

To: Salem City Council

From: Eric Olsen

Date: 12/10/21

I write to you in support of the modifications recommended by City Staff for the Fairview Mixed Use Zoning Amendments.

As someone who has written two Refinement Plans and built the most single family homes in Fairview, I highly recommend that City Council move expeditiously to approve the changes to the zoning ordinance. Without these changes, the properties within the master planned area which are not currently approved with a refinement plan or ones that may need amending in the future, will likely become even more uncertain as to the development potential. I firmly believe, that looking back at all of the refinement plans to date, likely none would have withstood the rigid interpretation handed down by LUBA.

Uncertainty as to the parameters of what and how this 270 acres can be developed, by both City Staff and developers, leaves the future of this property in a state of unknown...which usually mean undeveloped. One important aspect necessary for the success of this development as envisioned by the City depends on build out of the entire master development. The mixed-use, diverse and sustainable aspects all depend on eventual connection of the parts. Unfortunately, without these staff recommended changes, such connection I believe is unlikely anytime in foreseeable future.

Thanks you,

Eric Olsen, PE

From: [Matt Harrell](#)
To: [Bryce Bishop](#); [citycouncil](#)
Cc: [Matt Harrell](#)
Subject: 2021 Unified Development Code (UDC) Updates - Specific to Ch.530 Fairview (FMU Zone) and Ch. 808 Trees
Date: Monday, December 13, 2021 1:00:50 PM
Attachments: [2021 Unified Development Code \(UDC\) Updates - Simpson Hills LLC 12.13.2021.pdf](#)

Dear Mayor, City Council Members, and Staff,

Please receive this email and enter this testimony for today's Hearing.

Thank you,

Matthew Harrell

Simpson Hills LLC

7509 S. 5th Street #101 – PMB #A801

Ridgefield, WA. 98642

matt.harrell@raptorfamily.com

NOTE THAT OUR ADDRESS HAS CHANGED

December 13th, 2021

To: City of Salem City Council

From: Simpson Hills LLC

Owner of 103 acres of land within Fairview plan (formerly the Fairview Training Center Site)
zoned as FMU.

Matt Harrell, Project Manager

We are writing to you to provide comments on proposed SRC changes and provide support of the modifications recommended by City Staff for the Fairview Mixed Use Zoning Amendments.

SRC Chapter 530 -

Simpson Hills LLC is one of the largest single land owners within the Fairview FMU. We support the modifications recommended by City Staff for the Fairview Mixed Use Zoning Amendments. Without these modifications, development on the Simpson Hills LLC property will be severely affected in a negative way. There is proven success within Fairview for allowing Refinement Plans and their amending.

SRC Chapter 808 -

Simpson Hills LLC has some trees on the property owned. Our comments are limited at this time because we aren't in a development stage yet to determine the level of impact that may occur on our property due to the proposed Chapter 808 changes. We do know that the current SRC Chapter 808 currently works. We request that if there are increases in land development restrictions, affects upon property density calculations, impact to the developability and/or constructability to the affected lands that landowners be compensated for their economic losses.

We appreciate the ability to comment, thank you.

Matt Harrell, Project Manager

Simpson Hills LLC

7509 S. 5th Street #101 – PMB #A801

Ridgefield, WA. 98642

From: [Sean Malone](#)
To: [Bryce Bishop](#); [Amy Johnson](#); [Virginia Stapleton](#); [Tom Andersen](#); [Trevor Phillips](#); [Jackie Leung](#); [Jose Gonzalez](#); [Chris Hoy](#); [Vanessa Nordyke](#); [Jim Lewis](#); [Chuck Bennett](#); jmumper@toast.net
Subject: Testimony for Proposed Legislative Changes to SRC Chapter 530
Date: Monday, December 6, 2021 2:51:34 PM
Attachments: [Malone to Salem re amendments 12.6.21.pdf](#)

Mayor and City Councilors,

Please find attached testimony for the Proposed Legislative Changes to SRC Chapter 530 (Fairview Mixed-Use – FMU Zone), which are part of the legislative packet being considered at this evening’s city council hearing. Please read and consider the testimony, and I urge you not to adopt the changes to SRC Chapter 530. If they are adopted, a LUBA appeal will likely follow, just as it did in *Mumper v. City of Salem*, ___ Or LUBA ___ (LUBA No. 2019-106, Feb 24, 2020). Please add this testimony to the record.

Please respond indicating that the testimony has been received and will be placed into the record.

Thank you,

Sean Malone
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303-859-0403

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December 6, 2021

Via Email

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Re: Jerry Mumper Testimony on Proposed Amendments to SRC Chapter 530 (Fairview Mixed-Use Zone)

Dear Mayor and City Councilors,

On behalf of Jerry Mumper, please accept the following testimony on the proposed Amendments to the SRC Chapter 530 (Fairview Mixed-Use – FMU Zone). The proposed amendments are internally inconsistent and inconsistent with the Fairview master plan. The proposed amendments are proposed clearly in response to the recent decision in *Mumper v. City of Salem*, ___ Or LUBA ___ (LUBA No. 2019-106, Feb. 24, 2020), in which the Land Use Board of Appeals (LUBA) reversed the City’s decision approving an application for a modification of refinement plan standards, a refinement plan, and the subdivision. The proposed amendments are intended to weaken the standards and criteria that were put in place many years ago.

The City Council is considering the following changes in its summary of the amendments:

“▪ Amendments update the FMU zone to further clarify the relationship between the Fairview plan and refinement plans. The amendments:

- ❖ Add language providing greater clarity regarding the purpose of the Fairview Plan and its regulatory authority over subsequent refinement plans.
- ❖ Revise approval criteria for refinement plans to specify which specific portions of the Fairview plan refinements plans must be found to be in conformance with.
- ❖ Clarify 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.
- ❖ Clarify who has standing to initiate amendments to the Fairview plan and refinement plans.
- ❖ Clarify 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 standard).
- ❖ Add child day care home as a permitted use in the LI (Low-Intensity Residential) area of the zone in order to comply with State House Bill HB3109.
- ❖ Add managed temporary villages for the unsheltered and emergency shelters as permitted temporary uses within the zone.

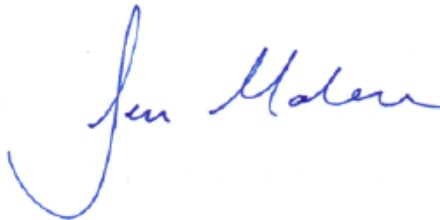
The proposed amendments limit criteria for refinement plan amendments. Instead of requiring consistency, the amendments proposed “substantial conformance,” a far lesser standard. The only rationale for doing this is to weaken the City’s criteria, which does a disservice to the original vision of the Fairview master plan and the Council’s constituency. The amendments relegate the master plan vision for development to a mere superfluity. The amendments deem “any plans or drawings depicting the layout of the development, including, but not limited to the location of streets, City utilities, paths/trails, open space, buildings, or specific uses” as “conceptual in nature and may be revised by the refinement plan[.]”

The proposed amendments are inconsistent with the requirements in SRC 530.030 that refinement plans further refine and implement the Fairview plan. If what is contained in the

Fairview plan is simply conceptual, then amendments to refinement plans would not actually be implementing or refining the Fairview masterplan. The Fairview master plan contains numerous diagrams that cannot be simply conceptual because the text of the plan specifically implements those diagrams. In other words, the City cannot say that the diagrams are conceptual without also affecting the text of the Fairview master plan.

The Planning Commission was wise enough not to recommend adopting these amendments and the City Council should also not adopt the proposed amendments. Adopting the amendments to SRC Chapter 530 (Fairview Mixed-Use – FMU Zone) will likely draw an appeal to the LUBA.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large, looping initial "S".

Sean T. Malone
Attorney for Jerry Mumper

Cc:
Client