

Legislation Details (With Text)

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On agenda: 6/26/2023 **Final action:**

Title: Public Hearing for a Legislative Zone Change and Code Amendment to Repeal Overlay Zones in the SCAN Neighborhood.

Ward(s): 2
Councilor(s): Nishioka
Neighborhood(s): SCAN
Result Area(s): Welcoming and Livable Community.

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

Attachments: 1. Ordinance Bill No 5-23, 2. Exhibit A to Ordinance Bill 5-23 - Map of Overlays Proposed to be Eliminated, 3. Exhibit B to Ordinance Bill 5-23 - Proposed Code Changes, 4. Exhibit C to Ordinance Bill 5-23 - Findings, 5. Properties within Overlays, 6. Comments Received, 7. Additional Public Comments received by 12:00 p.m., June 21, 2023, 8. Additional Public Comments received by 11:00 a.m., June 26, 2023.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|--------|--------|
| 6/26/2023 | 1 | City Council | denied | Fail |

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Kristin Retherford, Community and Urban Development Director

SUBJECT:

Public Hearing for a Legislative Zone Change and Code Amendment to Repeal Overlay Zones in the SCAN Neighborhood.

Ward(s): 2
Councilor(s): Nishioka
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SUMMARY:

Proposal to eliminate five overlay zones (Planning Case No. CA23-02): The Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones. The proposal responds to a motion from City Council during their November 14, 2022 meeting.

ISSUE:

Shall City Council advance Ordinance Bill No. 5-23 for the purpose of eliminating the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones to second reading?

RECOMMENDATION:

Advance Ordinance Bill No. 5-23 for the purpose of eliminating the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones to second reading.

FACTS AND FINDINGS:

Procedural Findings

1. On November 14, 2022, the City Council voted to direct staff to create an ordinance and schedule a public hearing to consider eliminating the Saginaw Street Overlay Zone, Superior-Rural Overlay Zone, Oxford-West Nob Hill Overlay Zone, Oxford-Hoyt Overlay Zone, and Hoyt-McGilchrist Overlay Zone.
2. Staff met with the SCAN Land Use Committee on January 12, 2023 and attended the SCAN Neighborhood Association meeting on February 8, 2023 to explain the proposed zone change, answer questions, and listen to the neighborhood's input.
3. Staff mailed out flyers to owners of affected properties on January 19, 2023, describing the proposed zone change and providing opportunities to discuss the proposal with staff.
4. The proposed zone change is a legislative zone change, which may be initiated by the City Council under SRC 265.010(c). The proposed code amendment is an amendment to the Unified Development Code (UDC), which is a legislative land use decision under SRC 110.085.
5. The City Council adopted Resolution No. 2023-9 on March 13, 2023 to initiate the proposed zone change and code amendment.
6. On March 13, 2023, the City Council voted to hold a public hearing of Ordinance Bill No. 5-23.
7. On June 5, 2023, notice of the public hearing was provided as required by Oregon Revised Statutes and Salem Revised Code.

Project Overview

During the November 14, 2022 City Council meeting, Council voted to direct staff to create an ordinance and schedule a public hearing to consider eliminating the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones.

The proposed changes to the zoning map and the UDC are described below.

Proposed Amendments

1) Amending the Zoning Map

The proposed changes to the zoning map are included as Exhibit A of Ordinance Bill No. 5-23 (**Attachment 2**). The overlay zones shown on the map are proposed to be eliminated. The existing base zoning of the affected properties is not proposed to change. All the properties impacted by the proposed zone change are listed in **Attachment 5**.

The proposed changes to the zoning map aim to advance the goals and policies in the Salem Area Comprehensive Plan by encouraging housing and mixed-use development or redevelopment near frequent transit service. Specifically, removing these overlay zones will allow taller buildings on these properties, which are located near Cherriots Core Network. (This is a network of primary transit lines that Cherriots has committed to maintaining and improving in the future.) The MU-I, MU-II, and MU-III zones allow buildings up to a maximum height of 65 feet, 55 feet, and 70 feet, respectively. However, the overlay zones limit the maximum height of buildings to 35 feet. Existing buildings within these overlay zones comply with this height maximum as measured per the standards of Salem Revised Code. Removing the overlay zones will, therefore, allow more housing and denser development or redevelopment in the future, which promotes a compact mix of uses. Development standards found in the base zoning also encourage pedestrian-oriented building and site design. This combination of factors supports walkability and transit use and reduces the need to drive, thereby helping Salem reduce greenhouse gas emissions from transportation.

The elimination of these overlay zones will also remove additional restrictions, including standards related to setbacks, screening, site access, and landscaping. These topics are generally addressed elsewhere in the UDC, though the standards may differ from those provided by the overlay zones. For example, the Saginaw Street Overlay Zone requires a minimum 30-foot setback abutting a street and a minimum six-foot high hedge adjacent to Saginaw Street. However, the MU-I zone, the base zone in this area, requires a zero to 10-foot setback abutting a street and screening is not required adjacent to Saginaw Street. By removing restrictions, future development or redevelopment may be more feasible, helping to promote more needed housing development in Salem.

The standards contained in the overlay zones reflect the priorities at the time they were created. These overlay zones were implemented in the 1980s as part of a planning effort to prepare for the widening of Commercial Street SE. At the time, some portions of the land abutting Commercial Street SE were zoned for residential development, but as the street was widened, the City recognized the importance of rezoning this land for commercial uses. These overlays were established to mitigate any new adverse effects on residential land near this corridor that might result as land converted from residential to commercial uses abutting Commercial Street SE.

The context of this neighborhood has changed over the ensuing three and a half decades, as have the community's priorities. During the recent update to the Salem Area Comprehensive Plan - the Our Salem project - the community and City Council prioritized creating walkable, mixed-use areas to support livability, increase residential density near services and frequent transit, and reduce dependence on automobiles. To accomplish this goal, many of Salem's commercial corridors with frequent transit service, including Commercial Street SE, were rezoned to mixed-use zones that allow multifamily housing outright in addition to commercial uses.

Many of these recently rezoned mixed-use corridors are adjacent to residential areas. Recognizing this, the mixed-use zones applied in these areas incorporate additional buffers between new

development or redevelopment and adjacent residential areas: a minimum setback of ten feet plus 1.5 feet of setback for each foot of building height above 15 feet. The existing overlays in the SCAN neighborhood, however, are unique in that they go further to limit development potential along Commercial Street SE by limiting height and requiring additional setbacks adjacent to certain streets. Similar overlays do not exist elsewhere in Salem along mixed-use corridors that also abut residential areas.

Most of Salem's overlay zones were previously eliminated through the Our Salem project. Some of these overlay zones were eliminated because the standards they applied were incorporated into the base zones to which they were applied. Others were eliminated because they were no longer necessary due to changes made to base zoning through the Our Salem project.

Overall, although the standards implemented by the overlay zones may differ from the requirements of the base zoning, the proposed zone change would align the future development potential of these properties with the goals and policies in the recently updated Salem Area Comprehensive Plan while still providing regulations that encourage context sensitive development between zones.

2) Eliminating Overlay Zones

The proposed code changes are included as Exhibit B of Ordinance Bill No. 5-23 (**Attachment 3**). The proposed code amendment would eliminate the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones from the UDC. These overlay zones are location-specific and are only intended in the locations on or near Commercial Street SE where they are currently applied. The proposed zone change would remove these overlay zones from all the properties to which they currently apply, and the proposed code amendment would concurrently remove them from the UDC.

Outreach

Staff met with SCAN to explain the proposed zone change, answer questions, and listen to the neighborhood's input. The neighborhood expressed opposition to the proposal due to concerns about privacy, parking, and other compatibility issues. Staff also 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 can also be found on the City's Legislative Land Use Proposals webpage:

<https://www.cityofsalem.net/business/land-use-zoning/land-use-projects/legislative-land-use-proposals>. This includes a comparison of the development standards in the existing base zoning - Mixed Use-I (MU-I), Mixed Use-II (MU-II), Mixed Use-III (MU-III) and Single Family Residential (RS) - and the overlay zones. Recipients of the flyer were encouraged to visit the webpage and contact staff for more information and to provide input. This comparison was also shared with the SCAN Neighborhood Association.

Notice of the public hearing was provided as required by Oregon Revised Statutes and Salem Revised Code.

Public Comment

1. One comment was received prior to June 5, 2023, when this staff report was completed,

expressing opposition to the proposed zone change. The commentor expressed the belief that the change would result in more traffic in the neighborhood without providing infrastructure upgrades for those walking and biking. The comment also expressed concerns about this change aligning with other planning efforts, and the commentor had compatibility concerns about new buildings if they are allowed to be taller.

Staff Response:

New, denser development could result in additional residents in this area. However, the new development would be required to provide pedestrian facilities and bicycle racks if none exist, as required by Salem Revised Code. The potential for denser development could result in more services and amenities within close proximity to people's homes. Additionally, the proposed zone changes are located along a frequent transit line, which provides access to jobs and services. These factors would help reduce the need for driving, which could help offset the potential traffic that may otherwise result from additional households living in the area.

Salem is in the process of implementing its Climate Action Plan and updating its Transportation Systems Plan. The proposed zone change aligns with that work, as well as the community's input during the Our Salem project, which updated the Salem Area Comprehensive Plan.

The existing base zoning of the subject properties includes requirements that promote compatibility between new development and existing residential development on adjacent properties. These provisions did not exist when the overlay zones were created, but they will help to promote compatibility if the overlay zones are removed.

2. One comment inquired whether a build-out model had been developed to show the scale of a six-story building adjacent to single-family residences.

Staff Response:

A general build-out model has not been developed. The development or redevelopment potential for individual properties subject to this proposal varies depending on the site purpose of development. There is enough variability that a build-out model would not be unlikely to be representative of future development.

Substantive Findings

The proposal includes amendments to the zoning map and the Unified Development Code (UDC).

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.

2. SRC 110.085(b) establishes the following approval criteria for a legislative amendment to the UDC:

- a. The amendment is in the best interest of the public health, safety, and welfare of the City.
- b. The amendment conforms with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.

Findings demonstrating the proposal's conformance with the applicable approval criteria are included in Exhibit C to Ordinance Bill No. 18-22 (**Attachment 4**).

BACKGROUND:

The City Council passed a motion on November 14, 2022 directing staff to bring forward a new ordinance to eliminate the overlay zones near Commercial Street SE in the SCAN neighborhood. The proposed legislative zone change and code amendment responds to this motion from Council.

Austin Ross
Planner II

Attachments:

1. Ordinance Bill No. 5-23
2. Exhibit A to Ordinance Bill 5-23 - Map of Overlays Proposed to be Eliminated
3. Exhibit B to Ordinance Bill 5-23 - Proposed Code Changes
4. Exhibit C to Ordinance Bill 5-23 - Findings
5. Properties within Overlays
6. Comments Received