

STAFF REPORT
TYPE IV HEARING - COMPREHENSIVE PLAN AMENDMENT

Food and Beverage Carts, Affordable Housing, and Emergency Shelters Project

TO: Gresham Planning Commission

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HEARING DATE: October 24, 2022, 6:30 pm

REPORT DATE: October 17, 2020

FILE NUMBER: CPA 22-00310

PROPOSAL: To adopt Comprehensive Plan text amendments to Volume 3 (Development Code) of the Gresham Community Development Plan (GCDP). These amendments update the GCDP and include standards pertaining to affordable housing and emergency shelters per Senate Bill 8 (ORS 197.308) and House Bill 3261 (ORS 197.748) and reduce barriers to establishing a food cart. The changes are as follows:

1. An update to the Food and Beverage Cart code to allow Food and Beverage Carts in industrial areas, streamline the process, reduce costs, and decrease review time.
2. New provisions permitting the conversion of a hotel or motel to an emergency shelter or to affordable housing without a development permit.
3. New allowances, such as height and density bonuses, for qualifying affordable housing developments.

EXHIBITS:

- A. Proposed Comprehensive Plan (GCDP) Text Amendments
- B. Draft Section 10.1600 Food Carts
- C. Draft Section 10.1700 Affordable Housing Development
- D. Community Engagement and Outreach Report

RECOMMENDATION: Staff recommends **adoption** of the proposed comprehensive plan text amendments as contained in the attached exhibits.

SECTION I - EXECUTIVE SUMMARY

The proposed Community Development Plan text amendments include three relatively discrete updates that have been rolled into one “project”. These include:

- An update of the City’s Food and Beverage Cart regulations,
- New standards for qualifying affordable housing developments, and
- Provisions that establish the conversion of a hotel or motel into emergency shelter or affordable housing is not a land use decision and does not require a development permit.

Each is briefly summarized below.

Food Carts

The proposed changes allow Food and Beverage Carts in industrial areas, streamline the process, reduce costs, and decrease review time. These proposed development code updates acknowledge that Food Carts have historically been a way for those from underserved communities to build businesses and wealth and have often been a first step to wealth building for immigrants and the BIPOC community. Gresham’s individual Food Carts are generally run by these same populations and our code has provided (at times insurmountable) barriers to these uses. Amendments have been targeted to remove barriers to those entrepreneurs beginning their small business journey.

Housing-Related Text Amendments

The two proposed housing-related amendments are in response to state legislation: Senate Bill and House Bill 3261 (2021). These proposed updates codify land use processes that are required by the state and are already in effect. Therefore, currently where there is a conflict with the Gresham Community Development Code and state law, development inquiries and applications are processed consistent with state regulations. The proposed changes update the GCDC in accordance with House Bill 3261 (ORS 197.748) and Senate Bill 8 (ORS 197.308), so the prevailing land use regulations are clear.

House Bill 3261 (ORS 197.748): The conversion of a hotel or motel to an emergency shelter or to affordable housing

House Bill 3261 had an effective date of May 6, 2021. The associated code update streamlines the process for converting hotels and motels into shelters or income-restricted housing by eliminating the land use criteria and application, while maintaining the building permit process. The text amendment unconditionally allows the conversion of a property from:

- Use as a hotel or motel, to use as an emergency shelter, or
- Use as a hotel or motel (including a hotel or motel that was previously converted to an emergency shelter) to use as affordable housing.

“Conversion” in this context only includes a change of use and alteration to a building that does not expand the building footprint. “Emergency shelter” is defined as a building that provides shelter on a temporary basis for individuals and families who lack permanent housing. In order to qualify as affordable housing, all units shall be affordable to households with incomes equal to or less than 60% of area median income (AMI) and whose affordability is enforceable for a duration of no less than 30 years.

Senate Bill 8: Affordable housing development

Senate Bill 8 had an effective date of January 1, 2022. The related text amendment specifies that the development of qualifying affordable housing is permitted without a zone change or a special use review. In order for a housing proposal to qualify for the new standards, the units must be available to own or rent to families with incomes of 80% or less of AMI or the average of all units must be available to families with incomes of 60% or less of AMI. The affordability of the units must also be secured for at least 30 years. Any housing type (such as single family detached homes, townhouses, or apartments) is permitted regardless of the land use district in which it is located. However, the bill includes several caveats and exemptions related to ownership and where affordable housing shall be permitted. The bill also specified density and building height bonuses for affordable housing in land use districts that permit residential uses. Density and building height bonuses are tiered based on the existing maximum density of the property.

Primary Changes

All the amendments are to Volume 3 Development Code (GCDC). The update provides language, clarifications, and reformatting as well as changes to comply with state laws and with local policy direction.

The primary proposed changes involve:

- i. Simplifying the name from Food and Beverage Cart to Food Cart.
- ii. Adding a definition for Food Cart Pods.
- iii. Reducing standards for sites with one or two walk up Food Carts.
- iv. Revising the standards for sites with more than two Food Carts to better address the evolution in pod functions.
- v. Ensuring standards are clear and objective.
- vi. Reducing the application type for most Food Carts from Type II to Type I.
- vii. Allowing motorized mobile units as well as those that can be pushed or pulled.
- viii. Allowing year round (non-membrane) covered eating areas.
- ix. Removing standards regarding health and safety which are regulated by Multnomah County Health Department and Oregon Fire Code.
- x. Adding a new land use classification for affordable housing.
- xi. Amending text to exempt the conversion of a hotel or motel to an emergency shelter or to affordable housing from a development permit and to clarify that these conversions are not a land use decision.
- xii. Permitting affordable housing development in the Open Space Overlay and on public parks and public open spaces.
- xiii. Adding language, including a new code section, to permit affordable housing development of any residential use with limitations, including:
 - a. Within general industrial land use districts, public ownership of the parcel is required and the property must be adjacent to a property that permits residential or school uses.
 - b. Affordable housing shall be owned by a public body or religious nonprofit in land use districts that only permit residential uses.
 - c. Specify the standards and process applicable to affordable housing development, and to allow height and density bonuses.

Amendments to the Gresham Community Development Plan’s (GCDP) Volume 3 (Development Code), are described in the following section titled “Proposed Comprehensive Plan Amendments Overview”. Throughout this staff report, as in the GCDP, the synonymous terms “GCDP” and “Comprehensive Plan” are used interchangeably. Similarly, “GCDC”, “Development Code”, and “Volume 3 of the GCDP” are terms used interchangeably to refer to the same document.

Citizen Involvement and Outreach

The Planning Commission and City Council have reviewed the project. Staff has incorporated their direction into the Food Cart code updates. The project outreach activities are included in Exhibit D Community Engagement and Outreach Report.

Notice of the Development Code changes were sent to the Department of Land Conservation and Development (DLCD) and Metro on September 19, 2022, complying with the requirement to provide such notice at least 35 days before the first evidentiary hearing. Notice of the October 24, 2022 Planning Commission hearing was published in the Gresham Outlook on October 14, 2022. Notice of the December 6, 2022, City Council hearing will be published in the Gresham Outlook no later than November 25, 2022. A Measure 56 notice is not required for this comprehensive plan amendment.

Public Comments

As of the date of this report no public comments were received.

Proposed Comprehensive Plan Amendments Overview

The overview provided below summarizes the changes proposed to the Gresham Community Development Plan (GCDP). The plan consists of three volumes—Volume 1 “Findings”, Volume 2 “Policies”, Volume 3 “Development Code”. Updates are proposed only to Volume 3. The full text of the proposed updates is provided in Exhibit ‘A’ (formatted in ~~strikeout~~/underline), Exhibit ‘B’ and Exhibit ‘C’.

Volume 3 – Development Code (GCDC)

The proposed housing-related code updates are for the purpose of complying with state regulations: ORS 197.308 (Senate Bill 8, effective January 01, 2022) and ORS 197.748 (House Bill 3261, effective May 06, 2021).

The following amendments are proposed:

- Section 3.0100 Definitions is updated and added to coordinate with the new and amended code sections.
- Section 3.0200 Land Use Classifications is amended to include affordable housing as a new land use classification.
- Section 4.0100 Residential Land Use District is amended to:
 - Permit affordable housing development with limitations;
 - To permit density and height bonuses for qualifying affordable housing developments; and
 - Permit the conversion of a hotel or motel to an emergency shelter or to affordable housing.

- Section 4.0200 Commercial Land Use Districts is amended to permit affordable housing development with limitations.
- Section 4.0300 Industrial Land Use Districts is amended to permit affordable housing development with limitations and permit the conversion of a hotel or motel to an emergency shelter or to affordable housing.
- Section 4.0400 Corridor Land Use Districts is amended to:
 - Permit affordable housing development with limitations;
 - Permit density and height bonuses for qualifying affordable housing developments; and
 - Permit the conversion of a hotel or motel to an emergency shelter or to affordable housing.
- Section 4.1100 Downtown Plan District is amended to:
 - Permit affordable housing development with limitations;
 - Permit density and height bonuses for qualifying affordable housing developments;
 - Allow the affordable housing height bonus to be added to the building step-back on Main Avenue;
 - Permit the conversion of a hotel or motel to an emergency shelter or to affordable housing; and
 - Exempt hotel and motel conversions from the Downtown Design Guidelines and Standards.
- 4.1200 Civic Neighborhood Plan District, Section 4.1400 Pleasant Valley Plan District, and Section 4.1500 Springwater Plan District are amended to:
 - Permit affordable housing development with limitations;
 - Permit density and height bonuses for qualifying affordable housing developments;
 - Permit the conversion of a hotel or motel to an emergency shelter or to affordable housing; and
 - Exempt hotel and motel conversions from the Civic Neighborhood Design Guidelines and Standards, Pleasant Valley Architectural Review, and Springwater Architectural Design Review.
- Section 5.0500 Open Space Overlay Districts is updated to permit affordable housing development in the Open Space Overlay.
- Section 7.0000 Purpose and Authority is updated to exempt qualifying conversions of hotels and motels from Design Review.
- Section 7.0420 Design Standards for Singles Detached Dwellings, Duplexes, Triplexes, and Quadplexes is amended to allow the affordable housing building height bonuses to be applied to the reduction in building height at the rear of lots, where applicable.
- Section 8.0100 Special Use Review is amended to clarify that transitional housing that qualifies as affordable housing is exempt from a Special Use Review.

- Section 8.0200 Existing and Nonconforming Uses and Development is amended to clarify that that legal nonconforming hotels and motels may be converted to an emergency shelter or to affordable housing.
- Section 9.0100 Buffering and Screening is amended to exempt conversions of hotels and motels from buffering and screening standards.
- Section 9.0600 Height Transition is amended to clarify that the affordable housing building height bonuses may be applied to the maximum building height within the height transition zone.
- Section 9.0800 Parking is amended to exempt the conversions of hotels and motels from parking standards.
- Section 10.0400 Conversions of Units is amended to update numbering and formatting and integrate a new section with applicability, standards, and procedures for conversions of a hotel or motel to an emergency shelter or to affordable housing.
- Section 10.1100 Shoreline Height Standard is amended to describe that the height limits applicable north of Marine Drive do not apply to affordable housing development.
- Section 10.1600 Food and Beverage Carts is repealed and replaced with Section 10.1600 Food Carts. Provisions in the new section include but are not limited to:
 - Allowing motorized mobile Food Cart units as well as those that can be pushed or pulled;
 - Allowing year round (non-membrane) covered eating areas;
 - Removing standards regarding health and safety which are regulated by Multnomah County Health Department and Oregon Fire Code;
 - Revising the standards for sites with more than two Food Carts; and
 - Reducing the application type for most Food Carts from Type II to Type I.
- Section 10.1700 Affordable Housing Development is added to Article 10 Supplementary Development Regulations. The section includes:
 - Income restrictions and ownership standards;
 - Review standards for residential uses allowed only as affordable housing;
 - Density and height bonuses in districts that permit residential uses; and
 - Permits affordable housing on public parks and open spaces.
- Section 11.0100 Development Permit Requirements is amended to exempting hotel and motel conversions from a development permit.
- Section 11.0200 Initiation and Classification of Applications is amended to:
 - Explain that qualifying hotel and motel conversions are not a land use decision.
 - Clarify that affordable housing applications are not a unique application type. They are subject to the typical land use procedures.
 - Apply new terminology and review types to Table 11.0204 - Land Use Applications and Review Authorities.

- Appendix 6 Sign Regulations is amended to update terms.

Staff Report Organization

- Sections [II](#) identifies applicable Gresham Community Development Plan procedures and provides regulatory findings.
- Sections [III](#) identifies applicable Gresham Community Development Plan Goals and provides regulatory findings.
- Section [IV](#) identifies the Metro Urban Growth Management Functional Plan (UGMFP) Titles that apply to the proposal and provides regulatory findings.
- Section [V](#) identifies the Oregon Statewide Planning Goals that apply to the proposal and provides regulatory findings for.
- Sections [VI](#) and [VII](#) summarize staff conclusions and recommendations.
- Exhibit ‘A’ and its attachments include the proposed Gresham Community Development Plan text amendments.
- Exhibit ‘B’ includes Draft Section 10.1600 Food Carts.
- Exhibit ‘C’ includes Draft Section 10.1700 Affordable Housing Development.
- Exhibit ‘D’ includes the Community Engagement and Outreach Report.

SECTION II - APPLICABLE COMMUNITY DEVELOPMENT CODE (GCDC) PROCEDURES

[Section 11.0200](#) Initiation and Classification of Applications

[Section 11.0600](#) Type IV Legislative Procedures

[Section 11.1000](#) Public Hearings

Section 11.0200 Initiation and Classification of Applications

Section 11.0201 – Initiation of an Application.

This section provides that only the City Council may initiate a Type IV legislative application to amend Volume 3 (Development Code) of the Community Development Plan. This project was initiated by City Council on June 7, 2022. City Council will review these amendments at a hearing on December 6, 2022.

Sections 11.0203 and 11.0204 – Classification of Applications and Review Authorities.

These sections provide that Type IV procedures are legislative and typically involve the adoption, implementation, or amendment of policy by ordinance. They also provide that the Planning Commission provide a recommendation on Community Development Plan Amendments and the City Council be the decision-making authority. This project meets those conditions and is being processed under the Type IV procedures and will be heard by both the Planning Commission and the City Council.

Section 11.0600 – Type IV Legislative Procedures.

11.0602(A)&(B) Pre-Application and Neighborhood Meetings.

These meetings are not required of Type IV legislative applications. However, as explained in Exhibit D - Community Engagement and Outreach Report, public meetings and provisions for public involvement were held.

11.0602(C) Application Initiation

This section provides that the City Council may initiate a Type IV legislative application to amend the text of the Community Development Plan. As noted above, this project was initiated by City Council on June 7, 2022.

11.0602(D)(1) Type IV Public Notice for Comprehensive Plan Amendments

(a) For a Type IV Comprehensive Plan Amendment this section requires a submittal to the DLCD and Metro at least 35 days prior to the Planning Commission hearing. This submittal was made on September 19, 2022, which is 35 days prior to the Planning Commission hearing date of October 24, 2022.

(c) This section requires that at least 10 days before the initial hearing, a notice be published in a newspaper of general circulation in the city and copies of the hearing notice made available in City Hall. Required notice of public hearing for these proposed amendments were published in the *Gresham Outlook* on October 14, 2022, 10 days in advance of the October 24, 2022 Planning Commission Hearing and was made available through City Hall as required by this section.

11.602(E) Type IV Decision Authority and 11.602(F) Type IV Notice of Decision

This section requires that the Planning Commission hold a public hearing and make a recommendation to the Council for an amendment to the Community Development Plan. The Planning Commission makes a recommendation to Council. The Council considers that recommendation at their hearing and makes a final decision. Interested persons may present evidence and testimony relevant to the proposal at either or both hearings. The Council will make a decision that will be based on findings contained in this report and in the hearings record, and the decision, findings, and order will be sent to those who participated in the hearings.

Conclusion: This standard will be met with issuance of a decision.

Section 11.1000 - Public Hearings.

This section provides for a hearing process consistent with Section 11.1000. Both the Planning Commission and the City Council, at public hearings in conformance with provisions of this section, will consider this proposal.

Conclusion: This standard will be met before issuance of a decision.

SECTION III - APPLICABLE COMMUNITY DEVELOPMENT PLAN (GCDP) GOALS & POLICIES

This section identifies the applicable Community Development Plan goals, policies, and action measures. The text (*italicized*) of the goals, policies, and action measures is followed by corresponding findings and conclusions.

[Section 10.014](#) Land Use Policies and Regulations

[Section 10.100](#) Citizen Involvement

[Section 10.200](#) Natural Hazards

[Section 10.210](#) Areas Prone to Flooding

[Section 10.211](#) Steep Slopes and Landslides

[Section 10.230](#) Environmental Quality

[Section 10.232](#) Water Resource Quality

[Section 10.300](#) The Physical Environment

[Section 10.313](#) Industrial Land Uses

[Section 10.315](#) Open Space

[Section 10.400](#) The Social Environment

[Section 10.412](#) Parks, Recreation, Open Space and Trails

[Section 10.414](#) Economic Development

[Section 10.415](#) Food Access

[Section 10.600](#) Housing

[Section 10.700](#) Pleasant Valley (PV)

[Section 10.724](#) Parks and Recreation System (PV)

[Section 10.800](#) Springwater Plan District (SW)

[Section 10.825](#) Parks, Open Space, and Trail System (SW)

Section 10.014 Land Use Policies and Regulations

Goal: Maintain an up-to-date Comprehensive Plan and implementing regulations as the legislative foundation of Gresham's land use program.

Policy 1: *The City's land use program will be consistent with state and regional requirements but also shall serve the best interests of Gresham.*

Policy 2: *The City's land use regulations, actions, and related plans shall be consistent with and implement the Comprehensive Plan.*

Policy 5: *The City shall adopt regulations and standards to protect life and property from hazardous/harmful conditions related to land use activities. These include, but are not limited to, traffic conditions, inadequate public facilities, flooding, landslides, and other natural hazards.*

- Policy 11: The City's land use regulations shall identify and protect designated significant natural resources. These regulations shall have sufficient flexibility to allow development to adapt to unique and difficult conditions.*
- Policy 12: The City shall establish design standards to assure quality development and enhance the community's attractiveness and livability.*
- Policy 20: The City shall periodically review and update the Comprehensive Plan text and the Community Development Plan Map(s) to ensure they remain current and responsive to community needs; provide reliable information and dependable, factually based policy direction, and conform to applicable state law, administrative rules, and regional requirements.*
- Policy 21: Council may, upon finding it is in the overall public interest, initiate legislative processes to change the Comprehensive Plan text and Community Development Plan Map(s) and Development Code.*
- Policy 24: The City shall protect the economic development value and jobs potential of its designated commercial and industrial lands by restricting land uses not supportive of local and regional economic development objectives.*

Action Measure 1: Improve the quality of Gresham's streetscapes through design review of development.

Action Measure 11: Revise the Comprehensive Plan Text, Map, and related findings as needed to maintain its reliability and timelines to ensure consistency among goals, policies, implementing measures; accuracy of findings and compliance with regional, state and federal laws and rules. This includes review by the Planning Commission every two years; a formal evaluation every five years and an overall update at least every ten years.

Action Measure 12: Monitor and evaluate whether City actions and resulting community conditions and circumstances are consistent with the goal and policy directions of the Comprehensive Plan and, when appropriate, take actions to [...] amend the Plan to ensure it corresponds with current community conditions and circumstances.

Action Measure 13: Monitor actions, programs and policies of federal, state and regional governments and when appropriate amend the Comprehensive Plan to be consistent with new laws and administrative rules.

Findings

City Council initiated this code revision process to update the Food and Beverage Cart code (which was adopted in 2013) and respond to recent changes in state law regarding shelters and affordable

housing. Thus, this code revision responds to Policies 1, 2, 20 and 21 and Action Measures 11, 12, and 13.

The proposed provisions for hotel and motel conversions and affordable housing include exemptions for lands with designated hazard risks and those surrounding significant natural resources thus responding to Policies 5 and 11. The proposed code will allow Food Carts on land designated Light Industrial and in commercial and mixed-use districts as interim uses. This will allow for low-barrier small scale entrepreneurship which drives economic development. The standards for Food Carts prevent significant site investments, which would delay development of the site into a permanent use better aligned with the City's design standards. This responds to Policies 12 and 24 and Action Measure 1.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Land Use Policies and Regulations goal to maintain an up-to-date Comprehensive Plan and implementing regulations as the legislative foundation of Gresham's land use program.

Section 10.100 - Citizen Involvement

Goal: The City shall provide opportunities for citizens to participate in all phases of the planning process by coordinating citizen involvement functions; effectively communicating information; and facilitating opportunities for input.

Policy 1: The City shall ensure the opportunity for citizen participation and input when preparing and revising policies, plans and implementing regulations.

Policy 2: The City shall consider the interests of the entire community and the goals and policies of the Comprehensive Plan when making decisions.

Policy 6: The City shall ensure that technical information necessary to make policy decisions is readily available.

Policy 7: The City shall facilitate involvement of citizens in the planning process, including data collection, plan preparation, adoption, implementation, evaluation and revision.

Policy 9: The City shall ensure that citizen involvement plans and activities incorporate Gresham's diverse constituencies regardless of age, sex, religion, social or business affiliation.

Policy 10: The City shall ensure the opportunity for the public to be involved in all phases of planning projects and issues.

Policy 11: The City shall ensure that the public has complete and timely access to all public information concerning land use projects and issues. This includes private development proposals once they are in the formal application process.

- Action Measure 2: Ensure that the input, information, factual contributions and expertise provided by citizens is considered when making decisions about land use issues by:
Accurately relaying pre-hearing public comment and other information to the Planning Commission, and
Reflecting public testimony in the relevant hearing record and findings.*
- Action Measure 4: Keep the public informed of opportunities for involvement in all phases of land use planning issues by:*
- a. Providing adequate notice for all citizen involvement activities. This includes contact with citizens:
 - i. As early as possible of pending land use actions, and*
 - ii. Throughout the land use processes including informational meetings, work sessions, and public hearings.**
 - b. Keeping the public informed of opportunities for involvement in land use planning using a range of available media including the Internet, newspaper notices, mailings, newsletters, television and meetings. The special needs of Gresham's diverse citizenry (i.e., language, literacy skills) shall be considered.*
 - c. Providing timely and accurate follow-up to citizen inquires and requests for information.*
- Action Measure 9: Make public participation processes user-friendly by:*
- a. Holding widely advertised public hearings in accessible meeting rooms,*
 - b. Providing public comment periods at all public meetings to allow citizens to speak on topics not necessarily on the agenda,*
 - c. Publicizing comments, ideas and recommendations obtained at community meetings and through the planning process, and*
 - d. Considering times, days and locations to maximize potential public participation.*

Findings

The public involvement goals and policies establish the City's intent that its citizens have meaningful opportunities throughout a planning project to be informed and to affect proposals. The project included public meetings and outreach opportunities as outlined in Exhibit D (Citizen Involvement and Outreach Summary), which respond to Policies 1, 2, 6, 7, 9, 10, and 11 and Action Measures 4 and 9.

Draft Planning Commission Minutes will be forwarded to City Council prior to the final Hearing for their consideration while making a decision in response to Action Measure 2.

Conclusion: The project process meets the Citizen involvement goal to provide opportunities for citizens to participate in all phases of the planning process by coordinating citizen involvement functions; effectively communicating information; and facilitating opportunities for input.

Section 10.200 – Natural Hazards

Section 10.210 – Areas Prone to Flooding

Goal: Protect life and property from flood hazards.

Findings

The proposed Development Code text protects life and property from flood hazards by exempting those areas designated as Floodplain from the additional allowances provided for affordable housing. This will protect those with the least ability to evacuate and most at financial risk from the impacts of flooding by not encouraging building of income restricted housing within the FEMA designated floodplain.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Areas Prone to Flooding goal to protect life and property from flood hazards

Section 10.211 – Steep Slopes and Landslides

Goal: Protect life and property from hazards associated with landslides and unstable soils.

Policy 2: Limited development on greater than 35% slopes may occur for a residence on a vacant lot of record, trails/multi-purpose paths, and for the logical extension and provision of public facilities, utilities, and driveways, where construction and design methods are employed to minimize cuts, fills, and other potential impacts. With these exceptions and those related to planned developments (Policy #1), all other sloped areas of greater than 35% on development sites shall be protected by an easement or by dedication of an open space tract.

Findings

The proposed Development Code text protects life and property from hazards associated with landslides and unstable soils and limits development of areas of slope 35 percent or greater by exempting those areas designated as Highly Sloped Subareas from the additional allowances provided for Affordable Housing. This will protect those with the least ability to evacuate and most at financial risk from the impacts of landslides and unstable soils by not encouraging income restricted housing in areas with the steepest slopes. This complies with the Goal and Policy 2.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Steep Slopes and Landslides goal to protect life and property from hazards associated with landslides and unstable soils.

Section 10.230 Environmental Quality

Goal: Prevent surface and ground water pollution and improve water quality.

Policy 4 The City shall protect the water quality, conveyance, storage functions and associated environmental values of streams, wetlands, 100-year floodplains and other natural drainageways and water bodies.

Policy 5. The City shall protect, and where practicable, restore water quality and the physical and biological integrity of the area's system of wetlands, rivers and streams and associated environmental values, including natural vegetation and fish and wildlife habitats.

Findings

The proposed Development Code text protects water quality, conveyance, storage functions, and associated environmental values by exempting those areas designated as Floodplain from the additional allowances provided for affordable housing. In addition, the updated Food Cart provisions require covered outdoor seating, accessory structures, and new impervious paving associated with Food Carts to meet existing grading, drainage, and stormwater management standards.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Water Quality goal to prevent surface and ground water pollution and improve water quality.

Section 10.232 – Water Quality

Goal: Prevent surface and ground water pollution and improve water quality.

Policy 4 The City shall protect the water quality, conveyance, storage functions and associated environmental values of streams, wetlands, 100-year floodplains and other natural drainageways and water bodies.

Policy 5. The City shall protect, and where practicable, restore water quality and the physical and biological integrity of the area's system of wetlands, rivers and streams and associated environmental values, including natural vegetation and fish and wildlife habitats.

Findings

The proposed Development Code text protects water quality, conveyance, storage functions, and associated environmental values by exempting those areas designated as Floodplain from the additional allowances provided for affordable housing. In addition, the updated Food Cart provisions

require covered outdoor seating, accessory structures, and new impervious paving associated with Food Carts to meet existing grading, drainage, and stormwater management standards.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Water Quality goal to prevent surface and ground water pollution and improve water quality.

Section 10.300 The Physical Environment

Section 10.313 – Industrial Land Uses

Goal: Achieve and maintain an environment of sustainable economic prosperity and opportunity

Policy 13: The City shall ensure that its economic development, land use planning and regulatory efforts support retention and growth of existing business and also address the needs of small businesses that wish to locate in Gresham.

Action Measure 14: Periodically review land use regulations and policies to ensure that:

- a. Emerging and non-traditional economic activities are not precluded from locating in Gresham, and*
- b. Existing businesses can adapt their operations to respond to changing economic conditions.*

Findings

Food carts are a style of economic activity which has been found to provide opportunities for first time business owners from underserved populations, creates food options, and contributes to vibrant walkable commercial areas. Food cart culture (often based around pods of carts) became a signature of the region during the Great Recession and Gresham's code has made it significantly more difficult for entrepreneurs to locate in Gresham than surrounding jurisdictions. The proposed update to the Food and Beverage Cart code reduces barriers (time, cost, overlapping regulations, complicated standards) to development of food cart businesses thus responding to Policy 13 and Action Measure 14.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Industrial Land Uses goal to achieve and maintain an environment of sustainable economic prosperity and opportunity.

Section 10.315 Open Space

Policy 1: It is the policy of the City to ensure the availability of sufficient open space for all areas of the city by: working with citizens to identify needs; investigating alternative funding strategies; and involving volunteers, and public and private organizations.

Policy 2: It is the policy of the City to locate open spaces so as to protect natural resources and areas subject to flooding or otherwise inappropriate for development.

Policy 3: It is the policy of the City to develop an interconnected open space system, if possible, and to negotiate conflicts which may arise concerning proposed additions to the open space system.

Findings

The proposed text amendments permit qualifying affordable housing developments on public parks and open spaces, including in the Open Space Overlay District without a Special Use Review or an Overlay Boundary Adjustment. However, areas designated as Floodplain, Highly Sloped Subareas, and within the Natural Resource Overlay are exempted from these new provisions consistent with Policy 2. The proposed updates are consistent with Senate Bill 8 (ORS 197.308), which also includes limiting regulations such as income and ownership restrictions. The limiting standards narrow the eligibility of residential development in the open space overlay and on public parks and public open spaces. It is also the practice of the City to work collaboratively with potential development permit applicants, through the pre-application and design development process (established in the GCDC), to mitigate potential land use conflicts. The proposed text amendments are consistent with state regulations and due to the exemptions for environmental overlay areas, the limiting standards, and development permit review process the impacted to the Open Space System can be appropriately mitigated.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the applicable open space policies.

Section 10.400 The Social Environment

Section 10.412 – Parks, Recreation, Open Space and Trails

Goal: Develop and maintain a neighborhood-oriented parks, open space and recreation system to enhance Gresham's quality of life.

Policy 1: Gresham shall acquire, develop and maintain a diverse system of parks, trails, open space and recreation facilities that are safe, functional and accessible to all segments of its population.

Policy 2: The City's Parks, Open Space and Recreation System shall:

- a. Provide sufficient facilities and programs to meet the needs of its existing and future population.*
- b. Interconnect its parks, open spaces, and trails to maximize the public's access to programs and facilities.*
- c. Provide for the equitable distribution, when possible, of recreation resources throughout Gresham.*
- d. Provide access to diverse recreational opportunities for all residents.*

e. Protect and preserve natural resources and open spaces.

Policy 11: The City shall develop, maintain and manage parks, open spaces and trails in ways that minimize impacts on environmental resources.

Findings:

The proposed text amendments permit qualifying affordable housing developments on public parks and open spaces, while exempting areas designated as Floodplain, Highly Sloped Subareas, and within the Natural Resource Overlay. The proposed updates are consistent with Senate Bill 8 (ORS 197.308), which also includes limiting regulations such as income and ownership restrictions. The limiting standards narrow the eligibility of residential development in the open space overlay and on public parks and public open spaces. It is also the practice of the City to work collaboratively with potential development permit applicants, through the pre-application and design development process (established in the GCDC), to mitigate potential land use conflicts. The proposed text amendments are consistent with state regulations and due to the exemptions for environmental overlay areas, the limiting standards, and development permit review process the impacts to the parks and open space system will be minimized.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Parks, Recreation and Open Space and Trails Goal and associated Policies, as applicable.

Section 10.414 – Economic Development

Policy 1: It is the policy of the city to promote diversification of the community's economic base by promoting business retention and expansion, business recruitment and marketing.

Implementation Strategy 2: The city will maintain a set of development procedures that do not create barriers to economic development.

Implementation Strategy 5: The Community Development Plan will protect existing and planned commercial and industrial areas from the intrusion of incompatible land uses.

Findings

The proposed update to the Food and Beverage Cart Code reduces barriers to development of food cart businesses thus responding to Implementation Strategy 2. The proposed code will allow Food Carts on land designated Light Industrial and in commercial and mixed-use districts as interim uses and allows year-round covered seating. This proposal thus ensures the interim nature of new developments, which do not meet design guidelines and standards for commercial areas, and responds to Implementation Strategy 5.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Economic Development Policy goal to promote diversification of the community's economic base by promoting business retention and expansion, business recruitment and marketing.

Section 10.415 – Food Access

Goal: The built environment shall provide for a variety of food options accessible to residents.

Policy 4: Examine other modes of providing access to food options in a manner compatible with surrounding properties.

Action Measure 3: Consider how alternate modes of providing food options are addressed in the Development Code.

Findings

Food Carts were identified by community members as a mode for accessing food. The current Food and Beverage Cart code includes barriers (identified above) that have resulted in a limited number of developments. The proposed Development Code text will reduce many of the barriers which have been identified, thus it responds to Policy 4 and Action Measure 3.

Conclusion: The proposed amendments to the Gresham Community Development Plan meet the Food Access goal to provide for a variety of food options accessible to residents.

Section 10.600 Housing Opportunities

Goal: Gresham will have a full range of quality housing for its current and future residents.

Housing Opportunities Policy 3: Ensure that new development are of high quality.

Livability Goal: Gresham will provide for a variety of livable neighborhoods.

Livability Policy 1: Avoid concentrations of any one housing type.

Livability Policy 2: Permit appropriate housing types in locations that most benefit the viability of the overall City and its centers.

Livability Policy 5: Ensure that new housing developments complement or enhance the character of existing quality neighborhood development.

Livability Action Measure 4: As multi-family projects are reviewed, maintain a log of issues that include unclear code language, errors, or unintended consequences of regulations and guidelines. This information can serve as the basis for future code amendments and ensure that quality developments are constructed.

Findings

Gresham Comprehensive Plan, Volume 1, Section 4.800 Housing Capacity Analysis identifies that from 2021-2041 Gresham will need a greater variety of housing types, and more housing affordable

across all income levels, particularly for extremely low to middle income households. The proposed text amendments implement state legislation for the purpose of making housing accessible to extremely low and low-income households. Per Gresham GIS, Gresham has 14 hotels that could be eligible for conversion under the new provisions. Of those, only the aging hotels and motels, which have not recently benefitted from investment are likely candidates for a conversion. In addition, conversions are limited; a conversion may not expand the building footprint. The new affordable housing development provisions expand the residential uses allowed in some districts, and permits the state-mandated density and height bonuses, while preserving district standards and design review criteria appropriate for the residential use and the surrounding context. Eligibility for the new standards is also limited by income restrictions, affordability covenants, and (in zones that allow residential uses) ownership restrictions. These provisions expand the allowed housing types in various districts, rather than promoting a concentration of one housing types as described in Livability Policy 1. The new provisions for hotel and motel conversions and affordable housing development are not likely to have a substantial impact on neighborhood livability, quality or character, or concentrations of housing types.

Conclusion: The proposal is consistent with the applicable housing goals, policies, and action measures listed in this section.

Section 10.700 Pleasant Valley Plan District

Section 10.724 – Parks and Recreation System (PV)

Policy 4: The natural area lands will constitute the framework of the open space system. The parks system will be organized to complement the open space system, and, wherever possible, the land should be used to create opportunities for people to pursue low intensity and low impact recreational activities. However, acquiring and protecting these lands should not be accomplished in lieu of creating other types of recreation spaces.

Findings

The proposed text amendments permit qualifying affordable housing developments on public parks and open spaces, while exempting areas designated as Floodplain, Highly Sloped Subareas, and within the Natural Resource Overlay. The proposed updates are consistent with Senate Bill 8 (ORS 197.308), which also includes limiting regulations such as income and ownership restrictions. The limiting standards narrow the eligibility of residential development in the open space overlay, and on public parks and public open spaces. The allowances for affordable housing development on public parks and public open spaces can be taken into consideration when developing a parks open space system in Pleasant Valley that has natural areas as its core and created low impact recreational areas.

Conclusion: The proposal is consistent with Section 10.724.

Section 10.800 – Springwater Plan District (SW)

Section 10.825 – Parks, Open Space, and Trail System (SW)

Goal: An interconnected system of parks, trails, and open space shall be an integral part of the community design, serving to enhance economic growth, strengthen community bonds and protect natural resources...

Policy 6: Parks and trails shall be implemented to enhance and protect natural resources.

Policy 9: Open space shall preserve, restore and enhance natural resources as well as support the other parks and recreation objectives of the community.

Findings

The proposed text amendments permit qualifying affordable housing developments on public parks and public open spaces in the Springwater Plan Area, while exempting areas designated as Floodplain, Highly Sloped Subareas, and within the Natural Resource Overlay. The allowances for affordable housing development on public parks and public open spaces can be taken into consideration when developing a parks open space system in Springwater that is response to the needs of the community member and natural resources. The proposed updates are consistent with Senate Bill 8 (ORS 197.308), which also includes limiting regulations such as income and ownership restrictions, which narrow the eligibility of residential development. It is also the practice of the City to work collaboratively with potential development permit applicants, through the pre-application and design development process (established in the GCDC), to mitigate potential land use conflicts.

Conclusion: The goal and applicable policies of Section 10.825 are met.

SECTION IV APPLICABLE METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLES

Title 1	Housing Capacity
Title 3	Water Quality and Flood Management
Title 4	Industrial and Other Employment Areas
Title 7	Housing Choice
Title 8	Compliance Procedures
Title 12	Protection of Residential Neighborhoods
Title 13	Nature in Neighborhoods

Title 1 – Housing Capacity

Section 3.07.110 of this section states that “The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.”

Findings

The proposed modifications to the base district maximum residential densities and building heights of Gresham's established zones are consistent with state law. Also for the purpose of complying with state regulations, the text amendments expand the allowed residential uses within residential and mixed use zones, for example, allowing multifamily development in the Low Density Residential-5 District, and single family detached dwellings in the Rockwood Town Center district if they satisfy the applicable standards. However, there are several limiting provisions which significantly narrow any development's eligibility for the new allowances; the limiting standards include but are not limited to income standards, ownership restrictions, and affordability covenants. As a result, the impact that the proposed Comprehensive Plan Amendments have on the zoned capacity of residential lands is not anticipated to be significant. The City of Gresham has a surplus of residentially zoned lands. The Buildable Lands Inventory in the Gresham Comprehensive Plan, Volume I, Section 4.800 identified sufficient capacity of residentially zoned lands to accommodate the projected housing need for the 2021-2041 planning period, with a surplus capacity for 6,380 units.

Conclusion: There will be no significant change in the housing as a result of the proposed amendments. The proposal is consistent with Title 1 (Housing Capacity).

Title 3 – Water Quality and Flood Management

Section 3.07.310 of this Title states, "To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding."

Findings

The proposed Development Code text protects life and property from flood hazards, and protects water quality, conveyance, storage functions (including associated environmental values), by exempting those areas designated as Floodplain from the additional allowances provided for affordable housing. This will protect those with least ability to evacuate and most at financial risk from the impacts of flooding by not encouraging building of income-restricted housing within the FEMA designated floodplain. The updated Food Cart provisions require covered outdoor seating, accessory structures, and new impervious paving associated with Food Carts to meet existing grading, drainage and stormwater management standards.

Conclusion: The proposal is consistent with Title 3 (Water Quality and Flood Management).

Title 4 – Industrial and Other Employment Areas

Title 4 Section 3.07.430 states, "Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for

retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers – such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area.”

Findings

The proposed text amendments to the Food Cart regulation newly permit Food Carts and Pods in the light industrial districts. This component of the amendment is for the purpose of increasing food options for industrial area workers; the change is in response to input from the City’s Economic Development Division. The updated code provisions limit related investments so as not to deter more long-term site development.

Conclusion: The proposal is consistent with Title 4 (Industrial and Other Employment Areas).

Title 7 – Housing Choice

Title 7 of Metro’s Urban Growth Management Functional Plan is designed to ensure the production of affordable housing in the Metro UGB. Each city and county within the Metro region is encouraged to voluntarily adopt an affordable housing production goal and is required to ensure that their comprehensive plans and implementing ordinances include strategies to:

- Ensure the production of a diverse range of housing types;
- Maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout their boundaries; and
- Increase opportunities for households of all income levels to live in affordable housing (3.07.730).

Findings

Metro’s 2017 Compliance Report concludes that Gresham is in compliance for the City’s Title 7 responsibilities. The proposed text amendments update the GCDC for the purpose of complying with state regulations. The proposed changes expand allowances and streamline processes for the development of affordable housing within the majority of the City’s land use districts.

Conclusion: The proposed amendment increases opportunities for new affordable housing dispersed throughout the City’s boundaries. The proposal is consistent with Title 7.

Title 8 – Compliance Procedures

Section 3.07.820 of this title requires that at least 35 days prior to the first evidentiary hearing on an amendment to a comprehensive plan, or land use regulation, that the City submit the proposed amendments to Metro. Metro may review the amendments and can request that the City provide an analysis of compliance with the Functional Plan.

Findings

The City submitted the proposed amendments to Metro on September 19, 2022, which was 35 days prior to the first evidentiary hearing of October 24, 2022. As of the date of this report Metro has not contacted the City regarding this notice.

Conclusion: The City has submitted the proposed amendments to Metro at least 35 days prior to the first evidentiary hearing. The proposal is consistent with Titles 8.

Title 12 – Protection of Residential Neighborhoods

The purpose of Title 12 is to, “help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services... Metro shall not require any city or county to authorize an increase in the residential density of a single-family neighborhood in an area mapped solely as Neighborhood”.

Findings

The applicable provisions of Title 12 apply to Metro actions. The proposed density bonuses and any impacts from implementation of Senate Bill 8 and House Bill 3261 are not due to Metro actions.

Conclusion: The proposal is consistent with Title 12 (Protection of Residential Neighborhoods).

Title 13 - Nature In Neighborhoods

The intent of section 3.07.1310 is “to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.”

Findings:

The proposed Development Code text protects water quality and conveyance, streams and floodplains by exempting those areas designated as Floodplain from the additional allowances provided for affordable housing. In addition, the public health and safety is protected by the existing grading, drainage and stormwater management standards, which apply to affordable housing development as well as covered outdoor seating, accessory structures and new impervious paving associated with Food Carts.

Conclusion: The proposal is consistent with Title 13 (Nature in Neighborhoods).

SECTION V - APPLICABLE OREGON STATEWIDE PLANNING GOALS

This section identifies the applicable Statewide Planning Goals. The text (*italicized*) of the goals, followed by corresponding findings and conclusions.

[Goal 1](#) Citizen Involvement

[Goal 2](#) Land Use Planning

- [Goal 5](#) Natural Resources, Scenic and Historic Areas, and Open Spaces
- [Goal 6](#) Air, Water and Land Resources Quality
- [Goal 9](#) Economic Development
- [Goal 10](#) Housing

Goal 1 (Citizen Involvement)

Statewide Planning Goal 1 for Citizen Involvement requires that cities “insure the opportunity for citizens to be involved in all phases of the planning process.”

Gresham’s Planning Commission acts as the Committee for Citizen Involvement (CCI) and has been involved in the project from the beginning of the project in July 2022.

The public process was provided through web updates, targeted stakeholder contacts, and the published notices posted in the Gresham Outlook in advance of both the Planning Commission and City Council hearings. Public comment may be submitted before or during the forthcoming Planning Commission hearing and City Council hearing. All those who submit comment on the proposed amendment receive a notice of decision.

Additional findings regarding Citizen Involvement can be found in [Section III, Section 10.100](#) of this report.

Goal 2 (Land Use)

Statewide Planning Goal 2 for Land Use Planning requires cities to *establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. This shall result in land use plans and implementation measures that are consistent with the land use plans.*

The City has a state-acknowledged Comprehensive Plan. [Section III](#) of this report describes findings and conclusions that the proposed Comprehensive Plan Text Amendments are consistent with applicable procedures and applicable goals and policies of the City’s Comprehensive Plan.

Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces)

Statewide Planning Goal 5 for Natural Resources, Scenic and Historic Areas, and Open Spaces requires cities to, “*Protect natural resources and conserve scenic and historic areas and open spaces. Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.*”

The Gresham Community Development Code includes overlay districts and standards, which protect designated natural resource, historic, and open space overlay areas. The proposed text amendments the uses allowed in the Open Space Overlay District for the purpose of complying with state law, while exempting the Floodplain, Highly Sloped Subareas, and Natural Resource Overlay from the new affordable housing provisions.

Additional findings regarding natural resources and open spaces can be found in [Section III](#), Section 10.232 and Section 10.315 of this report.

Goal 6 (Air, Water and Land Resources Quality)

Statewide Planning Goal 6 for Air, Water, and Land Resources Quality requires cities to, “To maintain and improve the quality of the air, water and land resources of the state.” . The proposed affordable housing allowances and covered outdoor seating, accessory structures, and new impervious paving associated with Food Carts shall be required to meet exiting grading, drainage and stormwater management standards. Additionally, the text amendments consider the Gresham environmental overlay areas, as required by state law.

Additional findings regarding natural resources and open spaces can be found in [Section III](#), Section 10.211 and Section 10.232 of this report.

Goal 9 (Economic Development)

Statewide Planning Goal 2 for Land Use Planning requires cities to “*provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.*”

Food carts have historically been a way for those from underserved communities to build businesses and wealth and have often been a first step to wealth building for immigrants and the BIPOC community. Amendments have been targeted to remove barriers to those entrepreneurs beginning their small business journey and to allow for flexibility as operations evolve.

Additional findings regarding Economic Development can be found in [Section III, Section 10.414](#) of this report

Goal 10 (Housing)

Statewide Planning Goal 10 for Housing requires cities to “provide for the housing needs of citizens of the state”.

The proposed amendments codify 2021 House Bill 3261 and Senate Bill 8 which are in direct response to a lack of housing that is affordable to people making 0-80% of area median family income. The standards are already in effect.

Additional findings regarding Housing can be found in [Section III, Section 10.600](#) of this report

Conclusion: The proposed amendments comply with the applicable Statewide Planning Goals 1 (Citizen Engagement), 2 (Land Use), 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces), 6 (Air, Water, and Land Resource Quality) 9 (Economic Development), and 10 (Housing). As of the date of this report DLCDC has not contacted the City regarding the notice for these amendments.

SECTION VII - CONCLUSION

The proposed Community Development Plan text amendments included as Exhibit ‘A’ Proposed Comprehensive Plan (GCDP) Text Amendments, Exhibit ‘B’ Draft Section 10.1600 Food Carts, and Exhibit ‘B’ Draft Section 10.1700 Affordable Housing Development are consistent with all applicable procedures, goals and policies of the Community Development Plan, applicable Titles of the Metro Urban Growth

Management Functional Plan, and applicable Statewide Planning Goals as indicated by findings contained or referenced in Section VI of this report.

SECTION VIII - RECOMMENDATION

Staff recommends **adoption** of the proposed comprehensive plan text amendments as contained in the attached Exhibit 'A', Exhibit 'B', and Exhibit 'C'.

End of Staff Report

DRAFT