading.

### **FACTS AND FINDINGS:**

#### **1. Proposal**

Brandie Dalton of Multi/tech Engineering originally submitted an annexation application on behalf of Westwood Homes, LLC. Ms. Dalton updated that application to reflect that Cains Properties, LLC is now the applicant. The property owners at the time of submittal signed the annexation application. In August of 2022, Ms. Dalton amended the application to include additional properties and expand the territory; the additional property owners signed the annexation application. Staff identified a small tax lot that is owned by Marion County that needed to be included in the territory; the County signed the annexation application and joined the annexation application.

The annexation request is for an approximately 48-acre territory comprised of six tax lots and addressed as 7006 Sunnyside Road SE and 7102 Cains Place SE (Marion County Assessor Map and Tax Lot Numbers 083W26A / 100, 200, 300, 400, 401 and 500). A vicinity map is included as **Attachment 1**. The territory does not include any right-of-way. The territory legal description and map is included as **Attachment 2**.

The property is currently served by the Salem Suburban Rural Fire. The territory will be withdrawn from this district upon annexation; the City will provide services.

## 2. 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, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 111301.

## 3. Notice

Mailed Notice - Pursuant to SRC 300.620(b)(2), mailed notice was provided as required on October 19, 2023.

Posted Notice - Pursuant to SRC 300.620(b)(3)(B), notice of the annexation was posted on the subject property, in the Salem Public Library, the west Salem branch of the Public Library and at City Hall.

Newspaper Notice - Pursuant to SRC 300.620(4) notice of the annexation was published in the Statesman Journal on November 2, 2023, and November 9, 2023.

Notice to potential enclaved property - Pursuant to SRC 300.620(2)(B)(v) mailed notice is required to all property owners whose property will become an enclave if this annexation is approved. This annexation will not create an enclave.

## 3. Neighborhood Association and Public Comments

Neighborhood Association Comment: The subject property will be located within the boundaries of the South Gateway Neighborhood Association (SGNA). Notice was provided, pursuant to SRC

300.620 to the neighborhood association. No comments were received from the neighborhood association.

Homeowners Association: The subject property is not located within a Homeowners Association.

Public Comment: Notice was provided, pursuant to SRC 300.620, to all property owners and tenants within 250 feet of the subject property and to potential enclaved properties. As of the date of this staff report, no comments were received.

#### **4. City Department Comments**

Building and Safety Division - Reviewed the proposal and had no concerns.

Parks Division - Reviewed the proposal and commented that no City park is impacted by this annexation. There are no neighborhood parks within a one-half mile service area of the site.

Community Development, Development Services Division - Reviewed the proposal and commented that property is outside the Urban Service Area (USA) and adequate facilities are available, therefore an Urban Growth Area Development Permit would be required if the applicant proposes to develop the property as defined in SRC Chapter 200 (**Attachment 3**).

Fire Department - Reviewed the proposal and submitted comments indicating that the response time to this location is approximately 9 minutes and 30 seconds. Primary fire protection and EMS service would be provided from Fire Station No. 9 located at 5080 Battlecreek Rd SE. Secondary emergency response would be from Fire Station No. 7, located at 5102 Liberty Rd S. The territory will be withdrawn from the Salem Suburban Rural Fire Protection District upon annexation.

Police Department - Received notice of the proposal and submitted no comments.

Finance Department - Reviewed the proposal and submitted comments regarding property tax limits, rates and other information related to the financial impacts of annexation (**Attachment 4**).

#### **5. Public Agency Comments**

Salem-Keizer School District - Reviewed the proposal and submitted comments estimating the number of students that would be added to schools if the property is fully developed (**Attachment 5**).

#### **6. Voter Approval**

Pursuant to SRC 260.010(d)(2) voter approval is not required if the annexation request meets one of the following criteria:

**(A)The annexation is being made pursuant to an annexation agreement effective prior to May 16, 2000;**

**(B)The annexation is necessitated by a failing septic system or health hazard; or**

**(C)The annexation, notwithstanding the Salem City Charter, complies with all of the following**

**requirements:**

- (i)The annexation petition request is signed by all owners of the property proposed to be annexed;**
- (ii)The territory proposed for annexation is within the urban growth boundary;**
- (iii)The territory proposed for annexation is subject to an acknowledge comprehensive plan upon annexation; and**
- (iv)At least one lot within the territory proposed for annexation is contiguous to the City limits.**

**Finding:** The proposed annexation is exempt from voter approval pursuant to SRC 260.010(d)(2)(C). The territory is comprised of tax lots owned by Cain Properties LLC, the Cain Joint Revocable Living Trust and Marion County. The property owners of all of the properties included in the territory have signed the annexation application.

The properties are located within the Salem Urban Growth Boundary and are subject to Salem's acknowledged Comprehensive Plan. The property is contiguous to the City limits on the north and west side. The territory is therefore exempt from voter approval.

## **7. Analysis of Annexation Approval Criteria**

Salem Revised Code (SRC) 260.010(g)(1) sets forth the following criteria that must be met before approval can be granted to a request for an Annexation without a minor comprehensive plan map amendment or quasi-judicial zone change.

**SRC 260.010(g)(1)(A): The annexation will result in a boundary in which services can be provided in an orderly, efficient, and timely manner;**

**Finding:** The proposed annexation is for a territory that is 48 acres in size. The annexation of unincorporated territory contiguous to the City limits will result in urban services being provided in a more orderly, efficient, and timely manner. Unincorporated territory adjacent to the City limits prevents the orderly expansion of City services because gaps are created in the City's infrastructure, and services within those gaps must be provided by the county, or by the City pursuant to intergovernmental or other agreements. This results in inefficiencies due to discontinuous and fragmented methods of providing infrastructure and inefficiencies, as well as additional delays for any development proposal. The territory can be served with City services upon development as evidenced by City department comments. Future services will be integrated into the existing City infrastructure that exists adjacent to the property, and potential jurisdictional conflicts will not exist. The proposed annexation complies with this criterion.

**SRC 260.010(g)(1)(B): The land uses and development densities that will be allowed can be served through the orderly, efficient, and timely extension of key urban facilities and services;**

**Finding:** Comments provided by the various City departments indicate that the territory in the proposed annexation may be served through the orderly, efficient, and timely extension of key urban facilities and services as outlined in the City's adopted master plans, Capital Improvement Plan (CIP) and Public Works and Parks design and construction standards. No improvements to urban facilities and services are needed at this time to serve the Territory. If new development is proposed for the

Territory, additional urban facilities and services will be required and will be provided in accordance with the City's adopted master plans, CIP and Urban Growth Management process as set forth in SRC Chapter 200. The Territory proposed for annexation lies outside of the Urban Service Area (USA). Pursuant to the City's adopted growth management program found in SRC Chapter 200, an Urban Growth Area (UGA) Permit is required to provide adequate public facilities, including water, sewer, stormwater, transportation, and park services, that may be necessitated by future development. The proposed annexation complies with this criterion.

**SRC 260.010(g)(1)(C): The withdrawal of the territory from any applicable special districts complies with applicable state statutes governing the withdrawal of the territory from those districts; and**

**Finding:** When withdrawal from a special service district is not automatic, the City Council shall decide on withdrawal from those special service districts. These withdrawals shall be made according to applicable state statutes governing the specific withdrawal.

The City will withdraw the Territory from the Salem Suburban Rural Fire Protection District and replace those services with service from the City and the City of Salem Fire Department. ORS 222.520 establishes the process by which the Territory may be withdrawn from service districts at the same time as the annexation. No Comprehensive Plan provision or implementing ordinance of the City applies to the withdrawal decision, and none is amended in the process of making the decision. In addition, the decision to withdraw the Territory and serve the Territory with City-supplied urban services rather than district-supplied services, does not have significant impacts on present or future land uses. Consequently, the withdrawal decision is not the kind of decision that requires application of land use laws.

**SRC 260.010(g)(1)(D): The public interest is furthered by the annexation of the territory.**

**Finding:** The proposed annexation of the territory conforms to the Salem Area Comprehensive Plan and City services can be provided consistent with the City's adopted master plans. The city is expected to add land within the Urban Growth Boundary over time to facilitate development commensurate with urban densities found within the city. The annexation of unincorporated territory contiguous to the city limits will result in urban services being provided in a more orderly, efficient, and timely manner and will allow urban levels of development. Therefore, the proposal is found to be in the public interest.

## **8. Land use designations upon annexation**

Under SRC 260.030, annexed land is automatically given zoning designations that implement the Salem Area Comprehensive Plan designation, unless the petitioner or City Council propose a new Comprehensive Plan and/or zone designation. The property owners of the territory have not proposed a new Comprehensive Plan or zone designation.

The territory has a Comprehensive Plan designation of Developing Residential. Pursuant to SRC Table 260-1, RA (Residential Agriculture) is the zone that shall be applied.

## **BACKGROUND:**

Land located within the Urban Growth Boundary (UGB) but outside of the city limits is designated as urbanizable lands in Statewide Planning Goal 14. Urbanizable land is land that is determined to be necessary and suitable for future urban areas, that can be served by urban services and facilities and that is needed for the expansion of an urban area. The City is expected to annex land within the UGB over time to provide for facilities or activities which are related to or supportive of urban development such as residential, commercial, and industrial development as well as such things as sewage treatment facilities, water reservoirs or wells, parks, and recreational facilities.

Lisa Anderson-Ogilvie, AICP  
Deputy Community and Urban Development Director  
& Planning Administrator

Attachments:

1. Vicinity Map
2. Territory Legal Description and Map
3. Development Services Division Memo
4. Finance Memo
5. Salem-Keizer School District Memo