

**AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE  
TO PROMOTE HOUSING DEVELOPMENT AND ADDRESS OTHER ISSUES**

**(CODE AMENDMENT CASE NO. CA24-01)**

***Substantive Findings***

SRC 110.085 establishes the following approval criteria which must be met in order for a code amendment to be approved:

1. *The amendment is in the best interest of the public health, safety, and welfare of the City; and*

**Finding:** The proposed code amendment is in the best interest of the public health, safety, and welfare of the City because it encourages the development of middle housing, multifamily housing, and mixed-use projects with housing. The Salem Housing Needs Analysis (HNA) determined that more multifamily housing is needed to meet Salem’s growing population. The proposed code amendment encourages housing development by streamlining the approval process for mixed-use buildings that cannot meet design standards in certain zones.

In addition, the proposed code amendment creates flexibility for housing developments by allowing such projects in the Portland-Fairgrounds Road Overlay zone and Capital Mall (PM) zone to deviate from density requirements through an adjustment or variance application. It also decreases the minimum lot size for two and three family uses in the Multiple Family Residential-II (RM-II) zone, and it allows single and two-family uses to be developed in mixed-use buildings in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones.

The proposed code amendment also allows accessory dwelling units to be developed with townhouses and codifies a new State law that requires cities like Salem to allow existing commercial buildings to convert to housing. In addition, the proposed code amendment removes discretionary approval criteria for subdivisions, partitions, and site plan review. This helps create more clarity in the approval process for housing projects.

2. *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.*

**Finding:** The Salem Area Comprehensive Plan (Comprehensive Plan) is the long-range plan for guiding future growth and development in the Salem area. The Comprehensive Plan establishes a framework to guide all land use and related activities in line with the community’s vision, and it aims to ensure orderly and efficient development that meets the community’s needs. The Comprehensive Plan was updated by the City of Salem and acknowledged by the Department of Land Conservation and Development (DLCD) in August of 2022.

The proposed code amendment was reviewed for conformance with the applicable goals and

policies of the Comprehensive Plan. The following goals and policies relate to the proposed code amendment:

***H1 Housing Choice Goal:*** *Promote a variety of housing options to meet the needs, abilities, and preferences of all current and future residents.*

***H 1.1 Housing types:*** *A variety of housing types shall be allowed and encouraged throughout the Salem Urban Area, including single-family homes, accessory dwelling units, manufactured homes, townhouses, middle housing, and multifamily housing.*

The proposed code amendment encourages a variety of housing types – particularly middle housing, multifamily housing and mixed-use development – by removing potential barriers to development. For example, it allows developers of mixed-use developments in the West Salem Central Business (WSCB), Portland-Fairgrounds Road Overlay, Edgewater-Second Street Mixed-Use Corridor (ESMU), and South Waterfront Mixed-Use (SWMU) zones to apply for an administrative adjustment if their project cannot meet one or more design standards. Currently, such projects must go through a public hearing process if they cannot meet a design standard, which can add time, money, and uncertainty to the approval process. Currently, housing projects that cannot meet density standards in those zones are prohibited from applying for a variance or adjustment to those requirements. As mentioned earlier, the proposed amendment also creates flexibility for housing developments by allowing such projects in the Portland-Fairgrounds Road Overlay Zone and PM Zone to deviate from density requirements through an adjustment or variance application.

The proposed code amendment also encourages the development of middle housing in the RM-II zone by decreasing the minimum lot size for two and three family uses. Currently, an existing lot zoned RM-II must be at least 6,000 square feet in size to accommodate a two or three family use. Under the proposed amendment, a two family use could be developed on a 4,000 square foot lot, and a three family use could be developed on a 5,000 square foot lot. In addition, the proposed code amendment promotes multifamily development by codifying a State law that requires cities like Salem to allow existing commercial buildings to be converted into housing.

The proposed code amendment promotes the development of accessory dwelling units by allowing them to be built with townhouses, as opposed to only detached single-family housing as is permitted today. It also encourages the development of single-family and two-family housing in mixed-use buildings in the MU-I and MU-II zones. Currently, standalone single-family and two-family uses are largely prohibited in those two mixed-use zones, so this proposed code amendment expands the types of housing that are allowed in those two zones.

In addition, the proposed code amendment promotes the addition of housing in historic districts or historic buildings. It does so by allowing the development of housing – through new construction, additions or alterations – in historic districts or with historic buildings to go through an administrative approval process. This could streamline the review process, which currently requires a public hearing before the Historic Landmarks Commission (HLC). Under the proposed code amendment, an applicant could still choose to have their housing project go to the HLC.

***H 2 Housing Affordability Goal:*** *Provide opportunities for housing that are affordable to current and future residents of all income levels.*

***H 2.5 Regulations and incentives:*** *Regulations and incentives should be periodically updated to reduce the impacts that development standards, processes, and fees have on housing affordability, including parking requirements and tax relief programs.*

The proposed code amendment would reduce impacts of development standards, processes, and fees related to housing development in several ways. As mentioned earlier, adjustments would be allowed to design standards in certain zones. Under this proposed change, a project that cannot meet a design standard could apply for an administrative adjustment as opposed to being required to go through a public hearing process, which could add time, cost, and uncertainty to the project.

The proposed code amendment also creates an administrative approval process for new housing in historic districts or historic buildings, as mentioned above. In addition, the proposed code amendment removes discretionary approval criteria for subdivisions, partitions, and site plan review. This helps create more clarity in the approval process for housing projects, as the criteria refer instead to existing clear and objective standards in the UDC.

***H 3 Land Supply Goal:*** *Provide a supply of residential land that accommodates the amounts and types of housing needed to meet the population forecast for the Salem Urban Area.*

The proposed code amendment would establish a minimum density of 15 units per acre in the WSCB zone, which is located in inner West Salem. This zone is intended to promote a walkable, vibrant, mixed-use center in West Salem. It allows a variety of housing, office, retail, recreation, and entertainment uses, and it allows buildings to be up to 70 feet tall. Establishing a minimum density in the WSCB zone ensures land in inner West Salem is used efficiently when accommodating housing. The proposed code amendment also increases the minimum density in the Central Business District (CB) zone from 20 to 25 units per acre. This further ensures land in Salem’s downtown is used efficiently.

***H 3.3 Infill:*** *Infill housing should be encouraged to promote the efficient use of land and existing infrastructure as well as access to existing services and amenities.*

The proposed code amendment allows the development of single-family and two-family housing in mixed-use buildings in the MU-I and MU-II zones. Currently, standalone single-family and two-family uses are largely prohibited in those two mixed-use zones. While three-family uses allowed, it can make it challenging for smaller sites to accommodate that many housing units. By allowing single-family and two-family housing in mixed-use development in the MU-I and MU-II zones, smaller lots can accommodate housing, even if only one or two units. This promotes infill housing on smaller lots in Salem. The proposed code amendment also encourages infill development on townhouse lots by allowing accessory dwelling units to be built with attached townhouses. Currently, accessory dwelling units are only allowed with detached single-family housing.

***H 3.4 Building reuse:*** *The City should encourage reuse of vacant buildings for shelters,*

*residential uses, and mixed-use development to increase access to housing for all residents.*

The proposed code amendment encourages the reuse of vacant buildings by implementing House Bill 2984. That bill requires cities with at least 10,000 people to allow existing commercial buildings to convert to residential uses. This proposed code amendment codifies this new State law – which became effective on January 1, 2024 – in Salem’s local code. This provides clarity to developers and staff alike.

***H 4 Complete Neighborhood Goal:*** *Encourage housing that provides convenient access to jobs, services, and amenities that meets residents’ daily needs.*

***H 4.1 Mixed use:*** *The development of housing should be encouraged in mixed-use areas to increase access to jobs and services and promote walkable, complete neighborhoods.*

The proposed code amendment encourages the development of housing in mixed-use areas to promote complete neighborhoods. It does this by streamlining the approval process for mixed-use projects in the WSCB, Portland-Fairgrounds Road Overlay, ESMU, and SWMU zones. As mentioned earlier, the proposed code amendment allows for mixed-use projects – and other types of development – that cannot meet one or more design standards in those zones to apply for administrative adjustments, as opposed to being forced through a public hearing process. This removes potential barriers to mixed-use developments that include housing.

In addition, as mentioned above, the proposed code amendment allows the development of single-family and two-family housing in mixed-use buildings in the MU-I and MU-II zones. Currently, standalone single-family and two-family uses are largely prohibited in those two mixed-use zones, so this proposed code amendment increases the types of housing that are allowed in mixed-use areas in Salem.

***E 1 Economic Development Goal:*** *Strengthen and diversify the economy to enhance Salem’s economic prosperity and resiliency.*

***E 1.11 Downtown:*** *Downtown Salem shall be enhanced as a regional destination and mixed-use center with diverse employment, shopping, and recreational opportunities.*

The proposed code amendment enhances downtown Salem as a mixed-use center by allowing small animal veterinary and grooming services in the Central Business (CB) zone. Currently, those services are prohibited. As more housing is built in downtown Salem, the need for services for people and their pets has arisen. Allowing veterinary and grooming services in the CB zones therefore helps support downtown Salem as a vibrant, mixed-use center.

***CS 3 Historic Preservation Goal:*** *Identify, protect, and encourage the awareness and sensitive use of historic resources, places, archaeological sites and landscapes that contribute to the unique character and history of Salem.*

The proposed code amendment continues to preserve historic buildings and historic districts while streamlining the design review process for housing development. As mentioned earlier, it does this by allowing applicants of new construction, additions, and alterations of historic

buildings or those in historic districts to seek administrative approval, provided new housing units are created. Applicants of such projects can still choose to go through a public hearing process at the Historic Landmarks Commission.

The proposed code amendment also establishes design standards for gates and fences that provide security while still preserving and maintaining the character of buildings in the Downtown Historic Districts. It also creates design standards for canopy, awnings, and ground-floor windows in the Downtown Historic District that align with those in the CB district. This helps create consistency between the historic district and surrounding buildings in downtown Salem.

The proposed code amendment was also reviewed for conformance with the 2020-2030 Historic Preservation Plan, which is a support document to the Comprehensive Plan. The following goal in the Historic Preservation Plan is applicable to the proposed code amendment:

**Goal 2: Streamline Historic Code: Criteria, Process and Enforcement**

Under Goal 2, action item #6 *Improve and clarify code and education about design review process and criteria* is identified as *Strategy Two* in the HLC’s 2023 Work Plan. This action directs the HLC and historic preservation staff to work on improving and clarifying the historic code (SRC 230) as well as to develop educational materials to teach historic property owners and tenants about the historic design review process.

Design standards for storefronts within Salem’s Downtown Historic District currently exist in *SRC 230.040 Standards for historic contributing buildings in commercial historic districts(d) Storefronts* and *SRC 230.045 Standards for non-contributing buildings/structures in commercial historic districts (d)Storefronts*. The criteria include standards for materials and design, but do not currently include any criteria related to security gates or fencing.

Starting in 2023, the Historic Landmarks Commission reviewed multiple proposals for security gates/fencing within Salem’s Downtown Historic District and found that a lot of variation existed between the specific gates proposed. The HLC therefore identified the need to establish clearer criteria for security gates and fencing within Salem’s Downtown Historic District. The proposed code amendment establishes standards for security gates and fencing in Salem’s Downtown Historic District, complying with Goal 2 of the Historic Preservation Plan.

The proposed code amendment was also reviewed for conformance with the applicable Statewide Planning Goals and administrative rules adopted by the Department of Land Conservation and Development. The following goals are applicable to the proposed code amendment:

**Goal 1 – Citizen Involvement:** *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The process to adopt this proposed code amendment requires public notice and affords the public an opportunity to review, comment, and take part in the approval process. The City also held a webinar on the proposed code amendment in May to give the public an opportunity to learn about the proposed changes, ask questions, and provide input.

**Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:** *To protect natural resources and conserve scenic and historic areas and open spaces.*

The proposed code amendment is consistent with the above goal because it continues to preserve historic buildings and historic districts while streamlining the design review process for housing development. As mentioned earlier, it does this by creating an administrative approval process for new construction, alterations, and additions to historic buildings or in historic districts that create new housing units.

The proposed code amendment also establishes design standards for gates and fences that provide security while still preserving and maintaining the character of buildings in the Downtown Historic Districts. It also creates design standards for canopy, awnings, and ground-floor windows in the Downtown Historic District that align with those in the CB district. This helps create consistency between the historic district and surrounding buildings in downtown Salem.

**Goal 9 – Economic Development:** *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens*

The proposed code amendment is consistent with the above goal because it allows more commercial services in downtown Salem. Specifically, it allows small animal veterinary and grooming services in the CB zone, which provides more economic opportunities in that area.

**Goal 10 – Housing:** *To provide for the housing needs of citizens of the state.*

The proposed code amendment is consistent with the above goal because it encourages the development of accessory dwelling units, middle housing, multifamily housing, and mixed-use projects with housing. As mentioned earlier, the HNA determined that more multifamily housing is needed to meet Salem's growing population. The proposed code amendment encourages housing development by streamlining the approval process for mixed-use buildings with housing that cannot meet design standards in the WSCB, Portland-Fairgrounds Road Overlay, ESMU, and SWMU zones. It also creates flexibility for housing developments by allowing such projects in the Portland-Fairgrounds Road Overlay Zone and PM Zone to deviate from density requirements through an adjustment or variance application. In addition, the proposed code amendment allows accessory dwelling units to be built with townhouses, and it decreases the minimum lot size for two and three family uses in the RM-II zone, which provides more opportunities to develop those middle housing types in Salem.

**Goal 14 – Urbanization:** *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The proposed code amendment conforms to this goal because it promotes the efficient use of land by helping accommodate Salem’s urban population within its portion of the UGB. It does this by establishing a minimum density in the WSCB zone. It also increases minimum density in the CB zone from 20 to 25 units per acre. These two changes ensure that land within that zone in the UGB is efficiently utilized. The proposed code amendment also promotes the development of higher-density housing, particularly middle housing, multifamily housing, and mixed-use projects with housing in different areas of Salem. In addition, it allows for more commercial uses – specifically veterinary and grooming services – in the CB zone, which supports a livable downtown Salem.

**Oregon Administrative Rule 660-012-0320**

OAR 660-012-0320 is the part of the State-mandated Climate-Friendly and Equitable Communities (CFEC) rules. They include land use requirements for climate-friendly areas, which are referred to as Walkable, Mixed-Use Areas (WaMUAs) in Salem. The City has identified the CB zone and WSCB zone as potential WaMUAs. To comply with the CFEC rules, WaMUAs must meet specific density requirements. At least one WaMUA that is a minimum of 25 acres must have a minimum density of 25 units per acre, while all other WaMUAs must have a minimum density of 15 units per acre.

The proposed code amendment would establish a minimum density in the WSCB zone of 15 units per acre, and it would increase the minimum density in the CB zone from 20 units per acre to 25 units per acre. These changes would bring the WSCB and CB zones into compliance with the density provisions in the CFEC rules for WaMUAs. (Additional code amendments are required to bring Salem’s code into full compliance CFEC. City staff intends to propose additional code amendments in the future.)

***Procedural Findings***

- 1) The proposed code amendment are amendments to the Unified Development Code (UDC), which is a legislative land use decision under SRC 110.085. The Planning Commission (PC) or Historic Landmarks Commission (HLC) 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 Council under SRC 300.1110.
- 2) The Historic Landmarks Commission initiated the proposed amendments to SRC Chapter 230 by HLC Resolution No. 2024-01 on March 21, 2024.
- 3) The Planning Commission initiated the proposed code amendment by PC Resolution 2024-01 on April 16, 2024.
- 4) 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 submitted on April 29, 2024, meeting the notice requirement.
- 5) All required notices have been provided as required under SRC 300.1110(e). Public notice was mailed May 21, 2024, and public notice was published in the newspaper, as required under SRC 300.1110(e)(2), on May 27, 2024 and June 3, 2024.

- 6) On June 11, 2024, HLC and PC conducted a joint public hearing on the proposed code amendment to review and receive public testimony. Subsequent to the provision of public testimony and consideration of the proposal by the PC and HLC, the public hearing was closed. The HLC voted to recommend City Council approval of the proposed amendments to SRC Chapter 230, and the PC voted to recommend City Council approval of the proposed code amendment.
- 7) On July 8, 2024, the City Council voted to conduct a public hearing on Ordinance Bill No. 8-24.
- 8) On September 9, 2024, the City Council voted to engross Ordinance Bill No. 8-24 and advance it to second reading.

***Testimony Received***

The public comments provided for the Planning Commission and Historic Landmarks Commission public hearing and the City Council public hearing are attached to the City Council second reading staff report. All of the comments have been summarized below, and staff responses have been provided.

1. A comment included several questions related to proposed changes to the criteria for land divisions, including if the proposed changes meet the State’s requirement for clear and objective standards, and what is meant by “special development standards.”

*Staff Response:* The proposed changes to SRC Chapter 205 Land Division and Reconfiguration eliminate criteria for subdivisions and partitions that are discretionary in nature. Those criteria address issues that are otherwise addressed by clear and objective standards elsewhere in the UDC, and Criterion No. 1 requires compliance with all applicable provisions of the UDC. For example, Criterion No. 5 focuses on the safe, orderly, and efficient circulation of traffic into, through, and out of the development. Through compliance with the standards in SRC Chapter 803, including requirements for street connectivity, right-of-way dedication, and street improvements, the requirements of Criterion 5 are otherwise covered but in a fashion that does not require evaluation based on subjective terms such as “safe”, “orderly”, and “efficient.”

The term “special development standards” refers to standards in the UDC that may not necessarily apply to all properties given that each property is unique. For example, not all properties are within a floodplain, and therefore not all development requires a floodplain development permit. As another example, not all properties are steep, and therefore not all development requires a geological or geotechnical analysis. The list of standards provided in SRC 205.010(d)(C) are examples of these types of standards. In response to this public comment however, staff has proposed to remove the list of examples, as noted earlier.

The term “special setbacks” is established in SRC 800.040. Specifically, SRC 800.040(a) states: “To afford better light, air, and vision on public streets and to permit the eventual widening of streets without creating nonconforming structures, special setbacks are hereby established. No structures or paving, other than those identified under subsection



(d) of this section, shall be placed within a special setback.” Special setbacks apply in addition to other setbacks required in the UDC, and they essentially ensure that development does not impede future street improvements to meet required widths in the UDC. In response to this public comment, staff has proposed to remove the reference to “special setbacks” and other examples of standards, as noted earlier.

2. The Land Use Committee of the South Central Association of Neighbors (SCAN) submitted a comment in general support of the proposed code amendment, except for the proposed changes to the historic design review process for new housing. SCAN also requested a few additional changes, including:
  - a. Prohibiting short-term rentals in all residential zones, including mixed-use zones
  - b. Deleting the minimum building height standards in the MU-I zone
  - c. Deleting the minimum ground floor height standards in the MU-I and MU-II zones

*Staff Response:* The proposed changes to the historic design review process continue to allow applicants to choose the existing approval process for new construction, addition, and alterations that provide new housing units. This includes the option to have a public hearing at the HLC for new construction projects within historic districts. The proposed code amendment expands the options for seeking approval to include administrative review. The proposed changes also implement a new State law that seeks to streamline approval processes for housing projects across Oregon, including historic projects.

The proposed code amendment does not make any changes related to short-term rentals and where they are allowed. In March, the City Council received a [staff report](#) that described the current regulations for short-term rentals, neighborhood concerns, impacts on Salem’s housing stock, and possible policy options. The City Council chose not to direct staff to amend regulations to prohibit short-term rentals in single-family areas. Instead, following that meeting, staff is working to hire a third-party vendor, which would enable staff to provide more accurate information on the number of short-term rentals and accessory short-term rental units that are currently operating in Salem. In addition, if the City wanted to prohibit short-term rentals in all residential zones, staff would be required by State law to provide notice to impacted properties – known as a Measure 56 notice. That notice has not been provided as part of this proposed code amendment.

The proposed code amendment does not change any standards in the MU-I and MU-II zones besides the minimum required depth of awnings and canopies. (For consistency, that is a change that is proposed in all zones with weather protection requirements.) The City has just started to see developments being proposed in the MU-I and MU-II zones, and as more projects are proposed, the City may evaluate if any standards in the mixed-use zones are consistent barriers to development and therefore should be revised. In addition, the City is developing its first Housing Production Strategy, so potential barriers to housing development in particular will be identified during that process. The Housing Production Strategy is expected to be completed by June 2025.

3. The West Salem Neighborhood Association submitted comments that:
  - a. Support streamlining review processes but asks the City Attorney to affirm that the proposed amendment complies with all “Oregon Development Standards” (see below)
  - b. Oppose the establishment of a 15 units per acre minimum density in the WSCB zone, stating no transportation analysis supports it
  - c. Request that the maximum height in the Edgewater/Second Street Mixed Use Corridor (ESMU) Zone be reduced to 40 feet along the east side of 2nd Street to ensure residential properties on 3<sup>rd</sup> Street NE have access to sunlight
  - d. Request that clear, objective decision-making points document how the granting of expectations and/or relief from design standards are to be made

*Staff Response:* The WSNA argues that the proposed code amendment violates state law regarding transportation. Specifically, WSNA appears to be arguing that by establishing a minimum density of 15 units per acre, the proposed code amendment would degrade the performance of Wallace Road NW and therefore significantly affect a transportation facility under Oregon Administrative Rules (OAR) 660-012-0060(1)(c). The existing Comprehensive Plan (Central Business) and zone designation (WSCB zone) for the West Salem business core has been acknowledged as complying with Statewide Planning Goal 12. When changes are proposed to plan and zone designations that are acknowledged, they are analyzed using a “reasonable worst case” scenario. WSNA appears to believe that by establishing a minimum residential density of 15 units per acre, the City is creating a worse worst-case scenario, but that is incorrect. Under the existing plan and zoning, there is no maximum residential density, and the setback and maximum building height requirements do not change. A practical maximum development could exceed 60 units per acre.

While the proposed code amendment establishes a minimum density of 15 units per acre for exclusively residential development, it does not increase the maximum density allowed. The reasonable worst-case scenario remains the same. The proposed code amendment would not allow types or levels of traffic that are inconsistent with the functional classification of an existing or planned transportation facility, would not degrade the performance of an existing or planned transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan, and would not degrade the performance of an existing or planned transportation facility that it otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan. Therefore, the proposed code amendment complies with Goal 12.

The proposed code amendment does not change the maximum height in the ESMU zone, which is 50 feet. That was the maximum height that was established when the ESMU zone was created in 2018. The northeast boundary of the ESMU zone is adjacent to the RS zone. The ESMU zone requires a 20-foot setback for buildings when the abutting zone is residential, and this setback applies even if there is an alley separating the ESMU and residential zone.

The UDC includes criteria for granting adjustments in SRC Chapter 250. That criteria generally ask if the adjustment request equally or better meets the intent of the standard from which the applicant is seeking relief. The criteria are not intended to be clear and objective; it is the standards – such as maximum heights, length of canopies or awnings, or minimum setbacks – that are clear and objective. If an applicant cannot meet a standard, they can apply for an adjustment where limited discretion is involved. Public notice is provided, and the public can submit comments. The approval or denial of an adjustment application is made by the Planning Administrator. That decision can be appealed to the Hearings Officer. This proposed code amendment expands where this adjustment process can be used in Salem.

4. The West Salem Neighborhood Association submitted a request to the City Attorney that the Legal Department make a legal determination as to whether the proposed code amendment brings the UDC into compliance with Oregon Development Statutes and corrects or resolves issues related to the Titan Hill and East Park land use cases.

*Staff Response:* The Legal Department reviewed the proposed code amendment prior to the Planning Commission and Historic Landmarks Commission public hearing. The Planning Division works with the Legal Department during all code amendment projects.

In 2022, the City Council adopted a code amendment that rectified the issue related to clear and objective standards identified by the Land Use Board of Appeals in East Park, LLC vs. City of Salem. Specifically, the City has removed the requirement for a conditional use permit for multifamily housing in the Retail Commercial (CR), General Commercial (CG), and Industrial Commercial (IC) zones. Currently, multifamily housing is allowed outright in those zones if the housing is located in a mixed-use building.

As stated above, the City Attorney and assistant city attorneys assist in drafting and reviewing draft code amendments and facts and findings supporting those amendments. The City Attorney believes the proposed code amendments comply with all applicable law.

5. A comment was received in support of the proposed code amendment, citing the need for more housing in Salem.
6. A comment was received in support of the proposed code amendment, citing the process for bringing Salem’s development language in conformance with State statutes and judicial decisions. The comment also asked that the definitions be tabled until the definitions of “spring” and “waterway” parallel State and federal law and requirements.  
*Staff Response:* The proposed code amendment is not proposing to add or change the definitions of waterways or spring. The City is expected to start a Goal 5 riparian corridor project this fall, and that is expected to include an inventory of waterways and potential changes to how riparian corridors are protected. New or revised definitions related to waterways could be considered during that project.
7. The West Salem Neighborhood Association submitted a comment in support of the proposed code amendment, asking for one clarification related to the proposal to establish a minimum

density in the WSCB zone. The comment expressed concern that a single family home could not be rebuilt under the proposed code amendment.

*Staff Response:* A single-family detached is considered a “continued use” in the WSCB zone, and as such, it could be rebuilt if destroyed or damaged. The proposed code amendment would not change that.

8. A comment was received, asking the City Attorney if the proposed code amendment would bring the UDC into compliance with Oregon Development Statutes.

*Staff Response:* The City Attorney stated that he believes the proposed code amendment complies with all applicable land use regulations. The City Attorney’s full response is attached to the City Council second reading staff report.

9. The Highland Neighborhood Association submitted its vision for land use projects in the neighborhood, which includes support of affordable and diverse housing, mixed-use development, and collaborative planning, among other principles.

10. A comment from the Co-coordinator of 350 Salem was received in support of the proposed code amendment, stating that the proposal would help meet the goals of the Salem Comprehensive Plan and Climate Action Plan.

11. A comment received at the City Council public hearing provided support for the proposal to allow ADUs with townhouses and stated that more discussion is needed around the idea of allowing garages in townhouses to be converted into ADUs.

*Staff Response:* Currently, ADUs are allowed to be attached or detached from a single-family detached dwelling, manufactured home, or zero size yard dwelling on the same lot. That means a garage – either detached or attached to the main home – can be converted into an ADU, provided that an ADU is permitted on the property and standards in the UDC are met. Under the proposed change, ADUs would be allowed on properties with a townhouse, provided the lot is at least 2,500 square feet in size and no more than two townhouses are attached in a row. That includes ADUs that are in converted garages. The City is in the process of developing its first Housing Production Strategy, and as part of that work, the City could consider further expanding where ADUs are allowed.

12. A comment was received at the City Council public hearing, asking that the City consider allowing point access blocks, which are single-stair apartment buildings with housing units centered around a stairway and elevator core.

*Staff Response:* The proposed code amendment does not include a proposal to allow this type of housing. The City could explore this type of housing as part of the Housing Production Strategy project.