



## Staff Report

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**File #:** 23-373

**Version:** 1

**Date:** 10/23/2023

**Item #:** 7.2a.

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**TO:** Mayor and City Council

**THROUGH:** Keith Stahley, City Manager

**FROM:** Kristin Retherford, Community and Urban Development Director

**SUBJECT:**

Second Reading of a Legislative Zone Change and Code Amendment to Amend the Saginaw Street and Superior-Rural Overlay Zones and Eliminate the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones in the SCAN Neighborhood.

Ward(s): 2

Councilor(s): Nishioka

Neighborhood(s): SCAN

Result Area(s): Welcoming and Livable Community.

**SUMMARY:**

A proposal to amend the Saginaw Street and Superior-Rural overlay zones and eliminate the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones (Planning Case No. CA23-02).

**ISSUE:**

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

**RECOMMENDATION:**

Engross and pass Ordinance Bill No. 5-23 for the purpose amending the Saginaw Street and Superior-Rural Overlay Zones and eliminating the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones.

**FACTS AND FINDINGS:**

*Procedural Findings*

1. On November 14, 2022, the City Council directed 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.
8. On June 26, 2023, City Council rejected the legislative zone change and code amendment to eliminate the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones.
9. On July 10, 2023, City Council adopted a motion to reconsider the proposed amendment to eliminate the Saginaw Street, Superior-Rural, Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones and delayed deliberation to September 25, 2023.
10. Notice of deliberations was provided to Salem neighborhood associations and those that previously submitted testimony on September 5, 2023.
11. On September 25, 2023, City Council held deliberations on the proposed amendment, during which, a motion was passed to eliminate the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones and amend the Saginaw Street and Superior-Rural Overlay Zones to increase the maximum height to 45 feet and remove all other use and development standards in these two overlay zones.

## ***Project Overview***

During the September 25, 2023 City Council meeting, the Council approved a motion to eliminate the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones and amend the Saginaw Street and Superior-Rural Overlay Zones to increase their maximum height to 45 feet and remove all other use and development standards in these two overlay zones. The proposed changes to the zoning map and the UDC responding to this motion are described below.

## ***Proposed Amendments***

### ***1) Amend the Zoning Map***

The proposed changes to the zoning map are included as Exhibit A of Ordinance Bill No. 5-23 (

**Attachment 2**). The map identifies those overlay zones proposed to be eliminated and those proposed to remain with amendments to the development standards they provide. 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, eliminating the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones will allow taller buildings on these properties, which are located near Cherrits Core Network. (This is a network of primary transit lines that Cherrits has committed to maintaining and improving in the future.) Where overlay zones are proposed to be eliminated, the existing MU-II, and MU-III zoning would allow buildings up to a maximum height of 55 feet and 70 feet, respectively, whereas only 35 feet is allowed today. Removing these 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 overlay zones proposed to be eliminated are adjacent to or across the street from residential areas, and their purpose is to minimize adverse impacts on residential uses from adjacent commercial uses. However, the underlying 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. This height-based setback did not exist in these areas when the overlay zones were implemented, and it helps to accomplish the same purpose as the overlay zones, though it does not apply across streets.

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) *Amending or Eliminating Overlay Zones in the UDC*

The proposed code changes are included as Exhibit B of Ordinance Bill No. 5-23 (**Attachment 3**).

The proposed code amendment would amend the Saginaw Street and Superior-Rural overlay zones by increasing the maximum building height from 35 feet to 45 feet and eliminating all other development standards provided by the overlay zones.

The proposed code amendment would remove the 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. Because no properties will be subject to these overlay zones as a result of the proposed changes to the zoning map, they are no longer needed in the UDC, and are therefore proposed to be removed.

Amending the development standards of the Saginaw Street and Superior-Rural Overlay Zones and eliminating the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones will remove restrictions in addition to the maximum building height, 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. By removing restrictions, future development or redevelopment may be more feasible, helping to promote future development or redevelopment in these mixed-use zones, which may include more multifamily housing, a needed housing type in Salem.

### ***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**).

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## **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. During the September 25, 2023 City Council meeting, the Council approved a motion to eliminate the Oxford-West Nob Hill, Oxford-Hoyt, and Hoyt-McGilchrist Overlay Zones and amend the Saginaw Street and Superior-Rural Overlay Zones to increase the maximum height to 45 feet and remove all other use and development standards in these two overlay zones. The proposed legislative zone change and code amendment responds to the September 25, 2023 motion from Council.

Austin Ross  
Planner II

### Attachments:

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