



# City of Oregon City

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## Staff Report

File Number: PC 17-028

**Agenda Date:** 3/15/2017

**Status:** Public Hearing

**To:** City Commission

**Agenda #:** 6a.

**From:** Community Development Director Laura Terway

**File Type:** Planning Item

### **SUBJECT:**

First Reading of Ordinance No. 17-1003: Annexation of 51.41 Acres East of Beaver Creek Road (Annexation file AN-16-0003)

### **RECOMMENDED ACTION (Motion):**

Staff recommends the City Commission approve Planning file AN-16-0003 and approve the first reading of Ordinance No. 17-1003. The record is closed, no public testimony should be admitted.

### **BACKGROUND:**

The applicant proposed annexation of approximately 115 acres (including the Oregon City Golf Course) and approximately 2,000 square feet of the abutting Beaver Creek Road right-of-way into Oregon City. The site is within the Oregon City Urban Growth Boundary and has a Comprehensive Plan designation of FU- Future Urban with FU-10 and TBR zoning in Clackamas County. The property is within the area of the Beaver Creek Road Concept Plan.

### **ANNEXATION 16-0003**

On January 9th, 2017, the Planning Commission considered the proposed annexation before voting 3-2 to recommend approval of Planning file AN-16-0003 to the City Commission with conditions. The staff report was subsequently revised to include the conditions as identified by the Planning Commission.

The City Commission considered the annexation of Planning File AN-16-0003 during multiple hearings where it considered additional testimony. At the close of the public hearing on February 1, the City Commission decided to leave the record open to allow additional testimony from the public as well as final written argument from the applicant. The deadline for the submittal of new evidence for inclusion into the record was 4:00 pm on Wednesday, February 15. City staff received written testimony from the following individuals within this deadline and it is presented to you within the Commission packet for inclusion in the record:

Steve Callistini

Bob LaSalle

Doug Neeley

Joseph Schafer, Applicant representative

Elizabeth Graser-Lindsey email requesting South End Neighborhood Association (SENA)

complaint be added into record

SENA complaint

Clackamas Fire District #1 letter dated October 31, 2016, submitted by staff

Tim Ramis, Applicant Representative Final Written Argument

Evidence submitted after deadline:

On Thursday, February 16, city staff received 2 forwarded emails from Ms. Graser-Lindsey from South End Neighborhood Association regarding the status of the January 2016 SENA meeting minutes. On Wednesday, February 22, city staff received another request from Ms. Graser-Lindsey to place the minutes from the South End Neighborhood Association into the record. City staff received an email from Debbie Ruger raising traffic concerns on February 27. Since the record was closed on February 15, this new evidence is not admissible. Before moving to the merits of this request, the City Commission should either (1) reject the new evidence received by Ms. Graser-Lindsey and Ms. Ruger after the Feb. 15 deadline or (2) re-open the record to accept this additional testimony.

After making a decision on the record, the City Commission should move forward with deliberation and make a decision on AN 16-0003. Staff has prepared findings in support of approval for the Commission's consideration.

### **ORDINANCE 17-0003**

The annexation is proposed to be implemented through two separate Ordinances. Ordinance 17-1003 is for annexation of 51.41 acres of the southern portion of the annexation territory. Ordinance 17-1004 will be considered second for the annexation of 63.82 acres of the northern portion of the annexation territory. These two ordinances recognize that the southern portion of the property was acknowledged with a city comprehensive plan designation in 2004. The northern parcels are not subject to an acknowledged city comprehensive plan, as explained in greater detail with Ordinance 17-0004.

The question before the Commission is whether to follow SB 1573, notwithstanding a provision in the City Charter that requires voter approval.

The Commission received requests to delay a decision on this annexation pending a ruling in *City of Corvallis v. State of Oregon*, a proceeding before a Benton County Circuit Court, to determine whether SB 1573 violated provisions of the Oregon Constitution as well as the city's Home Rule authority as set forth in local charter. The court ruled in favor of the State, finding that SB 1573 did not violate the constitution or local charter. A copy of that decision is attached to this report. In sum, the court held that the opening phrase within the Corvallis (and Oregon City) charter "unless mandated by State law," indicates a grant to the State to alter the voter requirement. The court rejected a League of Oregon City argument that the "unless" phrase applied only to state laws in effect when the charter provision was passed. The court went on to explain that a city does get an opportunity to determine if an annexation is consistent with all applicable land use regulations and within the urban growth boundary, suggesting that it is therefore, suitable for annexation. Although this decision is not controlling, it is certainly instructive and provides support for the City's decision to follow SB 1573 and declare this annexation, without seeking approval from the voters.