



Staff Report

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Date: 12/4/2023

Item #: 4.a.

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Kristin Retherford, Community and Urban Development Director

SUBJECT:

An annexation of an approximate 0.78-acre territory located at 572 Hile Lane NE with a Minor Comprehensive Plan Map Amendment to Multi-Family Residential and Zone Change to RM-II (Multiple Family Residential).

Ward(s): Ward 6

Councilor(s): Hoy

Neighborhood(s): East Lancaster Neighborhood Association

Result Area(s): Welcoming and Livable Community

SUMMARY:

Annexation of an approximate 0.78-acre territory located at 572 Hile Lane NE with a Minor Comprehensive Plan Map Amendment to Multi-Family Residential and Zone Change to RM-II (Multiple Family Residential).

ISSUE:

Shall City Council approve the annexation of the territory located at 572 Hile Lane NE, including a Minor Comprehensive Plan Map Amendment to Multi-Family Residential and Zone Change to RM-II (Multiple Family Residential) and withdrawal of the territory from the Marion County Fire District #1 and East Salem Sewer and Drainage District, and advance to first reading?

RECOMMENDATION:

Approve the annexation of the territory located at 572 Hile Lane NE, including a Minor Comprehensive Plan Map Amendment to Multi-Family Residential and Zone Change to RM-II (Multiple Family Residential) and withdrawal of the territory from the Marion County Fire District #1 and East Salem Sewer and Drainage District, and advance to first reading.

FACTS AND FINDINGS:

1. Proposal

The annexation request, submitted by Bob Sanders, of Creations Northwest, LLC, on behalf of the applicant and property owner, Center Street Holding, LLC, is for an approximate 0.78-acre territory located at 572 Hile Lane NE (Marion County Assessor Map and Tax Lot No. 072W29BC03500). A vicinity map identifying the location of the territory is included as **Attachment 1**. The legal description and map of the territory are included as **Attachment 2**. The territory does not include any right-of-way.

The proposal includes a request to annex the property into the City of Salem and that upon annexation the Salem Area Comprehensive Plan Map designation of the property be changed from "Developing Residential" to "Multiple Family Residential" (**Attachment 3**) and the zoning of the property be changed to RM-II (Multiple Family Residential) (**Attachment 4**) in order to allow for development of the second phase of the adjacent Cascade Vista Apartments located at 4692 to 4728 Center Street NE (**Attachment 5**). The second phase of the apartments would include an additional 18-unit apartment building, a portion of which spans the abutting parcel, together with associated off-street parking and landscaping (**Attachment 6**).

The subject property is configured as a flag lot without direct frontage onto any street. Vehicular access to the site is currently provided by an existing 16-foot-wide ingress and egress easement located within Hile Lane NE. Hile Lane NE is a private roadway located within a 25-foot-wide access and utility easement that connects to Auburn Road NE.

Following annexation of the property, and its incorporation into the adjacent apartment complex, vehicle, bicycle, and pedestrian access would become integrated into the overall multiple family development and would be provided from Center Street NE.

The property is currently served by the Marion County Fire District #1 and the East Salem Sewer and Drainage District. The territory will be withdrawn from these districts 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) Any 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: 23 101811.

3. Notice

Mailed Notice: Pursuant to SRC 300.720(b)(2)(A), mailed notice was provided as required on November 22, 2023.

Posted Notice: Pursuant to SRC 300.720(b)(3)(A) & (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 300.720(b)(4), notice of the annexation was published in the Statesman Journal on November 22, 2023, and November 29, 2023.

Notice to Potential Enclaved Property: Pursuant to SRC 300.720(b)(2)(A)(ii)(ee), mailed notice is required to all property owners whose property would become an enclave as a result of the annexation. The proposed annexation will not create an enclave.

4. Neighborhood Association and Public Comments

Neighborhood Association Comment: Upon annexation the subject property will be located within the boundaries of the East Lancaster Neighborhood Association (ELNA). Notice was provided to the neighborhood association pursuant to SRC 300.720(b)(2)(A) for both this public hearing and the initial public hearing before the Planning Commission.

Comments received from the neighborhood association during the initial public hearing before the Planning Commission indicated they had been briefed on the annexation application several times in the past year and no concerns have been expressed regarding the annexation application. The neighborhood association did indicate, however, that concerns have been raised regarding construction noise and that residents of the adjacent mobile home park have been bothered by construction noise starting too early. As of the date of completion of this staff report no additional comments have been received from the neighborhood association.

Staff Response: The construction noise referred to in the neighborhood association's comments is noise that has been associated with the construction of the first phase of the Cascade Vista apartments located to the north of the subject property. The City's noise ordinance, included under SRC Chapter 93, establishes standards and prohibitions for various noise disturbances throughout the City. Pursuant to SRC 93.020(d), construction activities are not allowed between the hours of 10 p.m. and 7 a.m. of the following day. If construction activities are occurring on property outside of the allowed hours specified in the noise ordinance, a complaint may be filed with the City's Code Compliance Division to investigate and take necessary steps to ensure compliance.

Homeowners' Association: SRC 300.720(b)(2)(A) requires notice to be provided to any active and duly incorporated Homeowners' Association (HOA) applicable to the property. The subject property is not located within a Homeowners' Association.

Public Comment: Notice was provided to all property owners and tenants within 250 feet of the subject property for both this public hearing and the initial public hearing before the Planning Commission. No public comments were received during the initial public hearing before the Planning Commission and as of the date of completion of this staff report, no comments have been received.

5. City Department Comments

Community Development - Development Services Division: Reviewed the proposal and provided comments (**Attachment 7**) pertaining to City infrastructure required to serve the property. Adequate facilities are available.

Parks Division: Reviewed the proposal and indicated that no City park is impacted by the proposed annexation and no land is available for park development from the annexation. There are no neighborhood parks within a one-half mile service area of the site. The nearest park is Ryal Oaks Park, located at 4882 Carriage Court NE. The walking distance between the annexation territory and Royal Oaks Park is estimated to be approximately 0.75 miles and requires a crossing of Center Street NE, which is considered a barrier to walkable park access.

Fire Department: Reviewed the proposal and indicated that the estimated response time to this location is approximately 4 minutes and 50 seconds. Primary fire protection and emergency medical services would be provided from Fire Station No. 10, located at 3611 State Street. Secondary emergency response would be from Fire Station No. 3, located at 1884 Lansing Avenue NE.

The territory will be withdrawn from the Marion County Fire District #1 upon annexation.

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

Finance Department: Reviewed the proposal and provided comments regarding property tax limits, rates, and other information related to the financial impacts of annexation (**Attachment 8**).

Building and Safety Division: Reviewed the proposal and indicated no comments.

6. Public Agency Comments

Salem-Keizer School District: Reviewed the proposal and provided comments estimating the number of students that would be added to schools if the property is fully developed

(Attachment 9).

7. 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 one tax lot owned by Center Street Holdings, LLC, and the owner of the property has signed the annexation application; the property is located within the Salem Urban Growth Boundary and subject to Salem's acknowledged Comprehensive Plan; and the property is contiguous to the City limits on its northern, eastern, and western sides. The territory is therefore exempt from voter approval.

8. Analysis of Annexation Approval Criteria

Salem Revised Code (SRC) 260.010(g)(2)(A) sets forth the following criteria that must be met before approval can be granted to a request for an Annexation with a minor comprehensive plan map amendment or quasi-judicial zone change:

SRC 260.010(g)(2)(A)(i): 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 approximately 0.78-acres in size and contiguous to the City limits. The annexation of unincorporated territory contiguous to the City limits results 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, 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)(2)(A)(ii): 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: The territory proposed for annexation is located within the City's Urban Service Area and adequate facilities are available. Comments provided by the various City departments indicate that the territory can 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 but as land within the territory is further developed, necessary site-specific infrastructure will be identified and required to be provided at the time of future further development. The proposed annexation complies with this criterion.

SRC 260.010(g)(2)(A)(iii): The withdrawal of the territory from any applicable special districts complies with applicable state statutes governing the withdrawal of the territory from those districts.

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 territory is currently located within the Marion County Fire District #1 and East Salem Sewer and Drainage District. The City will withdraw the territory from these service districts 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)(2)(A)(iv): 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 proposed annexation is in the public interest and complies with this criterion.

9. 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 current Comprehensive Plan designation for the territory is Developing Residential. This designation would otherwise result in the RA (Residential Agriculture) zone being applied. However, as part of the annexation process the owner of the property has requested a Minor Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change to instead change the Comprehensive Plan Designation of the territory to Multiple Family Residential and the zoning to RM-II (Multiple Family Residential).

10. Comprehensive Plan Map Amendment and Zone Change Approval Criteria

Salem Revised Code (SRC) 260.010(g)(2)(B) sets forth the following criteria that must be met before approval can be granted to a Minor Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change in conjunction with an annexation:

SRC 260.010(g)(2)(B)(i): The proposed minor comprehensive plan map amendment complies with the minor comprehensive plan map amendment approval criteria of SRC 64.025(e)(2), when the annexation includes a minor comprehensive plan map amendment.

SRC 260.010(g)(2)(B)(ii): The proposed quasi-judicial zone change complies with the quasi-judicial zone change approval criteria of SRC 265.005(e), when the annexation includes a quasi-judicial zone change.

On July 18, 2023, a public hearing was held before the Planning Commission to consider the Minor Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change requested by the applicant and the Planning Commission subsequently voted to recommend City Council approval of the requested Multiple Family Residential Comprehensive Plan designation and RM-II zoning.

Findings in support of the requested Minor Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change are included in the Planning Commission's decision which is included as **Attachment 10** to this report and incorporated herein by reference.

The Multiple Family Residential Comprehensive Plan designation and RM-II zoning requested with the annexation comply with the approval criteria of SRC 64.025(e)(2) and SRC 265.005(e) and will help the City to further meet its multi-family housing needs by providing additional land designated, and planned to be developed, for multi-family housing. Future development of the property will be required to conform to the applicable standards of the City's development code, including the multiple family design review standards of SRC Chapter 702, which ensure that development occurs in a manner that minimizes any potential impacts, and promotes compatibility, between the development and uses on adjacent land.

BACKGROUND:

Land located within the Urban Growth Boundary (UGB) but outside of the city limits is designated as urbanizable land under 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.

Bryce Bishop
Planner III

Attachments:

1. Vicinity Map
2. Territory Legal Description and Map
3. Comprehensive Plan Change Map
4. Zone Change Map
5. Existing Conditions Plan
6. Conceptual Phase 2 Site Plan
7. Development Services Division Comments
8. Finance Department Comments
9. Salem-Keizer School District Comments
10. Planning Commission Recommendation (July 19, 2023)