

**Eunice Kim**

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**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

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**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