



## Staff Report

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**File #:** 22-504

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**Item #:** 7.2 a.

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**TO:** Mayor and City Council

**THROUGH:** Keith Stahley, City Manager

**FROM:** Lisa Anderson-Ogilvie, Interim Community Development 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) and Mixed-Use III (MU-III) to encourage pedestrian-friendly, mixed-use development. The zone change aligns the zoning on these properties with the existing Mixed Use comprehensive plan designation.

### **ISSUE:**

Shall City Council pass Engrossed Ordinance Bill No. 18-22 for the purpose of rezoning specific properties on Commercial Street SE to MU-II and MU-III?

### **RECOMMENDATION:**

Pass Engross Ordinance Bill No. 18-22 for the purpose of rezoning specific properties on Commercial Street SE to MU-II and MU-III.

### **FACTS AND FINDINGS:**

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

Engrossed Ordinance Bill No. 18-22 (**Attachment 1**) rezones properties on Commercial Street SE roughly between Superior Street S and McGilchrist Street SE to mixed-use zoning. Properties shown in **Exhibit A** of the engrossed ordinance are proposed to be rezoned to MU-II. Properties shown in **Exhibit B** of the engrossed ordinance are proposed to be rezoned to MU-III. A list of properties subject to the proposed zone change is included as **Attachment 2**.

This proposal stems from the Our Salem project, which was adopted in July 2022 and became effective in August 2022. As part of the Our Salem adoption process, 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. This was done in response to a comment from the South Central Association of Neighbors (SCAN) requesting that the properties be rezoned to MU-II rather than MU-III in order to encourage pedestrian-oriented development and limit automobile-oriented uses. Staff had previously proposed to rezone these properties to MU-III.

On October 10, 2022, City Council held a public hearing to consider Ordinance Bill No. 18-22, which proposed to rezone properties on Commercial Street SE roughly between Superior Street S and McGilchrist Street SE to MU-II. During the hearing, affected property owners and their attorney expressed concern about the impacts MU-II zoning would have on existing automobile sales and services uses. In response, Council voted to continue the public hearing and directed staff to revise the proposal to rezone properties with existing automobile sales and services uses located between Hoyt Street SE and McGilchrist Street SE to MU-III and continue to propose MU-II on the other subject properties.

Currently, some of the subject properties are zoned Retail Commercial (CR), and others are zoned Commercial Office (CO). 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. However, the MU-II zone prohibits certain auto-oriented uses - such as motor vehicle sales and services - whereas the MU-III zone generally allows such uses through a conditional use permit.

The MU-II zone also 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, which are not proposed to change as part of this ordinance. 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 and the MU-III zone allows development up to 70 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 was also provided on the Our Salem project webpage - [www.cityofsalem.net/our-salem](http://www.cityofsalem.net/our-salem) <<http://www.cityofsalem.net/our-salem>>. Recipients of the flyer were encouraged to visit the webpage and contact staff for more information and to provide input. Notice of the public hearing was also provided as required by Salem Revised Code and Oregon Revised Statutes.

### ***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 and MU-III. 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 and MU-III zones allow but do 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 and MU-III zones will allow multifamily housing outright on the properties where they are proposed. Under the current zoning, the CR zone 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 and MU-III zones 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 and MU-III zones allow 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 and MU-III zones also allow 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.

### ***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.

Procedural findings and findings demonstrating the proposal's conformance with the applicable approval criteria are included in **Exhibit C** to Ordinance Bill No. 18-22.

### ***Public Testimony***

Public testimony on the proposed zone change was received both prior to and during the public hearing on October 10, 2022. All comments are summarized and addressed below.

1. During the hearing, affected property owners and their attorney expressed concern about the impacts of rezoning existing automobile sales and services used to MU-II. They specifically expressed concern over the inability to build new automobile-related buildings in the future, and this could inhibit future growth of their businesses. They requested that their properties be rezoned to MU-III instead.

**Staff response:** Under MU-II zoning, existing automobile sales and services uses would become continued uses, which would allow the businesses to remain as they are today. However, the MU-II zone requires buildings housing continued uses to meet the development standards of the MU-II zone if they need to be rebuilt. This means the buildings could not be rebuilt in their current location and would need to incorporate pedestrian-friendly design standards. The MU-II zone also would not allow a new building to be constructed to house a continued use, such as automobile sales. The MU-III zone allows automobile sales and services as a conditional use, which is the same as the current CR zoning. Therefore, under MU-III, zoning existing automobile sales and services uses would not become continued uses and would be subject to the development standards of the MU-III zone, which would provide more flexibility in terms of site design than the MU-II zone.

2. The SCAN neighborhood provided a written 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.

**Staff response:** The MU-II zone provides pedestrian-oriented design standards, which encourage walkable development and a mix of compatible uses. These standards are more comprehensive than the pedestrian-oriented design standards required by the MU-III zone.

3. The Salem Area Chamber of Commerce provided a written comment expressing concern that rezoning properties with existing automobile sales and services uses to MU-II would inhibit future expansion of the businesses and would prohibit future development for these uses. The comment requested that these properties instead be rezoned to MU-III.

**Staff response:** Under MU-II zoning, existing automobile sales and services uses would become continued uses, which would allow the businesses to remain as they are today. However, the MU-II zone requires buildings housing continued uses to meet the development standards of the MU-II zone if they need to be rebuilt. This means the buildings could not be rebuilt in their current location and would need to incorporate pedestrian-friendly design standards. The MU-II zone also would not allow a new building to be constructed to house a continued use, such as automobile sales. The MU-III zone allows automobile sales and services as a conditional use, which is the same as the current CR zoning. Therefore, under MU-III, zoning existing automobile sales and services uses would not become continued uses and would be subject to the development standards of the MU-III zone, which would provide more flexibility in terms of site design than the MU-II zone.

## **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 and schedule a public hearing. This legislative zone change responds to that motion from Council.

Austin Ross  
Planner I

### **Attachments:**

1. Engrossed Ordinance Bill No. 18-22
2. Exhibit A to Engrossed Ordinance Bill 18-22 - Map of Properties Proposed for MU-II Zoning
3. Exhibit B to Engrossed Ordinance Bill 18-22 - Map of Properties Proposed for MU-III Zoning
4. Exhibit C to Engrossed Ordinance Bill 18-22 - Findings
5. List of Properties Subject to Proposed Zone Change
6. Comparison of MU-II and MU-III Zones
7. Written Testimony