

## Legislation Details (With Text)

**File #:** 21-534      **Version:** 1

**Type:** Resolution      **Status:** Agenda Ready

**In control:** City Council

**On agenda:** 12/6/2021      **Final action:** 12/6/2021

**Title:** Multiple Unit Housing Tax Incentive Program application by SAMAX, LLC seeking a property tax exemption for a 2-unit apartment development located at 227-229 Commercial Street NE.

Ward(s): Ward 1  
Councilor(s): Stapleton  
Neighborhood(s): CANDO  
Result Area(s): Strong and Diverse Economy; Welcoming and Livable Community.

**Sponsors:****Indexes:****Code sections:**

**Attachments:** 1. Resolution No. 2021-47, 2. Exhibit A to Resolution No. 2021-47, 3. Exhibit B to Resolution No. 2021-47, 4. Core Area Map, 5. Public Comment received by 2:30 p.m. 11-22-2021.pdf

Date	Ver.	Action By	Action	Result
12/6/2021	1	City Council	adopted	Pass

**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Kristin Retherford, Urban Development Department Director

**SUBJECT:**

Multiple Unit Housing Tax Incentive Program application by SAMAX, LLC seeking a property tax exemption for a 2-unit apartment development located at 227-229 Commercial Street NE.

Ward(s): Ward 1  
Councilor(s): Stapleton  
Neighborhood(s): CANDO  
Result Area(s): Strong and Diverse Economy; Welcoming and Livable Community.

**SUMMARY:**

On November 22, 2021, Council directed staff to revise Resolution No. 2021-47 consistent with the five-year tax abatement for the Project.

**ISSUE:**

Shall City Council:

- (1) Adopt Resolution No. 2021-47 approving an application by SAMAX, LLC for tax exemption for a five-year period under the City's Multiple Unit Housing Tax Incentive Program; and
- (2) Direct staff to make a request to boards of other taxing districts to adopt a resolution agreeing with the policy of providing a tax exemption for the project, therefore exempting the multiple family residential portion of the project's full property tax liability?

### **RECOMMENDATION:**

- (1) Adopt Resolution No. 2021-47 approving an application by SAMAX LLC for tax exemption for a five-year period under the City's Multiple Unit Housing Tax Incentive Program; and
- (2) Direct staff to make a request to boards of other taxing districts to adopt a resolution agreeing with the policy of providing a tax exemption for the project, therefore exempting the multiple family residential portion of the project's full property tax liability

### **FACTS AND FINDINGS:**

At the November 22, 2021 City Council meeting, Council was incorrectly informed that exemption could be extended for addition terms beyond ten years. That was incorrect. The City's code and state law allow for an exemption up to ten years, however, no extensions beyond ten years may be allowed. Prior to the end of the five-year term for this exemption, Council will have an opportunity to consider an extension of the tax exemption for an additional five years up to the ten years allowed by applicable law.

On October 28, 2021, SAMAX, LLC (Angela Jones, Member) (Applicant), submitted an application for participation in the Multiple Unit Housing Tax Incentive Program (Program) for redevelopment of an existing building located at 231-233 Commercial Street NE in downtown Salem (Project). The Project will consist of two new 1,100 square foot residential rental units and the rehabilitation of the existing 5,800 square foot of commercial space.

The Applicant has submitted applications and materials asserting compliance with all Program requirements. The Project contains more than two dwelling units, is located within the Core Area, and meets 7 of the 19 public benefit requirements. Adoption of Resolution No. 2021-47 (Attachments 1, 2, 3) would approve the application by SAMAX LLC for tax exemption of the multiple family residential portion of the property under the Program.

The Project involves the redevelopment of an existing mixed-use building containing commercial and residential space. The Project will add off street parking and two new residential units.

SRC 2.790 - 2.835 adopts the provisions of ORS 307.600 - 307.687 to stimulate the construction, or addition of, or conversion to multiple-unit housing in the designated core area of the City of Salem. Criteria, standards, and other guidelines are further detailed in the Standards and Guidelines for The

Multiple Unit Housing Tax Incentive Program, adopted by the Council. The applicable statutes, code, and criteria are shown below in **bold** print. This application was submitted prior to Council approving changes to the requirements for projects with 100 units or more of multiple family housing, and those new standards were not applied to this application. Following each criterion is a finding relative to the application.

**ORS 307.606(4): States that prior to accepting applications under ORS 307.600 to 307.637, cities and counties shall promulgate standards and guidelines to be utilized in considering applications and making determinations required by ORS 307.618.**

**Finding:** The City has adopted Standards and Guidelines for the Program, and most recently updated them in 2021, through Resolution No. 2021-44.

**ORS 307.612: Provides that the first year of the exemption for an approved project is the assessment year beginning January 1 immediately following the calendar year in which construction, addition or conversion is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption provided for in ORS 307.600 to 307.637.**

**Finding:** The Applicant has asked for exemption starting in 2022.

**ORS 307.618: As applicable to this application, the City may approve an application under a program if the City finds:**

- (1) The owner has agreed to include one or more design or public benefit elements as specified by the city or the county;**
- (2) The project is or will be, at the time of completion, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227 that are applicable at the time the application is approved.**
- (3) The owner has complied with the City's adopted Standards and Guidelines.**

**Finding: Design or Public Benefit Elements:**

The Applicant has identified 7 of the 19 available design or public benefit elements as specified in SRC 2.815 (see below). Staff believes the application meets 6 of the 19 available design or public benefit elements and complies with this requirement.

**Local Plans and Land Use Regulations:**

### **Land Use Approval:**

The Project has completed construction and received a Certificate of Occupancy.

### **Local Plans:**

#### Riverfront-Downtown Urban Renewal Area Plan:

##### Section 400, Objective 2:

To maintain the central core area as the dominant center for regional retail and office development.

##### Section 400, Objective 5:

To improve the pedestrian flow and protection for pedestrians between retail activities, offices, public facilities, parking, and related areas, through improvements at street level as well as grade-separated pedestrian ways.

##### Section 400, Objective 7:

To encourage private restoration, rehabilitation, development, both within and adjacent to project areas, through public improvements in project areas.

##### Section 400, Objective 11:

To encourage the development of new housing through the use of available measures, such as the tax abatement provisions of HB 2343.

##### Section 400, Objective 12:

To increase the total housing supply adjoining the retail core.

**ORS 307.621:**     **A city or county shall approve or deny an application filed under ORS 307.618 within 180 days after receipt of the application and that an application not acted upon within 180 days shall be deemed approved.**

**Finding:**     The application was received on October 28, 2021. Council has until April 26, 2022, to issue a final decision on the application.

**ORS 307.637(2):**     **An exemption for multiple-unit housing may not be granted under ORS 307.600 to 307.637 unless:**

**(2) In the case of multiple-unit housing described in ORS 307.603 (5) (b), the construction, addition or conversion is completed on or before December 31, 2031.**

**Finding:**     The application proposes multi-family housing, and therefore 307.637(2) is applicable, and must be completed on or before December 31, 2031. The Applicant has noted the Projects has already received a Certificate of Occupancy.

**SRC 2.800:**      **To be eligible for the property tax exemption provided by SRC 2.790-2.835 a structure must:**

- (a)    Be dwelling units, not designed or used as transient accommodations and not including hotels and motels but including such design elements benefitting the public as described in SRC 2.790-2.835 and approved by the City Council;**
- (b)    Be housing which is constructed on or after January 1, 2022 and completed on or before December 31, 2031.**
- (c)    Be located within the designated core area.**

**Finding:**      The Project is located within the Core Area and includes 2 rental apartment units. The apartment units may not be used for transient accommodations for the term of the exemption, such as a hotel, motel, or short-term rental. As noted above, the Project has received its Certificate of Occupancy. As discussed below, the Applicant has identified 7 of the 19 public benefit elements.

Staff believes the Project meets 6 of the 19 public benefit elements and complies with the requirements in SRC 2.800 and is eligible.

**SRC 2.810:**      **Application Procedure Requirements.**

**Finding:**      The Applicant submitted a complete application.

**SRC 2.815:** **Design Elements Benefitting the Public. To qualify under the Program, an applicant must propose and agree to include in the proposed project one or more design elements benefitting the general public; however, public benefits provided by this section are not necessarily required to be available to the public at large if the City Council finds the design elements proposed by the applicant provide sufficient public benefit.**

**Finding:**      The Applicant has submitted material (Exhibit A of Resolution 2021-47) indicating 7 of the 19 public benefits outlined in SRC 2.815 will be met by the Project.

**Public Benefits Addressed:**

- 1.      Unit sales prices or rental rates accessible to a broad range of mixed incomes.
  - a.      Staff believes this criterion is not met due to both units having the same rental rate.
- 2.      Special Architectural Features.
  - a.      The Project's façade dates back to 1867 and is reportedly the

oldest brick, mortar, and iron building in Salem.

3. Dedication of land or facilities for public use.
  - a. The Project completed alley improvements along its western border.
4. Development or redevelopment of underutilized or blighted property.
  - a. The project will redevelop an underutilized property for residential and commercial use.
5. Development in structures that may include ground level commercial space.
  - a. The Project will contain renovated ground floor commercial space.
6. Development on existing surface parking lots.
  - a. The Project created two indoor parking spaces on a previous surface lot at the rear of the building.
7. Provision of parking spaces within the structure.
  - a. The Project created two indoor parking spaces at the rear of the building.

**Public Benefits Not Addressed:**

1. Recreation facilities;
2. Open Space;
3. Common Meeting Rooms;
4. Day care facilities;
5. Facilities supportive of the arts;
6. Facilities for the handicapped
7. Service or commercial uses which are permitted and needed at the project site but not available for economic reasons;
8. Provision of pedestrian oriented design features;
9. Extra costs associated with infill or redevelopment;
10. Development on sites with existing single-story commercial structures;
11. Leadership in Energy and Environmental Design (LEED) Certification by the Green Building Council of the project;

12. Provision of amenities and/or programs supportive of the use of mass transit.

**SRC 2.825: City Council Review. The City Council may approve the application if it finds, in accordance with adopted Standards and Guidelines, that:**

- (1) The property is eligible as provided in SRC 2.800;**
- (2) The applicant has agreed to include in the construction as a part of the multiple-unit housing one or more design elements benefitting the general public which are deemed sufficient by the City Council;**
- (3) The project is in conformance with the comprehensive plan and zoning regulations; and**
- (4) The public benefit the property will receive pursuant to the Program will be reasonable when considered in combination with other public benefits it is receiving or for which the owner plans to apply.**

**Finding:**

1. As set forth above, staff believes the Project is eligible.
2. As set forth above, staff believes the Project includes adequate design elements benefitting the public to satisfy SRC 2.815.
3. The Project has received its Certificate of Occupancy.
4. Application materials support a finding that the public benefit the property will receive pursuant to this program will be reasonable when considered in combination with other public benefits it is receiving or for which the owner plans to apply.

The deadline for Council to decide on the application is April 26, 2022. If Council does not issue a final decision by April 26, 2022, the application will be deemed approved. If approved, Resolution No. 2021-47 will become effective upon adoption.

**BACKGROUND:**

In June 1976, Council enacted Salem's Multiple Unit Housing Tax Incentive Program (Program), Salem Revised Code (SRC) 2.790-2.835. The Program is authorized by Oregon Revised Statute (ORS) 307.600-307.691, which allow local governments to establish a program for property tax exemptions to stimulate the construction of transit-supportive multiple unit housing in the core areas of Oregon's urban centers. The Program provides a property tax exemption for up to ten years for new or

converted, transit supportive, non-transient multiple family housing units constructed within the defined core area (Attachment 4) that provide one or more public benefits as defined in the ordinance. The basic tenets of the Program are:

- The project must include at least two dwelling units, which may not be used for transient accommodations per Standards and Guidelines adopted by Resolution No. 2021-44;
- The project must be located within the "Core Area" as defined in SRC 2.800(c);
- The project must include at least one public benefit as outlined in SRC 2.815, and;
- Council shall, by resolution, decide within 180 days of receipt of the application or the application is automatically deemed approved.

The Program provides for a tax exemption only for the City's tax levy, estimated to be \$2,133 in the first full year. Pursuant to ORS 307.606(1), in order for a project to be exempt from property taxes from other taxing districts, such as counties or the school district, the governing bodies of the taxing districts, representing 51% or more of the total combined rate of taxation levied on the property under consideration must consent to the exemption. The City and the Salem-Keizer School District collectively represent about 60% of the combined rate of taxation within the Core Area. As set forth in ORS 307.606(1), if the District's Board consents to the tax exemption for a project under the Program, the project will be exempt from all local property taxes for the period authorized, estimated to be \$8,533 in the first full year. A resolution approving the Project's participation in the Program by another taxing district, such as the School District, will have no effect on their tax revenue.

On October 11, 2021, City Council amended SRC 2.830(a) extending the Program to January 1, 2032. Each application requesting approval is evaluated on a case by case basis by the City Council. Since 1976, nine properties have been approved by Council for this Program:

990 Broadway Building (23 units) - 990 Broadway Street NE

Tax exemption period expires in 2032.

Parke 325 Building (30 units) - 325 13<sup>th</sup> Street NE

Tax exemption period expires in 2031.

Koz on State Street/Nishioka Building (142 units) - 260 State Street

Tax exemption period expires in 2031.

The Court Yard Apartments (40 units) - 211 Court Street NE)

Tax exemption period expires in 2030.

South Block Apartments (178 units, Phases I & II) - 315 Commercial Street SE

Tax exemption period expires in 2025 & 2027 (Phases I & II respectively).

The Residences at Riverfront Park (118 units) - 230 Front Street SE

Project cancelled prior to construction.



Willamette Landing Apartments (89 units) - 1601-1675 Water Street NE

Tax exemption period expired in 2000.

Forum Apartments (62 units) - 350 13th Street SE

Tax exemption period expired 1990.

Mill Bridge Terrace Apartments (24 units) - 728 Church Street NE

Tax exemption period expired in 1987.

Clint Dameron  
Real Property Services Manager

Attachments:

1. Resolution No. 2021-47
2. Exhibit A to Resolution No. 2021-47
3. Exhibit B to Resolution No. 2021-47
4. Core Area Map