

Staff Report

File #: 16-056

Version: 1

Date: 6/6/2016

Item #: a.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Glenn W. Gross, Community Development Director

SUBJECT:

Proposed amendments to the Salem Revised Code to allow physical fitness instructional uses in the CO zone, allow the rebuilding of existing duplexes in various commercial and industrial zones, and allow self-service storage in the Riverfront Overlay Zone. (CA 16-01)

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Should the City Council conduct first reading and advance to second reading for enactment Ordinance Bill No. 7-16, which amends Salem Revised Code Chapters 521, 522, 523, 551, 553, 554, and 617 to:

- 1) Allow dance studios and similar physical fitness instructional activities in the Commercial Office (CO) zone;
- 2) Allow the alteration, expansion, or rebuilding of existing two family residential uses, such as duplexes, in the Retail Commercial (CR), General Commercial (CG), Industrial Commercial (IC), Industrial Park (IP), and General Industrial (IG) zones; and
- 3) Allow self-service storage in the Riverfront Overlay Zone?

RECOMMENDATION:

Conduct first reading and advance to second reading for enactment Ordinance Bill No. 7-16, which amends Salem Revised Code Chapter 521, 522, 523, 551, 553, 554, and 617 to:

- 1) Allow dance studios and similar physical fitness instructional activities in the Commercial Office (CO) zone;

- 2) Allow the alteration, expansion, or rebuilding of existing two family residential uses, such as duplexes, in the Retail Commercial (CR), General Commercial (CG), Industrial Commercial (IC), Industrial Park (IP), and General Industrial (IG) zones; and
- 3) Allow self-service storage in the Riverfront Overlay Zone.

SUMMARY AND BACKGROUND:

This code amendment includes three changes to the Unified Development Code (UDC). Each of the code changes was requested by separate property owners with unique situations that warranted consideration.

In 2014, the UDC project was completed and adopted as part of the Salem Revised Code. The UDC was a complete reorganization and update of Salem's development codes. The UDC was adopted with the expectation that periodic updates and amendments would be made to ensure that any unanticipated concerns with the provisions of the UDC are regularly reviewed and addressed.

The three amendments to the UDC that are included in this proposed ordinance are the result of three separate requests from property owners. In each case, the request for a code amendment was time sensitive with the requesting party asking for action in the near future. Therefore, these three pressing requests have been grouped together to be considered as a single ordinance now. City staff plans to bring other less pressing UDC amendments and updates forward in a separate larger ordinance this summer.

FACTS AND FINDINGS:

1. Under SRC 300.1100, legislative land use proceedings include proposals to amend the City's land use regulations and involve the creation, revision, or implementation of broad public policy generally affecting a large number of individual properties. The final decision in a legislative land use proceeding is an ordinance enacted by the City Council.

The Planning Commission initiated the proposed code amendments on March 1, 2016, and held a public hearing on the matter on May 3, 2016, where they recommended that the City Council adopt the proposed amendments. The Planning Commission's recommendation is included as Attachment 1.

2. The proposed code amendment includes the following three components:

- a) *Allowing Small Dance Studios and Similar Instructional Activities in the CO Zone*

A representative of the owner of the Commercial Office (CO) zoned property located at 1715 Capitol Street NE recently contacted the Planning Division requesting that the City consider amending the Salem Revised Code to allow dance studios in the CO Zone to accommodate a proposal for a dance studio at their site.

The CO zone is intended to allow office and professional services, along with a mix of housing and limited retail and personal services. Only a very limited number of personal services and commercial entertainment uses are allowed in the CO zone. Dance studios and similar uses such as yoga and karate schools are currently not permitted. The proposed amendments would allow dance studios and other physical fitness instructional activities like yoga and karate in the CO zone, provided that the individual instructional businesses do not exceed 2,500 square feet in building floor area. The floor area limit is intended to keep these businesses small in scale to promote compatibility with nearby residential neighborhoods. Much of the CO land in the City is located in close proximity to such neighborhoods. The code change does not allow non-instructional entertainment uses such as social dance halls or nightclubs in the CO zone.

b) *Allowing the Continued Use of Existing Duplexes in the CR, CG, IC, IP, and IG Zones*

A representative of the owner of the Commercial Retail (CR) zoned duplex located at 1926 & 1928 McCoy Avenue NE recently contacted the Planning Division requesting that the City consider amending the Salem Revised Code to allow the rebuilding and continued use of duplexes that are damaged or destroyed in commercial zones to facilitate the mortgage financing and sale of their duplex property.

In most cases, residential uses are not permitted in Salem's commercial and industrial zones. However, there are code provisions to allow some types of residential use in certain situations. For example, the CR, CG, and IC zones allow multiple family residential (developments of three or more units) as a conditional use, requiring a public notice, hearing, and approval by a hearings officer. In addition, the CR, CG, IC, IP, and IG zones allow existing single family dwellings constructed prior to February 1, 1983 to be expanded, and rebuilt following damage or destruction under a "continued use" provision. This facilitates the mortgage financing and ongoing upkeep of these otherwise non-conforming dwellings. However, once a single family dwelling in these zones is converted to a non-residential use, the continued use provision forbids conversion back to residential.

While there are ways to allow multiple family residential use of three units or more and existing single family dwellings under these various code provisions, there is currently no provision addressing existing two family residential uses. Meaning that in most commercial and industrial zones, duplexes that are destroyed may not be rebuilt. This makes it difficult to provide mortgage financing for these existing duplexes and provide for their ongoing upkeep.

In some situations, the most feasible use of a piece of commercial or industrially zoned property into the foreseeable future may be the continuance of an already existing residential use, such as a pre-existing duplex. The proposed code amendments expand the continued use provision that already allows the rebuilding of single family dwellings

in these situations to also allow the rebuilding of existing two family residential uses, such as duplexes, in most commercial and industrial zones.

The proposed changes also simplify the development standards for continued uses in an effort to remove unnecessarily complex requirements and confusing language.

c) *Allowing Self-Service Storage in the Riverfront Overlay Zone*

The owner of the property located at 299 D Street NE, which is within the Riverfront Overlay Zone, recently contacted the Planning Division requesting that the City consider amending the Salem Revised Code to allow self-service storage at their site.

The purpose of the Riverfront Overlay Zone is to promote the development of a vibrant pedestrian friendly mixed-use residential and commercial district. More passive land uses such as self-service storage, which attract few regular walk-in customers and generate little employment or street life, are currently not allowed in the Riverfront Overlay Zone.

Although the Riverfront Overlay Zone has been in effect since 1998, the vision for the district has yet to be realized. The proposed amendments would allow property owners in the district to have self-service storage within portions of existing buildings that are away from the ground floor building street front (i.e. basements and upper floors). No more than 50 percent of the total building floor area may be occupied by self-service storage uses and no new construction of self-service storage buildings would be allowed. These requirements are intended to allow the productive use of underutilized portions of existing buildings in the Riverfront Overlay with self-service storage, while still allowing the most visible and accessible parts of the building to be utilized for more active uses that promote the mixed-use pedestrian oriented vision for the zone.

The proposed amendments are also in line with previous amendments that have been made to the Riverfront Overlay Zone, which allow industrial uses within existing industrial buildings located in the overlay to remain until the vision for the mixed-use overlay is achieved and the use of those buildings changes to a use allowed in the Riverfront Overlay Zone.

3. During the Planning Commission hearing, the Grant Neighborhood Association submitted testimony in support of the amendment allowing dance studios and similar instructional activities in the CO zone (See Attachment 2). The South Central Association of Neighbors (SCAN) submitted testimony in opposition to allowing self-service storage in the Riverfront Overlay Zone (See Attachment 3).

The Planning Commission considered the testimony that was submitted and decided to retain all three components of the proposed amendments, including the self-service storage component, and voted to recommend that the City Council accept first reading of the ordinance as proposed. The Planning Commission retained the self-service storage component

of the amendments over SCAN's objections because of the proposed requirements that self-service storage uses may only locate in the less visible basement and upper floors of existing buildings, with no construction of new self-service storage buildings allowed.

4. Findings addressing the approval criteria for code amendment, including conformance with the Salem Area Comprehensive Plan and the Statewide Planning Goals, are included in the staff report adopted as part of the Planning Commission Recommendation (See Attachment 1).

5. **Alternatives**

Salem Revised Code and state law require at least one public hearing before an amendment to a local government's land use code may be adopted. The Planning Commission hearing on May 3, 2016 complied with this requirement, and an additional public hearing before City Council is not required. Staff recommends that City Council not conduct a second public hearing and instead proceed to second reading for enactment.

City Council may:

- A. Proceed to second reading for enactment,
- B. Set a public hearing on the proposed amendment,
- C. Refer the proposed amendment back to the Planning Commission for further deliberation, or
- D. Decline to advance the proposed ordinance.

Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments:

- 1. Planning Commission Recommendation
- 2. Letter from the Grant Neighborhood Association
- 3. Letter from the South Central Association of Neighbors (SCAN)
- 4. Proposed Code Amendments (Ordinance Bill No. 7-16)

05/20/2016