

From: [Susann Kaltwasser](#)
To: [CityRecorder](#)
Cc: [citycouncil](#)
Subject: Testimony for item 5 (a) April 22, 2024
Date: Monday, April 22, 2024 4:46:31 AM
Attachments: [Testimony propose hearings changes 42224.pdf](#)

Please accept the attached testimony from East Lancaster Neighborhood Association regarding proposed Rule Changes item 5(a) on April 22 meeting.

Susann Kaltwasser
ELNA co-chairperson



EAST LANCASTER NEIGHBORHOOD ASSOCIATION (ELNA)

April 22, 2024

To: Mayor Hoy and Salem City Councilors
From: Susann Kaltwasser, Co-Chair, East Lancaster Neighborhood Association
RE: Proposal Council Rule Changes, Item 5.a

ELNA opposes the proposal to eliminate Council's ability to call up certain quasi judicial land use cases.

First, the Council already has a mechanism by which to stop frivolous call ups requests or appeals. Councilors can simple vote not to take up the appeal.

Secondly, Council could request that prior to accepting an appeal that the applicant meet with staff to ensure that there are actual matters over which the Council has discretion. This process worked effectively with our neighborhood association recently when board members did not fully understand the process. And once they did, they withdrew their appeal.

Third, this is a very complex issue and most neighborhoods have not had the opportunity to engage in discussion with staff to understand the proposal and its ramifications as well as the rationale for this proposed rules changes. ELNA would like to see the planning staff and/or legal staff host a work session with all neighborhood association members about this topic prior to moving forward with this proposal.

Finally, Council has been criticized for being hasting in making decision that impact the public's ability to give input. Limiting that access to hearings or limiting the amount of time available now might impact adversely the public's trust. Since this is not an urgent matter, we urge a slower pace for this decision. Yes, there will be a typical process for code changes, but once language is drafted it may be harder to make substantive changes through public comment.

Thank you for you consideration of our comments.

From: [Victor Dodier](#)
To: [CityRecorder](#)
Cc: [Scan Board](#)
Subject: Council Rule Change Comments for 4 22 24, Item 5.a.
Date: Sunday, April 21, 2024 10:07:10 PM
Attachments: [Council Rule Change Comments for 4 22 24, Item 5.a.pdf](#)

I have attached SCAN's comments concerning the proposed change in Council rules.

Victor Dodier
SCAN President

South Central Association of Neighbors



www.scansalem.org

[@scansalemofficial](https://www.instagram.com/scansalemofficial)

www.facebook.com/scansalem

April 19, 2024

To: City Council

From: South Central Association of Neighbors (SCAN)

Subject: Council Rule Changes, April 22, 2024 Agenda Item 5.a.

The SCAN Board opposes changes to Council's authority to call-up or hear appeals of quasi-judicial land use decisions. Instead of eliminating call-ups, Council can decline a call-up, which requires a majority vote, if Council feels the administrative decision was truly nondiscretionary and Council has no legal ability to change it.

Reasons for retaining call-up and hearing authorities:

- Retain citizens' ability to appeal to its elected representatives before needing to appeal to LUBA.

Eliminating call ups and appeals removes all citizen access to Council to discuss a quasi-judicial issue. Currently councilors are advised to not listen to or discuss development applications because it risks ex parte contact and their impartiality, if the issue goes to Council later on a call-up, appeal, or LUBA remand. If Council removes its call-up or appeals authority, a LUBA remand is still a possibility. Therefore, citizens would have no means to communicate with Council about a development application either before or after an administrative decision is made. Earlier Council oversight *on some cases* can save time and money for everyone.

One of the most critical reasons for the City Council to retain its call up ability is the necessity of the Council to correct code discrepancy. When SCAN was engaged in the question of a proposed short-term rental at 795 Church Street, a discrepancy between the utilized code (SRC 240) and the appropriate and applicable code (SRC 231) was identified by SCAN. Because the case was not called up to Council, this discrepancy has yet to be remedied. If call up ability is eliminated, it may never be rectified outside of LUBA.

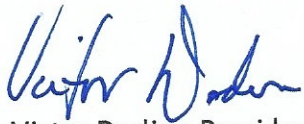
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Council Rule Changes, April 22, 2024 Agenda Item 5.a.

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- Even “clear and objective” approval criteria have elements of discretion, especially when a developer is arguing for a variance to those criteria. The majority of quasi-judicial applications that SCAN reviews are Class III Site Plan Reviews, many of which include housing. Those approval criteria do allow a degree of discretion by staff.
- “Needed Housing” is ALL housing (per ORS 197A.018: “housing by affordability level”... “type, characteristics and location that is necessary to accommodate the city’s allocated housing need over the 20-year planning period...”) That is an overly broad category to exclude from Council oversight.
- Call up authority is still needed. A call up can be an attempt by one party to obstruct a development or get a more favorable decision; or it can be to correct an error in a decision. They are not the same. Council needs to retain the ability to learn about errors in decisions, misapplication of policy, and unintended impacts of policy in a manner that is not filtered.

Thank you for your consideration.



Victor Dodier, President

South Central Association of Neighbors