

**Eunice Kim**

---

**From:** E Easterly <emeasterly@comcast.net>  
**Sent:** Thursday, June 6, 2024 9:35 AM  
**To:** Bryce Bishop  
**Cc:** Eunice Kim  
**Subject:** UDC update

Mr. Bishop,

Thank you for responding to my email query regarding the pending updates to the Salem UDC. Our telephone conversation was most helpful. My basic question remains: Does the revised UDC SRCs comply with both ORS 197.195 and ORS 197,307(4)?

More specifically, does the modified language of SRC 205.010(d) meet the clear and objective standards for land division and development?

To insure that the proposed UDC revisions do, indeed, meet State of Oregon development standards I request that proposed SRC 205.010(d)(C) [page 19 of 204] be explained as well as expanded.

“(C) Any special development standards, including, but not limited to special setbacks, vision clearance, preservation of trees and vegetation, floodplain development and geological and geotechnical analysis.”

What is the definition of “special development standards?”

What is the definition of “special setbacks?”

How is “vision clearance” a special standard?

How is “preservation of trees and vegetation” a special development standard?

How is “floodplain development” a special development standard?

What are the standards associated with “geological and geotechnical analysis” that are special development standards?

The phrase “not limited to” implies there may be more unlisted development standards, but unless those standards and development criteria are included the proposed updates to the Salem UDC fails to comply with ORS development standards.

In addition to the clarifying questions raised above I invite you to include the following topics or explain why they do not belong in this list:

1. Street classification elevations as a special development standard;
2. Compliance with the Americans with Disabilities Act as a special development standard.

Respectfully,

E.M. Easterly  
503-363-6221

## Eunice Kim

---

**From:** Roz Shirack <rozshirack7@gmail.com>  
**Sent:** Friday, June 7, 2024 11:48 AM  
**To:** Lisa Anderson-Ogilvie; Kimberli Fitzgerald; Eunice Kim; Jennifer Biberston; CityRecorder  
**Cc:** SCAN Board  
**Subject:** SCAN Land Use Comments on CA24-01 for Public Hearing 6/11/24

To: Members of Salem Planning Commission and Historic Landmarks Commission

From: Land Use Committee of South Central Association of Neighbors (SCAN)

The SCAN Land Use Committee generally supports the proposed UDC amendments, CA24-01, except those amending the role of the Historic Landmarks Commission (HLC) in historic design review applications under Chapter 230. We support the existing historic design review process. The reviews benefit from the expertise of the HLC and they do not overly burden the HLC's agendas.

The SCAN Land Use Committee requests two amendments be added to this UDC package:

1. Prohibit short-term rentals (unhosted) in all residential zones, including mixed-use zones. This does not apply to accessory short-term rentals of a resident family's dwelling or part of the dwelling. This amendment keeps Salem's housing stock available to Salem residents. It would help implement City Council's goal to increase affordable housing and total housing inventory for Salem residents.

2. Delete the minimum building height standard of 20 ft in the MU-I zone. A recent development at Commercial St and Bush St SE requested an adjustment to reduce the building height to 14 ft. for a one-story management office in the MU-I zone. The applicant did not want the higher cost of a higher building, felt it would be more compatible with the adjacent single family residential uses, and would reduce the required setback based on building height.

SCAN supported that adjustment as more compatible with the existing residential uses. Staff approved that adjustment. A minimum building height standard is not needed and is not consistent with the pedestrian oriented standards in the MU-I zone.

3. Delete the minimum ground floor height standard of 14 ft in the MU-I zone and 10 ft in the MU-II zone. A recent development in SCAN (Hunsaker Dental Office at Commercial St and Kearny) requested an adjustment to reduce the ground floor height to 9 ft for a three-story medical/office building in the MU-I zone. The applicant did not want the added cost of heating the greater space; felt it was not needed or appropriate for a dental office; wanted to reduce the required setback based on building height; and noted that very few recently constructed buildings in the downtown area have ground floor ceiling heights of 14 feet; and most commercial buildings in the City do not exceed 10 ft.

SCAN supported that adjustment because it allowed the building to be lower and more compatible with the adjacent one and two-story residential uses. Staff approved the adjustment based on the finding that "the nine-foot floor-to-ceiling height of the ground floor of the proposed building equally meets the underlying purpose of this standard. This is because the proposed nine-foot height is consistent with the ground floor building height of other retail and office buildings within the City as indicated by the applicant; and the nine-foot floor-to-ceiling height still allows for a variety of non-residential uses on the ground floor of the building consistent with the underlying intent of the standard."

If a 9-foot ceiling equally meets the purpose of the minimum 14-foot standard, then a minimum ground floor height standard is not needed and is not consistent with the pedestrian oriented standards in the MU zones.

Thank you for your consideration to:

- Not change the Chapter 230 historic design review role of the HLC
- Add an amendment to prohibit short-term rentals in residential zones
- Delete the minimum building height standard in the MU-I zone
- Delete the minimum ground floor height standard in the MU-I and MU-II zones.

Roz Shirack, Chair  
SCAN Land Use Committee



June 11, 2024

**ATTN:** Jennifer Beberston, City Recorder  
**RE:** Case No. CA24-01  
Promoting Housing Development and Complying with State Law and Rules  
**TESTIMONY:** West Salem Neighborhood Association

Members of Salem Planning Commission and Historic Landmarks Commission

We support streamlining the review process. However, statements by Staff in their webinar, and again in the staff report, state that the proposed CA24-01 update of the Salem Uniform Development Code (UDC) will bring the Salem UDC into compliance with Oregon Development Statutes. Factual support for this statement seems to be missing. Attached is our request to the city attorney seeking legal review affirming this declaration that Salem UDC complies with all Oregon Development Standards. **Action on this proposal should be postponed until such documentation has been submitted to the record.**

**Table 525-3, page 105**  
**Development Density West Salem Business Core**  
**Delete 15 dwellings minimum density.**

Why, it conflicts with the agreements made between staff and the community for Our Salem Project. There is no transportation analysis supporting this increase in density. Wallace Road currently exceeds mobility standards and any increase in density without analysis, possible mitigation is in violation of the current Salem Transportation System Plan. Additionally, state law requires a review as to the impact of the Our Salem zone changes on traffic. Staff, and in the record, was a finding as to no significant impact of zone changes in the West Salem Business core affecting increased traffic. Increasing the dwelling density here to 15 dwelling units makes the Our Salem findings null and void until a new analysis can be conducted. Without such traffic analysis, this proposed change violates current state law and Salem Development Codes.

**Remove the 15 dwelling minimum in Table 525-3**

**Table 537-5, page 163**  
**Lot Coverage, Height**  
**Buildings/All Use Max 50ft**

Amend table with exception West Side of Second Street facing alley residential property along 3<sup>rd</sup> Street. During the rezone for the Edgewater Second Street Zone there was to be a maximum building height of 40 feet agreed to along the East side of Second Street to ensure that the adjacent residential homes in the residential zone along 3<sup>rd</sup> Street would not have sun light blocked in their backyards. Access to sunlight for these properties was considered a property right and to be protected by establishing this building height buffer between the Edgewater Second Street Zone and the Residential Zone alleyway West to 3<sup>rd</sup> Street and the residential neighborhood thereon.

**Include in Table 537-5 provision for a 40ft maximum building height along the East side of 2<sup>nd</sup> Street for the Edgewater Second Street Zone.**

**Leave the 50ft Max All/Use all places elsewhere in the Edgewater Second Street Zone.**



**Include clear, objective decision-making points documenting how the granting of expectations and/or relief from design standards are to be made.**

If the public hearing requirement is to be replaced, there is a need for clear, objective procedures showing how staff will review requests from applicants for relief from a development standard/criterion. This needs to be added for each area where the public hearing requirement is replaced by staff review. Without these decision-making criteria as to how the choice to grant exceptions to design standards will be conducted, this process could be inconsistent from case to case; therefore, challengeable as not in compliance with Oregon Development Standards.

Respectively Submitted;

Steven A. Anderson, West Salem Neighborhood Association Land Use Chair



June 11, 2024

Mr. Dan Atchison

**RE: Case No. CA24-01**

Promoting Housing Development and Complying with State Law and Rules

While supportive of streamlining the staff review, at least one item is troubling. Staff in their webinar, and again in the staff report, state that the proposed CA24-01 update of the Salem Uniform Development Code (UDC) will bring the Salem UDC into compliance with Oregon Development Statutes. Factual support for this statement seems to be missing. Thus, this inquiry to you (see below).

During the Titan Hill quasi-judicial hearing the mayor offered that he saw the city with no authority to rule in the matter. The City Council concurred and was silent on all points of argument and evidence offered by the West Salem Neighborhood Association. There was no discussion of any evidence point-by-point as one would expect in such a quasi-judicial hearing. Instead, the council discussed the matter of applicant appeal and the cost to the city if the case was appealed. In the end, the choice was to accede to the threat of appeal offered by the applicant citing *East Park vs. City of Salem*. Given the Titan Hill case and unresolved findings in *East Park*, Salem UDC is currently not in compliance with Oregon Development Statutes. What the Titan Hill case demonstrated is that the city's authority to impose conditions upon applicants is challengeable until the Salem UDC is brought into compliance with Oregon Development Statutes.

**The matter for your consideration—Does This Proposed Action Bring Salem UDC into Compliance**

It seems with the city council acknowledging their lack of authority (and concurrence by the legal department) that the current Salem UDC is, and has been found, to not comply with Oregon Development Statutes. The question of this deficiency being corrected by the approval of Case No. CA24-01 is of supreme importance. Staff has stated that their actions have corrected Salem UDC noncompliance with Oregon Development Statutes. Evidence is lacking whether this is true or not. A legal opinion affirming this statement, or not, is needed. Especially given the legal direction offered to council in the Titan Hill case when the *East Park* decision was raised. It is our expectation and request that a careful legal review affirms that the findings of the *East Park* decision have been resolved and that the proposed Salem UDC updates in CA24-01 do achieve compliance with Oregon Development Statutes. Questions needing answers include:

- How will this action bring Salem UDC into compliance with Oregon Development Statutes?
- How will this action correct the lack of authority cited by the mayor and city council in the Titan Hill case?
- How will this action resolve all issues in the *East Park vs. City of Salem* decision?

We respectfully request that such a legal determination by your department be made and filed in this case. Why? To prevent what happened in the Titan Hill case, address fully the *East Park* decision findings, and provide certainty to Salem City Council, Staff, and the Public assuring that this proposed Salem UDC update now complies with Oregon Development Statutes. Thank you.

Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

## Ruth Stellmacher

---

**From:** Sadie Carney <sadiekcarney@gmail.com>  
**Sent:** Thursday, September 5, 2024 5:11 PM  
**To:** CityRecorder  
**Subject:** Public Comment: Housing Code Amendment

Greetings,

Thank you for considering this important topic. I would like to voice my support for the proposed code amendments related to housing being considered by Salem City Council on September 9, 2024.

When I relocated to Salem, about 13 years ago, apartments were scarce and options for a safe place to live that I could afford were very limited. Most of what was available was not suited to a young couple, poorly located for access to goods and services, and in relative disrepair. I have since purchased a home, but I have watched the housing need for our community grow in alarming and desperate ways.

Like many Oregon cities, Salem lacks housing for individuals, couples, and young families. Our city was built out with families that like to drive their cars in mind. Streamlining the approvals process, allowing more housing options, and updating standards for housing development are all critical changes to our UDC if we want to realize a supportive, inclusive and thriving community where everyone has a safe place to sleep.

The more density is promoted, the more housing we can provide. The more density we promote, the more eyes we have on the street and the safer our neighborhoods and streets become. We have more neighbors, networks and resources in challenging times. The greater Salem's diversity of housing options, the more we welcome people in all phases and stages of life to bring their passion, their lives, and their ideas to Salem.

Please vote in favor of these changes.

Very Best,

Sadie K Carney



Mayor Hoy and Councilors:

**I am E.M. Easterly, Ward 8. I thank staff for the dedication and commitment they have shown to the process of updating the Salem Unified Development Code and the process of bringing Salem's legal development language in conformance with Oregon statutes and judicial decisions.**

The 248 page document, Exhibit A, of CA 24-1, before you highlights the revisions and changes to the original version that the Planning Commission reviewed. Staff listened to community concerns and wisely adjusted the recommended language. I am pleased support the positive results before you.

**However, code revision is an on going process. In reviewing Exhibit A, I found missing and inaccurate definitions that need correction before Council approves the proposed updates.**

- **First Salem's code does not define the hydrological event known as a "spring" nor does the code define a link between such a ground water outpouring and an existing waterway channel.**
- **Second, the Salem term "waterway" is limited to a specific city staff declaration, not an existing channel within the City of Salem hydrological system.**

The proposed definition: "Waterway means any river, perennial stream, or creek within the City as designated by the Director." restricts who may define a water course in Salem and leaves the Development Code and the City challengeable under state water laws and vulnerable to federal clean water requirements.

Specifically, waterways exist in Salem even though they have yet to be so designated by the Salem Public Works Director. For example SRC Chapter 601 offers an alternative definition: **Sec. 601.005. - Definitions.** "Waterway means any perennial river, stream, or creek within the City of Salem." and introduces a new undefined term "watercourse":

**Sec. 601.040. - Duties and responsibilities of the floodplain administrator.**

“Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

(a) Permit review. Determine that development permits meet the following criteria:

\* \* \*

(7) The provisions in SRC 601.070(a)(1) have been satisfied if the proposed development activity is a watercourse alteration; and

(8) The provisions in SRC Chapter 82 have been satisfied if the proposed development activity includes the placement of fill or excavation.”

\* \* \*

(d) Watercourse alterations.

(1) Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.”

And SRC Chapter 802 also references waterways.

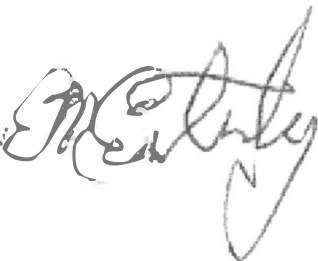
**Sec. 802.030. - Watercourses.**

(a) Any modification to a watercourse shall conform to SRC chapter 601 and the Public Works Design Standards.

(b) Public improvement and maintenance easements for watercourses may be required. The easements shall, at a minimum, extend 15 feet in each direction from the waterway centerline, ten feet from the top of a recognizable bank, or a sufficient width to pass ten-year flood flows or to accommodate the 100-year floodway on a FEMA regulated stream, whichever is greater. Such easements shall be of a width sufficient to allow both initial improvements and future maintenance and operations. Larger widths may be required.

I, therefore, request that the definitions approved in CA-1 be tabled until both the updated UDC definitions of “spring” and the hydrological definition of “waterway” parallel and complement state of Oregon water law and the federal clean water requirements.

E.M. Easterly





September 9, 2024

**ATTN:** Jennifer Beberston, City Recorder  
**RE:** Case No. CA24-01  
CODE AMENDMENT RELATING TO HOUSING AND UPDATING OTHER  
PROVISIONS OF THE UNIFIED DEVELOPMENT CODE

**TESTIMONY:** West Salem Neighborhood Association

Mayor and City Council Members

The West Salem Neighborhood Associations supports streamlining the review processes and the code amendment changes proposed by staff. We thank Eunice Kim for her help in reviewing this proposal and addressing questions with us. There is one area that needs additional clarification.

**Table 525-3, page 106, Exhibit A**  
**Development Density West Salem Business Core**  
**15 dwellings minimum density.**

1. This action is not required by state regulations as stated at this time. The West Business District has only just been proposed as a walkable, multi-use area in a September 2023 study. Until an official acceptance by the city has taken place, no minimum density is required for the six affected properties inside the West Salem Business District. This designation has not even been proposed yet.
2. Statements before the Planning Commission by staff said that no new single family residences for the six affected properties can be built in the future.
3. This means, for example, if a residence burns down the property owner cannot rebuild their home.
4. This is a taking.
5. To my knowledge the property owners have not been notified of this taking and loss of this private property right. Goal 1 violation.

Until this lack of clarity regarding the taking and loss of a private property right can be remedied or made clear to not be the case in this proposed action, I ask the City Council not to advance this ordinance to a second reading. If there is no loss of this private property right to rebuild, then the proposed minimum density is not an issue.

Respectively Submitted;

Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

## Eunice Kim

---

**From:** Lisa Anderson-Ogilvie  
**Sent:** Wednesday, September 4, 2024 8:35 AM  
**To:** Eunice Kim  
**Subject:** FW: Case No. CA24-01 Before Planning Commission

[Lisa Anderson-Ogilvie](#) | 503-540-2381

City of Salem | Community Planning and Development Department | Planning

---

**From:** Dan Atchison <[DAatchison@cityofsalem.net](mailto:DAatchison@cityofsalem.net)>  
**Sent:** Wednesday, September 4, 2024 8:25 AM  
**To:** Steve Anderson <[andersonriskanalysis@comcast.net](mailto:andersonriskanalysis@comcast.net)>  
**Cc:** Lisa Anderson-Ogilvie <[LMAnderson@cityofsalem.net](mailto:LMAnderson@cityofsalem.net)>; Keith Stahley <[KStahley@cityofsalem.net](mailto:KStahley@cityofsalem.net)>  
**Subject:** RE: Case No. CA24-01 Before Planning Commission

Mr. Anderson:

Yes, I believe the proposed code amendment complies with all applicable land use regulations. I decline to answer your specific questions or otherwise provide legal analysis and point you to the findings attached to the proposal. Of course LUBA and the courts will have an opportunity to review the decision if it is appealed or become at issue in a subsequent land use action. Providing a legal opinion to ambiguous questions that raise hypothetical issues is of limited value and counter-productive in the City's implementation of statewide land use law, the Salem Area Comprehensive Plan, and the SRC.

This response will be included in the record of the proceeding.

Dan

---

**From:** Steve Anderson <[andersonriskanalysis@comcast.net](mailto:andersonriskanalysis@comcast.net)>  
**Sent:** Thursday, August 29, 2024 1:18 PM  
**To:** Dan Atchison <[DAatchison@cityofsalem.net](mailto:DAatchison@cityofsalem.net)>  
**Cc:** SALEM Manager <[MANAGER@cityofsalem.net](mailto:MANAGER@cityofsalem.net)>  
**Subject:** Fwd: Case No. CA24-01 Before Planning Commission

Mr. Atchison:

Code Amendment Case No. CA 24-01 is scheduled for a public hearing September 9th. The email below and attached letter from early June has not been answered yet. Hopefully this was an oversight and not intentional to ignore a neighborhood association request to your office.

The question still remains as to: Does the proposed action bring Salem UDC into compliance with Oregon Development Statues?

This letter is now in the official record from the Planning Commission and awaits findings of truth and fact as outlined therein. We have testified in support of Staff's proposal except on a couple of technical issues and the question above. Respectfully awaiting your answer.

Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

----- Original Message -----

From: Steve Anderson <[andersonriskanalysis@comcast.net](mailto:andersonriskanalysis@comcast.net)>

To: Dan Atchison <[DAtchison@cityofsalem.net](mailto:DAtchison@cityofsalem.net)>

Cc: Michael Freitas <[michaelfreitas9459@att.net](mailto:michaelfreitas9459@att.net)>

Date: 06/11/2024 1:52 PM PDT

Subject: Case No. CA24-01 Before Planning Commission

Mr. Atchison:

Attached is a request for your action to affirm statements that Case No. CA24-01 updates Salem UDC to bring it into compliance with Oregon Development Statutes. Thank you.



## **Vision for Land Use Projects in the Highland Neighborhood**

The Highland Neighborhood Association envisions a vibrant, sustainable, and inclusive community where land use projects contribute to the overall well-being and quality of life for all residents. We seek to foster a neighborhood that balances growth, preservation, and enhancement of our built and natural environments. Our vision encompasses the following key principles:

- 1. Context-Sensitive Development:** New developments should be designed to integrate harmoniously with the existing neighborhood fabric, respecting the scale, character, and architectural style of the surrounding area. Projects should contribute to a cohesive and visually appealing streetscape.
- 2. Affordable and Diverse Housing:** We recognize the critical need for a mix of housing types and price points to accommodate residents of various ages, family sizes, and income levels. In light of the current housing crisis at the city, state, and national levels, it is imperative to prioritize the development of both market-rate and affordable housing within our community. Balancing economic viability with a commitment to ensuring that all residents, regardless of income, have access to housing is essential. A diverse and inclusive community is vital for the long-term health and sustainability of our neighborhood.
- 3. Walkability and Connectivity:** Land use projects should prioritize pedestrian and bicycle infrastructure, creating safe, accessible, and well-connected streets and pathways. Developments should promote walkability by providing amenities such as sidewalks, bike lanes, and traffic-calming measures.
- 4. Green Spaces and Environmental Stewardship:** Integrating green spaces, parks, and community gardens into land use projects is crucial for promoting health, recreation, and social interaction. We advocate for the preservation of mature trees, the incorporation of native landscaping, and the adoption of sustainable practices in all developments. We encourage the incorporation of ecological friendly materials for healthier communities and environmental sustainability.
- 5. Community-Oriented Design:** Projects should foster a sense of community by incorporating gathering spaces, such as plazas, courtyards, and community centers. These spaces should be designed to encourage social interaction, community events, and neighborhood engagement.

6. Mixed-Use Development: We support mixed-use projects that combine residential, commercial, and recreational uses, creating vibrant and self-sustained neighborhoods. These developments should be strategically located to provide convenient access to essential services, employment opportunities, and public transportation.

7. Historic Preservation: The Highland Neighborhood values its historic assets and character. Land use projects should respect and preserve historically significant buildings, landmarks, and landscapes, adapting them for modern use while maintaining their integrity.

8. Collaborative Planning: We believe in a transparent and inclusive planning process that actively engages community members, stakeholders, and local organizations. Developers should work closely with the neighborhood to address concerns, gather input, and ensure that projects align with the community's vision.

By adhering to these principles, land use projects in the Highland Neighborhood will contribute to a thriving, equitable, and sustainable community that enhances the quality of life for all residents. We look forward to collaborating with developers, city officials, and community members to bring this vision to fruition.

## Eunice Kim

---

**From:** Ruth Stellmacher  
**Sent:** Monday, September 9, 2024 4:57 PM  
**To:** Eunice Kim  
**Subject:** FW: Submission  
**Attachments:** ATT00001.bin

---

**From:** noreply@cityofsalem.net <noreply@cityofsalem.net> **On Behalf Of** philiphcarver@gmail.com  
**Sent:** Monday, September 9, 2024 4:52 PM  
**To:** CityRecorder <CityRecorder@cityofsalem.net>  
**Subject:** Submission

Your Name	Philip H Carver for 350 Salem OR
Your Email	<a href="mailto:philiphcarver@gmail.com">philiphcarver@gmail.com</a>
Your Phone	5035629878
Street	1007 Newport Rd. SE
City	Salem
State	OR
Zip	97306
Message	This is a comment on agenda Item 4a. 24-335 the Public Hearing on Housing Rules 350 Salem OR has reviewed and supports the proposed changes. They will reduce administrative costs for staff and applicants They will also help meet the goals of the Salem Comprehensive Plan and the Climate Action Plan. Thank you for the opportunity to comment. Phil Carver, Co-coordinator 350 Salem OR

This email was generated by the dynamic web forms contact us form on 9/9/2024.