Staff Report

File #: 21-484
Version: 1

Date: 11/22/2021
Item #: 7.1a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

2021 Unified Development Code Update

Ward(s): All Wards
Councilor(s): All Councilors
Neighborhood(s): All Neighborhoods
Result Area(s): Good Governance; Natural Environment Stewardship; Welcoming and Livable Community

SUMMARY:

Proposed amendments to Salem Revised Code Title X (Unified Development Code) and various other identified chapters to comply with recent changes in State law, including House Bill 2001, and addressing issues that have arisen in the application of the Unified Development Code (UDC) since 2019; together with a proposed legislative zone change to change the zoning of those properties within the downtown in the General Retail/Office overlay zone that are currently zoned RH (Multiple Family High-Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District).

ISSUE:

Shall the City Council conduct a public hearing on Ordinance Bill No. 13-21 and advance to second reading?

RECOMMENDATION:

Conduct a public hearing on Ordinance Bill No. 13-21 and advance to second reading.

FACTS AND FINDINGS:

First Reading is scheduled for November 22nd, with a public hearing and second reading scheduled for December 6th.

Procedural Findings

1. Pursuant to SRC 300.1110(a)(2), the Planning Commission may initiate a legislative land use proceeding by the adoption of a resolution referring the matter to public hearing for review and recommendation to the City Council.

2. On August 17, 2021, the proposed code amendments were initiated by the Planning Commission with the adoption of Resolution No. 21-01. Subsequently on September 7, 2021, the proposed legislative zone change was initiated by the Planning Commission with the adoption of revised Resolution No. 21-01 that added the proposed legislative zone change to the resolution in addition to the proposed code amendments.

3. ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. Notice to DLCD was initially submitted on August 17, 2021 and was subsequently followed by a revised notice on August 31, 2021, which included the proposed legislative zone change in addition to the proposed code amendments.

4. On September 10, 2021, notice of public hearing was mailed to all affected property owners as required under ORS 227.186.

5. Public notice, as required under SRC 300.1110(e)(1)(A), was mailed September 15, 2021, and public notice was published in the Statesman Journal newspaper, as required under SRC 300.1110(e)(2), on September 23, 2021, and September 30, 2021.

6. On October 5, 2021, a public hearing was held before the Planning Commission to receive public testimony on the proposal. The Planning Commission voted to recommend City Council approval of both the proposed amendments and the legislative zone change, together with additional revisions recommended by staff included in the October 5, 2021, supplemental staff report and further additional recommended revisions by the Planning Commission **(Attachment 1)**.

Proposed Code Amendments

The proposed code amendments are highlighted below. A general summary identifying and describing the proposed changes is included as **Attachment 2**. The complete text of the proposed amendments is included Ordinance Bill No. 13-21 **(Attachment 3)**.

1. Amendments implementing changes in State law *(Various SRC Chapters)*

a) Middle housing in residential zones (House Bill 2001): The proposed amendments implement the requirements of House Bill 2001 which was passed by the State Legislature in 2019 to help increase housing choices and housing supply in Oregon. It requires large cities like Salem to allow a duplex on each lot that is zoned for residential use that allows a detached single-family dwelling. It also requires cities to allow other types of middle housing (townhouses, triplexes, quadplexes, and cottage clusters) in areas zoned for residential use that allow detached single-family dwellings.

The proposed amendments:

- Update the definitions of townhouse and duplex, and establish new definitions for triplex, quadplex, cottage cluster, and middle housing.
- Update the RA (Residential Agriculture), RS (Single Family Residential), RD (Duplex Residential), and RM-I (Multiple Family Residential) zones to allow townhouses on lots 1,500 square feet in size, Two Family uses on lots 4,000 square feet in size, Three Family uses on lots 5,000 square feet in size, and Four Family uses and cottage clusters on lots 7,000 square feet in size.
- Establish setback, lot coverage, and height requirements for middle housing that are consistent with the setback, lot coverage, and height requirements for single family uses.
- Establish a new 100-foot setback, as required by the State, abutting waterways. The waterway setback applies specifically to middle housing in the RA, RS, RD, and RM-I zones and to middle housing constructed in newly created Planned Unit Developments (PUDs).
- Update SRC Chapter 700 (Special Uses) to establish additional development standards for cottage cluster developments and revise the special use standards applicable to townhouses and Three Family and Four Family uses.
- Update SRC Chapters 77 (Permits & Street Improvements) and 803 (Streets and Right-of-Way Improvements) to provide exemptions from sidewalk and boundary street improvements for single-family detached dwellings converted to duplexes, triplexes, or quadplexes to be consistent with the exemptions currently allowed for single-family and two-family dwellings.
- Update SRC Chapter 806 (Off-Street Parking, Loading, & Driveways) to exempt single-family detached dwellings converted to duplexes, triplexes, or quadplexes from being required to provide additional off-street parking and reduce the minimum off-street parking requirement for townhouses and two family uses to one space per dwelling unit.
- Eliminate the requirement to provide a garage for newly constructed dwellings.

b) Middle housing land divisions (Senate Bill 458): The proposed amendments implement the

requirements of State Senate Bill 458 which requires local governments to establish a special land division process that applies specifically to partitions and subdivisions of land that has been, or is proposed to be, developed with middle housing. The intent of the bill is to provide a streamlined process with minimal standards to allow middle housing developments to be divided so that each dwelling unit can be located on its own lot to create the opportunity for home ownership. The bill requires the middle housing land division to be processed as an expedited land division under Oregon Revised Statues (ORS) 197.360 through ORS 197.380.

In order to implement the provisions of SB458, the land division chapter of the UDC (SRC Chapter 205) is amended to include a new section specifically dedicated to middle housing land divisions (SRC 205.051) which identifies the applicable review procedure, submittal requirements, and approval criteria for these applications. Middle housing land divisions are reviewed by the Planning Administrator, include public notice and comment, and are appealable to the Hearings Officer.

c) Child care facilities (House Bill 3109): The proposed amendments implement State House Bill 3109 which establishes requirements pertaining to how local governments may regulate family child care homes and child care centers. Under the bill local jurisdictions are required to allow family child care homes in all areas zoned for residential or commercial use and allow child care centers in areas zoned for commercial or industrial use, except areas specifically designed for heavy industrial use. The bill also establishes revised definitions for "family child care homes" and "child care centers."

In order to implement the provisions of HB3109, the definitions included under SRC Chapter 111 (Definitions) for "child day care home" and "child day care center" have been amended to align with the new definitions included in the bill. The permitted use tables in the following zones and overlay zone are also proposed to be amended to allow child day care homes and child day care centers as required under the bill:

- FMU (Fairview Mixed-Use) Zone (SRC Chapter 530);
- NCMU (Neighborhood Center Mixed-Use) Zone (SRC Chapter 532);
- EC (Employment Center) Zone (SRC Chapter 550); and
- Commercial High-Density Residential Overlay Zone (SRC Chapter 626).

d) Maximum occupancy of residential dwelling units (House Bill 2583): The proposed amendments implement House Bill 2583 which establishes requirements prohibiting local governments from limiting maximum occupancy within residential dwelling units based on whether or not the occupants within the dwelling unit are a family.

In order to implement the provisions of HB2583 the existing definition of "family" included under SRC Chapter 111 (Definitions) is required to be amended because it currently defines family based on the number of related or unrelated people living together in a dwelling unit.

The proposed revised definition removes the maximum five-person limitation on unrelated persons living together in a dwelling unit. Building code limits on the maximum number of people who can occupy a dwelling unit will continue to apply.

The proposed amendments also update the following zones by eliminating "taking of boarders and leasing of rooms by a resident family" as a permitted use because the required amendment to the definition of family to include any number of unrelated persons living together in a dwelling unit makes the allowance of the use no longer necessary:

- RA (Residential Agriculture) Zone (SRC Chapter 510);
- RS (Single Family Residential) Zone (SRC Chapter 511);
- RD (Duplex Residential) Zone (SRC Chapter 512);
- RM-I (Multiple Family Residential-I) Zone (SRC Chapter 513);
- RM-II (Multiple Family Residential-II) Zone (SRC Chapter 514);
- RH (Multiple Family High-Rise Residential) Zone (SRC Chapter 515);
- CO (Commercial Office) Zone (SRC Chapter 521); and
- FMU (Fairview Mixed-Use) Zone (SRC Chapter 530).

2. Emergency shelters & managed temporary villages for the unsheltered *(SRC Chapter 701)*

The proposed amendments revise the Temporary Uses chapter (SRC 701) to establish managed temporary villages and emergency shelters as allowed uses. The proposed amendments are necessary because neither of these uses is currently allowed under the UDC. This results in the uses having to be authorized under emergency declaration rather than being allowed, like any other land use, through the UDC.

a) Managed temporary villages: Managed temporary villages are proposed to be allowed as a temporary use in order to help address the needs of the unsheltered in the community by providing temporary living accommodations in a managed and secure environment with consistent access to on-site restrooms, storage, garbage removal, and additional services. Temporary living accommodations include non-permanent structures such as micro shelters, tents, and vehicles.

Managed temporary villages are proposed to allow up to a maximum total of 40 shelter units (micro shelters, tents, vehicles/RVs) with a maximum of two adults per unit (except for vehicles which can be occupied by a family).

Managed temporary villages are proposed to be allowed within all zones, but with additional limitations when located in residential zones. Within residential zones managed temporary villages are proposed to be allowed only when operated on the site of a church or religious organization. Managed temporary villages will require either a Class 1 or Class 2 Temporary Use permit depending on the number of shelter units that will be provided.

A Class 1 Temporary Use Permit will be required for managed temporary villages with 10 or fewer shelter units. A Class 1 Temporary Use permit follows the Type I land use review procedure, which is a staff level decision without public notice or comment.

A Class 2 Temporary Use Permit will be required for managed temporary villages with 11 to 40 shelter units. A Class 2 Temporary Use permit follows the Type II land use review procedure, which is a staff level decision that requires public notice and allows for public comment. The decision on a Class 2 Temporary Use permit is appealable to the Hearings Officer.

The proposed amendments include siting and operational standards designed to help meet the needs of village residents, promote security, and minimize potential impacts on adjacent properties.

b) Emergency shelters: Emergency shelters are also proposed to be allowed as temporary uses because, a previously mentioned, they're currently not allowed in the development code but provide an essential service to individuals who are in need of safe shelter and accommodations during times of emergency.

Similar to managed temporary villages, emergency shelters are proposed to be allowed within all zones, but with additional limitations when located in residential zones. Within residential zones emergency shelters are proposed to be allowed only when operated on the site of a church or religious organization. Emergency shelters are proposed to require a Class 1 Temporary Use Permit.

3. Revisions to Central Business District (CB) Zone *(SRC Chapter 524)*

The proposed amendments update the CB (Central Business District) zone to change some of the uses allowed within the zone, incorporate the design review standards of the General Retail/Office and Front Street Overlay zones (which are proposed to be eliminated) into the zone, and establish new development and design standards.

a) Changes to allowed uses: Changes proposed to the allowed uses within the zone include:

- Eliminating single family detached dwellings as a permitted use;
- Prohibiting drive-through uses;
- Reclassifying commercial parking on surface parking lots from a permitted use to a conditional use;
- Adding managed temporary camping for the homeless and emergency shelters as permitted temporary uses; and
- Adding self-service storage within existing buildings as an allowed special use subject to additional limitations on location and design.

The proposed addition of self-service storage as an allowed use in the zone is intended to

provide additional flexibility for reuse of large vacant buildings within the downtown that can have difficulties in finding a replacement use/tenant due to their size, configuration, and construction.

Under the proposed amendments self-service storage would only be allowed within an existing building if it meets the proposed special use standards included under SRC 700.071. The proposed new standards would limit the storage use to not more than 50 percent of the floor area of the existing building; restrict its location to the basement and upper floors of the building; and require the service and loading area to be located behind the building. The ground floor of the building would be required to have active uses other than storage to maintain vibrancy and activity at the street level. If additional floors are added to the building those floors could include additional storage space, but the storage space would have to be surrounded by perimeter uses other than storage facing the street to effectively wrap the use and hide the presence of storage on new upper floors. No alterations can be made to the appearance of the building that would reduce its conformance with the design standards of the CB zone including ground floor and upper floor windows, building entrances, weather protection, building articulation, etc.

b) New development standards proposed: The proposed amendments add the following new development standards to the zone:

- Minimum required residential density of 20 dwelling units per acre *(applies only to developments that are exclusively residential)*;
- Minimum floor-area-ratio (FAR) requirement of 2.0;
- Minimum required building height of two-stories; and
- Minimum building street frontage requirement of 90% and minimum 75% on intersecting streets for corner lots.

The above additional development standards are intended to ensure that development within the CB zone achieves a base level of density/intensity that is consistent with the purpose of the CB zone to serve Salem and the region as a principal center of business and commerce with a compact arrangement of retail and commercial enterprises together with office, financial, cultural, entertainment, governmental, and residential use designed and situated to afford convenient access by pedestrians.

c) Elimination of General Retail/Office & Front Street overlay zones: Along with the proposed amendments to the CB zone, the General Retail/Office and Front Street overlay zones are proposed to be eliminated. These overlay zones apply to property within the downtown and establish design review standards/guidelines that apply in addition to the development standards included in the base underlying zone.

In order to reduce the number of overlay zones included within the UDC, both of these overlay zones are proposed to be eliminated and their design standards have been incorporated into the CB zone.

d) Additional design standards: In addition to incorporating the design standards from the General Retail/Office and Front Street overlay zones, the proposed amendments also add the following additional design standards to the CB zone to promote improved building and site design:
   - Minimum ground floor building height;
   - Building façade design/articulation;
   - Ground floor dwelling unit entry separation from street;
   - Upper floor windows;
   - Parking location behind or beside buildings; and
   - Ground level and rooftop mechanical and service equipment screening.

4. Amendments to Fairview Mixed-Use (FMU) Zone *(SRC Chapter 530)*

The proposed amendments revise the Fairview Mixed-Use (FMU) zone to further clarify the relationship between the Fairview plan and refinement plans to reflect how the code has been historically applied in regard to the approval of refinement plans within the zone. The proposed amendment:

- Adds language providing greater clarify regarding the purpose of the Fairview Plan and its regulatory authority over subsequent refinement plans.
- Revises approval criteria for refinement plans under SRC 530.030(e) to specify which specific portions of the Fairview plan that refinements plans must be found to be in conformance with.
- Clarifies that the maps and drawings in the plan are conceptual//illustrative in nature and may be further revised by refinement plans in substantial conformance with the thirteen sustainable land use principles included in the Fairview Training Center Redevelopment Master Plan document.
- Clarifies who has standing to initiate amendments to the Fairview plan and refinement plans.
- Clarifies that amendments to the Fairview plan and refinements plans are actual changes to the text and/or supporting documents of the plans, not site-specific proposals for development requesting deviation from the standards of a refinement plan *(e.g. a request that would normally be addressed through a variance or adjustment to the standard rather than an amendment to the plan)*.

5. Amendments to annexation procedures *(SRC Chapters 260 & 300)*

The proposed amendments modify the requirements and procedures applicable to annexations by:

- Updating annexation procedures to conform with the requirements of State Law.
- Incorporating the annexation review procedures of SRC Chapter 260 into SRC Chapter 300 so they are located with the other land use application review procedures. Annexation review

procedures are currently located in SRC Chapter 260 and separate from the land use application review procedures of SRC Chapter 300.

- Reformatting and simplifying the organization of the annexation chapter and eliminating unnecessary provisions.

6. Improved tree preservation and protection *(SRC Chapter 808)*

Amendments to the tree preservation requirements of SRC Chapter 808 are proposed to provide for greater preservation and protection of trees. Highlights of the amendments include:

a) Expansion of definition of significant tree: The definition of significant tree is proposed to be expanded to include Oregon white oaks 20 inches or greater in dbh and any other tree with a dbh of 30 inches or greater, but excluding Douglas firs as recommended by the Planning Commission.

b) Changes to tree removal permit requirements: The requirements for tree removal permits are proposed to be modified to:

- Exempt removal of City trees, as defined under SRC 86, and removal of hazardous trees, pursuant to an order issued by the City, from the requirement to obtain a tree removal permit from the Planning Administrator.
- Eliminate exemptions for certain activities that do not currently require a tree removal permit and establish a new tree removal permit approval criterion for removal of significant trees in connection with construction of multiple family, mixed-use, commercial, and industrial developments.

c) Changes to tree conservation plan requirements: The requirements for tree conservation plans are proposed to be modified to:

- Require tree conservations plans for land divisions for middle housing, in addition to single family uses and two uses.
- Require tree conservation plans to show the critical root zones of trees to allow for better review of tree conservation plans to determine whether proposed lots are buildable in conformance with the plan based on their size, configuration, and the location of existing trees.
- Increase the minimum tree preservation requirement for tree conservation plans from 25 percent to 30 percent.

d) Additional requirements for tree protection during construction: A new code section is proposed to be created that establishes tree protection measures required during construction. The proposed tree protection measures apply to all trees required to be preserved or protected under the UDC and require that 100 percent of the critical root zone of the tree be protected by an above ground silt fence or its equivalent. Within the critical

root zone grading and development activities are prohibited; provided, however, grading may be allowed within up to a maximum of 30 percent of the critical root zone when the accompanied by a report from a certified arborist demonstrating that the proposed disturbance to the critical root zone will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed.

7. Updated bicycle parking standards *(SRC Chapter 806)*

The proposed amendments revise the bicycle parking requirements of SRC Chapter 806 to:

- Change the applicability of the minimum bicycle parking standards to changes of use of existing buildings in the CB zone.
- Increase the minimum bicycle parking requirement for multiple family uses in the CSDP area or within a quarter mile of a Core Network transit route to one space per dwelling unit.
- Increase the minimum bicycle parking requirement for shopping centers to the greater of 4 spaces or one space per 5,000 square feet of building area.
- Introduce long-term bicycle parking requirements.
- Update bicycle parking standards and reformat them to include additional tables and graphics.

8. Keeping of animals *(SRC Chapter 50)*

The proposed amendments revise SRC Chapter 50 (Property Maintenance) to expand the types of animals that may be kept in the City.

The amendments expand the types of poultry that may be kept to include guinea fowl, pheasants, pigeons, quail, partridge, doves, and similar birds in addition to the chickens and ducks that are currently allowed. Larger poultry such as geese, turkey, emu, ostrich, or similar sized birds are not allowed. Under the amendments a maximum total of 12 birds are allowed which must be kept in accordance with the current standards applicable to the keeping of chickens and ducks.

The amendments also change the location in the code where the requirements for the keeping of miniature swine are located. Standards for the keeping of miniature swine are currently included under SRC Chapter 95 (Miscellaneous Offences) and are proposed to be relocated to SRC Chapter 50 (Property Maintenance) to be located in the same chapter with the standards for the keeping of other animals.

9. Other changes *(various chapters)*

In addition to the changes identified above, the proposed amendments make additional revisions, such as:

a) <u>Uses and definitions:</u>

- Revise the use classification description for commercial parking in SRC Chapter 400 to define it as parking available to the public and not related to a specific development;
- Clarify that duplexes can be built on a nonconforming lot of record in any residential zone;
- Add new provision that allows nonconforming lots of record in non-residential zones to be used for any use allowed in the zone regardless of lot standards as long as all other applicable development standards are met; and
- Eliminate commercial parking as an allowed use within the RA, RS, RM-I, RM-II, RH, and ESMU zones.

b) Development standards:

- Clarify the applicability of pedestrian access standards to development;
- Clarify how setbacks are measured from a waterway and how fence height is measured adjacent to a street;
- Update Airport Overlay zone to conform to current FAA requirements identified by the Airport Administrator;
- Require dedication of right-of-way and construction of a transit stop if the Transit District identifies that a transit stop is needed in connection with the proposed development;
- Require on-street parking to be restricted in the area of a transit stop when a transit stop is required;
- Revise driveway approach standards to allow a driveway approach onto an arterial street from an existing single family, two family, three family and four family use when the driveway is designed as a circular driveway or the driveway includes an on-site turnaround;
- Require alley access for new single family, two family, three family, and four family uses on existing lots abutting an alley;
- Eliminate minimum off-street parking requirement for non-profit shelters in the CSDP area;
- Clarify that the minimum off-street parking requirement for non-profit shelters for victims of domestic violence serving 10 or fewer persons is one space per guest room or suite;
- Reduce minimum off-street parking requirement for all other non-profit shelters to one space per 10 persons served;
- Allow circular driveways within yards adjacent to arterial or collector streets subject to additional standards; and
- Establish minimum vehicle turnaround standards for parking areas with dead-end drive aisles.

c) Land use applications & procedures:

- Clarify review procedures for Formal Interpretations of the UDC & Similar Use Determinations;
- Eliminate Property Boundary Verifications;
- Require Class 1 Site Plan Review for a change of use when a building permit is not otherwise required;
- Clarify that middle housing, demolition permits, and fence construction are exempt from site plan review;
- Add building elevation drawings as a submittal requirement for Class 2 and Class 3 site plan review applications;
- Add the Salem Area Mass Transit District to the lists of agencies that receive public notice for Type II, Type III, and Type IV land use applications, as well as legislative land use proposals;
- Clarify the effective date for land use decisions;
- Clarify expiration periods for certain land use applications; and
- Establish a new requirement for a landscaping permit that will apply in those situations when site plan review is required, but no corresponding subsequent building permit is required.

10. Additional revisions recommended by staff.

Subsequent to the Planning Commission's October 5, 2021, public hearing on the proposed amendments, staff prepared additional recommended revisions to the amendments based on comments received, as well as upon further review and refinement of the amendments by staff. The additional recommended revisions included the following:

a) Emergency shelters *(SRC Chapter 701)*:

Additional revisions were proposed to the temporary use requirements for emergency shelters included under SRC Chapter 701 based on additional comments received from the Salem Building and Safety Division and the Fire Department.

The additional revisions revised the definition of emergency shelter and further clarified the allowed period of use, submittal requirements, development standards, and review and inspection process for emergency shelters.

b) Managed temporary villages *(SRC Chapter 701)*:

Additional revisions were proposed to the temporary use standards for managed temporary villages under SRC Chapter 701 based on comments from other City departments as well as one of the City's non-profit community partners **(Attachment 4)** that manages two micro shelter village/car camping areas currently in operation within the City.

The additional revisions addressed a number of the issues identified in order to ensure that

the requirements and standards for managed temporary villages align with both the management and service capacity levels of the public/non-profit entities who will manage the facilities as well as the physical operational needs of the facilities based on experience gathered from siting and managing such facilities within the City thus far. Additional revisions included:

- Allowing managed temporary camping areas with ten or fewer camp shelter units as a Class 1 Temporary Use Permit regardless of the zone. The original proposed standards required a Class 2 Temporary Use Permit for temporary camping areas within ten or fewer camp shelter units in a residential zone. The proposed revision allows for additional flexibility in the review process associated with managed temporary villages of ten or few shelter units in residential zones by subjecting them to a Type I review process rather than a Type II review process (which requires public notice and comment). Staff believes this change is reasonable because the size of the facility is limited to a maximum of ten shelter units and they would still only be allowed to be located on the site of a religious assembly use when located in a residential zone.

- Increasing the maximum number of shelter units allowed within a village from 30 to 40. This proposed change is based on the City's current experience with establishing micro shelter village/car camping areas within the City and input from non-profit community partners who are operating these facilities. The increase from 30 to 40 shelter units allows for a greater number of people to be served with the resources available while at the same time keeping the number of units to a manageable number that will not result in impacts on surrounding properties.

- Modifying the siting standards to allow facilities not located on an arterial or collector street to be located within one-half mile of a transit route as opposed to one-quarter mile from a transit route.

- Modifying the minimum size of the solid waste receptacle required to serve a facility from 32 cubic feet per shelter unit to a flat six cubic yards. A six cubic yard dumpster is a typical dumpster size and allows for multiple pick-ups from the franchised trash hauler during the week.

- Allowing access to shower facilities for managed temporary villages serving 11 to 40 shelter units rather than requiring that shower facilities be provided on-site.

- Eliminating proposed minimum off-street parking and loading requirements. Comments indicate that most places where this use would be proposed do not have extra parking spaces and that some sites in the future could be bike and pedestrian focused. In regard to the loading requirement, comments indicate that the current two facilities in operation

within the City have no need for an off-street loading space.

c) Compact Development Overlay Zone *(SRC Chapter 631)*:

Additional amendments were also identified as being needed to the Compact Development Overlay Zone (SRC Chapter 631). The Compact Development Overlay Zone applies to specific Single Family Residential (RS) zoned areas within the City and is intended to allow for increased density residential infill development on vacant and underutilized land in the RS zone.

With the passage of House Bill 2001 and the requirement to allow middle housing broadly within the RS zone, the Compact Development Overlay Zone is no longer necessary and actually includes provisions which conflict with the requirements of House Bill 2001. As such, revisions to the Compact Development Overlay Zone were required to be added to ensure that the allowed uses and development standards of the applicable underlying zone, rather than the uses and development standards of the overlay zone, apply to development. The additional revisions eliminate any conflict with the requirements of House Bill 2001. The Compact Development Overlay Zone is ultimately planned to be repealed with subsequent code amendments associated with the Our Salem project.

11. Additional revisions recommended by the Planning Commission

At the October 5, 2021, public hearing the Planning Commission voted to recommend City Council approval of the proposed amendments together with the additional revisions recommended by staff. As part of their decision, the Planning Commission also recommended the following additional further revisions based on comments and testimony provided:

a) Middle housing off-street parking. Remove minimum off-street parking requirements for middle housing. This applies to townhouses, two family uses, three family uses, four family uses, and cottage clusters.

b) Multi-family off-street parking. Reduce the minimum off-street parking requirement for multiple family uses to one space per dwelling unit.

The recommended minimum one space per unit requirement would not apply to cottage clusters, however, because although cottage clusters are classified as a multiple family use under SRC Chapter 400, they are also, by definition, a type of middle housing which would be subject to the Planning Commission's recommendation of no minimum off-street parking for that specific type of multiple family use.

c) Enclosure standards for small birds. Amend the proposed enclosure sizing requirements for poultry to specifically address the needs of small birds. The enclosure sizing standards currently included in the code are designed for larger poultry, specifically ducks and chickens. Updated enclosure sizing standards for small birds will better reflect the space

needs of the greater variety of poultry proposed to be allowed with the proposed amendments.

d) Definition of significant tree. Exclude Douglas fir trees with a diameter-at-breast-height (dbh) of 30 inches or greater from the proposed revised definition of significant tree under SRC Chapter 808.

The Planning Commission's recommendation was based on testimony received regarding the prevalence of the tree throughout the City, the challenges designating the tree as a significant tree would pose in the context of developing new residential subdivisions and partitions, and potential safety concerns for future property owners resulting from the removal of some Douglas firs from existing stands on a property while retaining others. Douglas firs often grow in groups with root structures that become dependent upon one other for stability. If, through the development process, individual trees are removed from a grouping, the structural integrity of the remaining trees can potentially become compromised and pose a risk in the following years.

In consideration of the proposed revisions the City's Urban Forester recommends that Douglas firs with a dbh of 30 inches or greater be retained in the proposed amended definition of significant tree due to the importance of the species in providing wildlife habitat, retaining a natural ecosystem, and increasing the City's tree canopy. The Urban Forester indicates that if there are situations where windfall is a concern due to the removal of individual Douglas fir trees within a grouping, the ordinance can include specific scenarios allowing their removal to mitigate this concern.

In addition to retaining Douglas firs with a dbh of 30 inches or greater in the proposed amended definition of significant tree, the Urban Forester recommends that the definition of significant tree be further revised to **exclude** the following trees from the definition of significant tree:

- Tree of heaven *(Ailanthus altissima);*
- Empress tree *(Paulownia tomentosa)*;
- Black cottonwood *(Populus trichocarpa)*; and
- Any tree of the *Populus* species.

Proposed Legislative Zone Change

In addition to the code amendments, a legislative zone change is also proposed to change the zoning of those properties within the downtown in the General Retail/Office overlay zone that are currently zoned RH (Multiple Family High-Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District). A map identifying the properties affected by the proposed zone change is included as **Attachment 5**.

The properties are currently designated Central Business District on the Salem Area Comprehensive Plan map. The proposed zone change will bring the zoning of the properties into alignment with their current comprehensive plan designation, eliminate existing conflicts that currently exist between the development standards of the underlying RH, CO, and CR zones and the design review standards and guidelines of the General Retail/Office overlay zone, and establish a zoning pattern that is consistent with that of the CB zoning of surrounding properties.

Public Outreach & Testimony

1. The proposed amendments were presented to the Planning Commission through a series of work sessions that were held on June 1, 2021, June 15, 2021, July 20, 2021, and August 16, 2021. The public was invited to attend and staff publicized the work sessions through emails to an interested parties list of roughly 2,500 people.

   In addition, staff held a series of virtual informational meetings where downtown property owners were invited to attend to learn more about the proposed changes to the Central Business District (CB) zone and the proposed legislative zone change to CB.

2. Public testimony on the proposed amendments was received both prior to and at the public hearing. Testimony received indicated, in summary, support for various elements of the proposed amendments including the proposed revisions relating to transit requiring the construction of transit stops when needed as a condition of development and including the Transit District on list of agencies to receive notice of land use applications and legislative land use proposals; the revisions allowing self-service storage as a special use within existing buildings in the CB (Central Business District) zone that are located outside the Salem Downtown Historic District; the elimination of commercial parking as a permitted use in the ESMU (Edgewater/Second Street Mixed-Use Corridor) zone; and the increase in the variety of poultry allowed and the number of birds that may be kept.

   Several comments were provided concerning the proposed amendments to the City's tree preservation ordinance (SRC Chapter 808). Comments received indicated support and opposition to those amendments. Comments received in support of the amendments expressed the benefits the proposed amendments will have on improving the ability of the City to maintain the City's tree canopy and the environmental benefits that will have. Comments received in opposition to the amendments expressed concerns regarding the impacts the proposed amendments will have on housing development and housing affordability within the City as a result of the proposed expanded tree protection requirements.

   In addition to the testimony provided in support of the proposed amendments, testimony was also received expressing concerns pertaining to the definitions of "waterway" and "riparian corridor" within the code and how they relate to the new proposed waterway setback for middle housing required under State House Bill 2001 and the riparian corridor tree and vegetation protection requirements under the City's tree protection ordinance; the proposed revisions allowing managed temporary villages for the unsheltered; the proposed standards for cottage housing included under SRC Chapter 700 (Special Uses); the requirement that new dwellings on

existing lots abutting an alley take access from the alley; and the requirement that middle housing provide a minimum of one off-street parking space per dwelling unit.

The written testimony provided concerning the proposed amendments is included as **Attachment 6**.

Substantive Findings

In order for a code amendment and a legislative zone change to be approved the City Council must find that they comply with the applicable approval criteria. SRC 110.085(b) establishes the approval criteria applicable to amendments to the Unified Development Code (UDC) and SRC 265.010(d) establishes the approval criteria applicable to legislative zone changes.

Findings demonstrating the proposal's conformance with the applicable approval criteria are included in Exhibit C to Ordinance Bill No. 13-21 **(Attachment 3)**.

BACKGROUND:

In 2014, the Unified Development Code was completed and adopted as part of the Salem Revised Code (SRC Title X). The UDC was a complete reorganization and update of Salem's development codes. The UDC was adopted with the expectation that it would be regularly updated over time to ensure that any unanticipated issues or concerns were routinely reviewed and addressed and its provisions were kept current and up-to-date.

Ordinance Bill No. 13-21 updates the UDC and other identified chapters of the Salem Revised Code to address a variety of issues that have arisen since the last major update to the UDC in 2019. It includes minor housekeeping amendments as well as policy-related changes that respond to recent changes in State law - including State House Bill 2001 concerning the allowance of middle housing in single family residential zones; concerns from the community; and issues identified by staff to improve the application and administration of the UDC.

In conjunction with the proposed amendments to the code, a legislative zone change is also proposed to change the zoning of specific properties located within the downtown in the General Retail/Office overlay zone that are currently zoned RH (Multiple Family High-Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District) in order to align the zoning of the properties with their existing Central Business District comprehensive plan designation and to be consistent with the CB zoning pattern of surrounding downtown properties.

ALTERNATIVES:

City Council may:

A. Set a public hearing before the City Council on the ordinance bill;
B. Advance the ordinance bill to second reading for enactment without a public hearing;

C. Refer the proposal back to the Planning Commission for further deliberation; or
D. Decline to hold a public hearing or advance the ordinance bill to second reading.

Bryce Bishop,
Planner III

Attachments:

1. Planning Commission Recommendation (October 5, 2021)
2. Summary of Proposed Amendments
3. Ordinance Bill No. 13-21
4. Comments from Church at the Park
5. Legislative Zone Change Map
6. Public Testimony