

## Legislation Details (With Text)

**File #:** 22-456 **Version:** 1

**Type:** Public Hearings **Status:** Passed

**In control:** City Council

**On agenda:** 10/10/2022 **Final action:** 10/10/2022

**Title:** Legislative Zone Change on Commercial Street SE.

Ward(s): Ward 2  
 Councilor(s): Councilor Nishioka  
 Neighborhood(s): SCAN  
 Result Area(s): Natural Environment Stewardship; Safe Community; Safe, Reliable and Efficient Infrastructure; Strong and Diverse Economy; Welcoming and Livable Community.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance Bill No. 18-22., 2. Exhibit A to Ordinance Bill 18-22 - Map of Impacted Properties, 3. Exhibit B to Ordinance Bill 18-22 Findings, 4. 2 - List of Properties Subject to Proposed Zone Change, 5. 3 - Comparison of MU-II and MU-III Zones, 6. 4 - Public Comments.pdf, 7. Written Testimony

Date	Ver.	Action By	Action	Result
10/10/2022	1	City Council	approved	Pass

**TO:** Mayor and City Council

**THROUGH:** Keith Stahley, City Manager

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

**SUBJECT:**

Legislative Zone Change on Commercial Street SE.

Ward(s): Ward 2  
 Councilor(s): Councilor Nishioka  
 Neighborhood(s): SCAN  
 Result Area(s): Natural Environment Stewardship; Safe Community; Safe, Reliable and Efficient Infrastructure; Strong and Diverse Economy; Welcoming and Livable Community.

**SUMMARY:**

The City of Salem is proposing to rezone properties on Commercial Street SE roughly between Superior Street S and McGilchrist Street SE to Mixed-Use II (MU-II) to encourage pedestrian-friendly, mixed-use development. The work responds to a motion from City Council during the Our Salem project public hearing process to rezone these properties to MU-II rather than Mixed Use III (MU-III).

## **ISSUE:**

Shall City Council advance Ordinance Bill No. 18-22 for the purpose of rezoning specific properties on Commercial Street SE to MU-II to second reading?

## **RECOMMENDATION:**

Advance Ordinance Bill No. 18-22 for the purpose of rezoning specific properties on Commercial Street SE to MU-II to second reading

## **FACTS AND FINDINGS:**

### ***Procedural Findings***

1. The Our Salem project, which was approved in July 2022 and became effective on August 24, 2022, amended the Salem Area Comprehensive Plan (Comprehensive Plan), implemented changes to the Salem Comprehensive Plan Map and zoning map, amended the Salem Revised Code, and adopted the Salem Housing Needs Analysis.
2. As part of the approval of the Our Salem project on July 11, 2022, the City Council voted to direct staff to create an ordinance and schedule a public hearing to consider rezoning properties on both sides of Commercial Street SE from Superior Street S to Jerris Avenue SE and properties on only the east side of Commercial Street SE between Jerris Avenue SE and McGilchrist Street SE to MU-II.
3. Staff mailed out flyers to owners of affected property owners on August 22, 2022, describing the proposed zone change and providing opportunities to discuss the proposal with staff.
4. The proposed zone changes are legislative zone changes, which may be initiated by the City Council under SRC 265.010(c). The City Council may initiate a legislative land use proceeding by the adoption of a resolution under SRC 300.1110(a).
5. The City Council adopted Resolution No. 2022-48 on September 12, 2022 to initiate the proposed zone change.
6. On September 12, 2022, the City Council voted to hold a public hearing of Ordinance Bill No. 18-22.

### ***Overview of Proposed Zone Change***

As part of the adoption of the Our Salem project, Council voted on July 11, 2022 to direct staff to create an ordinance and schedule a public hearing to consider rezoning properties both sides of Commercial Street SE from Superior Street S to Jerris Avenue SE and properties on only the east side of Commercial Street SE between Jerris Avenue SE and McGilchrist Street SE to MU-II. The proposed changes to the zoning map are included as Exhibit A of Ordinance Bill No. 18-22 (**Attachment 1**). The properties are proposed to be rezoned to MU-II; some are currently zoned

Retail Commercial (CR), and others are zoned Commercial Office (CO). All the properties impacted by the proposed zone change are listed in **Attachment 2**.

Staff had previously proposed to rezone these properties to MU-III. However, a comment from the South Central Association of Neighbors (SCAN) requested that the properties be rezoned to MU-II rather than MU-III in order to encourage pedestrian-oriented development and limit automobile-oriented uses. The Comprehensive Plan Map designation of the subject properties was changed to Mixed Use through the Our Salem project, so rezoning these properties to a mixed use zone will align the zoning with the Comprehensive Plan Map designation.

Both the MU-II and MU-III zones allow a range of commercial uses, including retail sales, offices, personal services, and commercial entertainment, as well as multifamily and middle housing. The uses on the majority of the properties subject to the proposed zone change would be allowed outright in the MU-II zone.

However, the MU-II zone prohibits more auto-oriented uses - such as motor vehicle sales and services - than in the MU-III zone where such uses are generally allowed through a conditional use permit. There are three existing businesses proposed to be rezoned that currently have automobile sales and services uses. Under the proposed MU-II zone, they would become continued uses, and as such, the existing businesses could continue operating. New automobile sales or services uses would be prohibited on properties that were rezoned to MU-II.

The MU-II zone provides more design-related development standards than the MU-III zone to ensure that new development or redeveloped properties are pedestrian friendly. For example, the MU-II zone requires development to be located close to the sidewalk with awnings, windows, and architectural elements that provide visual interest. The MU-III zone also includes standards to encourage pedestrian-oriented development, but they are not as extensive and focus primarily on ensuring new parking lots and drive-throughs are located behind or beside buildings. A comparison of key similarities and differences between the MU-II and MU-III zones is included as **Attachment 3**.

All but one of the properties proposed to be rezoned are located in overlay zones. These overlay zones - the Hoyt/McGilchrist Overlay Zone, the Oxford/Hoyt Overlay Zone, the Oxford/West Nob Hill Overlay Zone, and the Superior/Rural Overlay Zone - provide additional development standards that take precedence over the standards provided in the base zoning. These standards aim to minimize the impacts of development on existing residential uses, including adjacent neighborhoods. The standards include a maximum height of 35 feet for all uses except single family, two family, three family, and four family housing. (That maximum height of 35 feet is the same as the maximum height for new buildings in the Single-Family Residential Zone) This will limit the maximum height of new development within these overlays to two to three stories even though the MU-II zone allows up to 55 feet.

In September, staff mailed a flyer to affected property owners to provide information about the proposed zone change and provide opportunities to discuss the proposal with staff. Information about the proposal has also been provided on the Our Salem project webpage - [www.cityofsalem.net/our-salem](http://www.cityofsalem.net/our-salem) <<http://www.cityofsalem.net/our-salem>> - including an explanation of the changes relative to the current zoning and MU-III zoning. Recipients of the flyer were encouraged to visit the webpage and contact staff for more information and to provide input. As of

writing this staff report, only one property/business owner contacted staff with questions about the proposal, and no one expressed opposition.

### ***Public Comments***

Notice of the public hearing was also provided as required by Oregon Revised Statutes and Salem Revised Code. Comments from the public related to the proposed zone change are outlined below.

The SCAN neighborhood provided a comment supporting the proposed zone change. Their letter suggests that MU-II, as opposed to MU-III zoning, will encourage pedestrian-friendly development, reduce automobile-oriented development, and ensure that future development is compatible with adjacent residential uses.

### ***Alignment with the Comprehensive Plan***

The proposed changes to the zoning map aim to advance the goals and policies in the Comprehensive Plan and align the zoning with the existing Mixed Use Comprehensive Plan Designation on these properties. The proposed zone change reflects three of the guiding principles that are identified in the updated Comprehensive Plan.

1. **Mixed use:** Encourage a mix of uses more broadly in Salem to promote access to jobs and services, especially along major corridors with frequent transit service
2. **Housing:** Encourage a broader range of housing types across Salem, particularly near jobs, services, and amenities
3. **Employment:** Promote a diverse range of employment opportunities and improve access to jobs

### **Mixed Use**

The properties subject to the proposed zone change would be rezoned to MU-II. Thus, the proposed zone change increases the amount of mixed-use land in Salem along a major corridor with frequent transit service - Commercial Street SE. The MU-II zone allows but does not require a mix of uses, including multifamily housing, retail sales and services, offices, and other complimentary uses. The properties to the north and south of the area subject to the proposed zone change are already zoned mixed-use, so the proposed change also creates continuity in this mixed-use corridor.

Because mixed-use zoning allows a broad mix of compatible uses, establishing more mixed-use areas in Salem promotes walkability, increases access to jobs and services, and creates more flexibility in how properties can be used. Creating more walkable, complete neighborhoods - particularly near transit service - also helps move Salem closer to its greenhouse gas emissions reduction goals.

### **Housing**

The proposed zone change promotes a variety of housing options by reducing barriers to the development of multifamily housing. The MU-II zone allows multifamily housing outright on the subject properties; the CR zone, which is the zoning of most of the subject properties, requires a conditional use permit for multifamily housing, and the CO zone requires increasing minimum lot sizes based on the number of bedrooms in a multifamily development. The MU-II zone also allows middle housing and mixed-use developments, which add to the variety of housing options available in Salem. Because the subject properties are located along an established commercial corridor, the proposed zone change will facilitate the development of new housing near jobs, services, and amenities.

### Employment

The proposed zone change will continue to allow a range of commercial uses on the subject properties. The MU-II zone allows retail sales and services, offices, and commercial entertainment uses and will allow the subject properties to continue to provide a range of commercial uses. Because the MU-II zone also allows housing outright, future housing is more likely to be located in close proximity to these commercial uses, increasing access to employment opportunities for residents. Additionally, because the subject properties are located along a frequent transit corridor, new development in this area will be well-served by multiple transportation modes, which helps to increase access to jobs in this area.

### ***Substantive Findings***

The proposal includes amendments to the zoning map.

1. SRC 265.010 establishes the following approval criteria for a legislative zone change:
  - a. The zone change is in the best interest of the public health, safety, and welfare of the City.
  - b. The zone change complies with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.
  - c. If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the comprehensive plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the comprehensive plan to address the proposed zone change; or include both the demonstration and an amendment to the comprehensive plan.
  - d. The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

Findings demonstrating the proposal's conformance with the applicable approval criteria are included in Exhibit B to Ordinance Bill No. 18-22.

## **BACKGROUND:**

In July 2022, the City Council approved the Our Salem project, which was a multi-year project to update the Salem Area Comprehensive Plan and associated maps and zoning code. As part of the approval, the City Council passed a motion directing staff to bring forward a new ordinance to rezone the subject properties on Commercial Street SE to MU-II rather than MU-III and schedule a public hearing. This legislative zone change responds to that motion from Council.

Austin Ross  
Planner I

### Attachments:

1. Ordinance Bill No. 18-22
2. List of Properties Subject to Proposed Zone Change
3. Comparison of MU-II and MU-III Zones
4. Public Comments