



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

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Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

January 11, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Gresham Plan Amendment
DLCD File Number 005-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 30, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Stacy Hopkins, DLCD Regional Representative
Ron Bunch, City of Gresham

<paa> ya/



FORM 2

DEPT OF

DLCD NOTICE OF ADOPTION 2006

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18 CONSERVATION AND DEVELOPMENT
(See reverse side for submittal requirements)

Jurisdiction: City of Gresham

Local File No.: CPA 05-3103

(If no number, Use none)

Date of Adoption: 1/3/06

(Must be filled in)

Date Mailed: 1/9/06

(Must be filled in)

Date the notice of Proposed Amendment was mailed to DLCD: 9/8/05

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use regulation Amendment Zoning Map Amendment

New Land Use regulation

Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Amendments to the Gresham Community Development Code to promote clarity, ease of administration and consistency with existing community conditions, circumstances and contemporary land use planning practices. These amendments were conducted as a third group of the "Omnibus" housekeeping amendments to the Development Code.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Two of the original items proposed (see Items 1 and 2 in the original notice) were pulled and are being done under separate applications. Additional changes included clarifying when pre-applications are required by listing the specific types rather than making references to certain types of application.

Plan Map Changed from: _____ to _____

Zone Map Changed from: _____ to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 1 & 10

Was an Exception Adopted? Yes: _____ No: X

DLCD # 005-05
(14665)

Did the Department Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply Yes: No:

If no, did the emergency circumstances require immediate adoption Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: _____ Metro

Local Contact: Ron Bunch

Area Code + Phone Number: 503) 618-2529

Address: 1333 NW Eastman Parkway

City: Gresham, OR

Zip Code + 4: 97030-3825

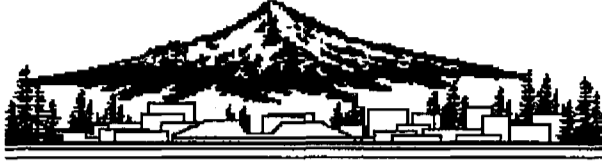
ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. **Submit TWO (2) copies** of the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "notice of Adoption" is sent to DLCD.
6. In addition to sending the "notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



*Community Development Department
City of Gresham*

CERTIFICATION OF MAILING

FILE NO.: CPA 05-3103

PROJECT: City of Gresham – Omnibus 3

I, TAMMY J. RICHARDSON, CERTIFY THAT I HAVE MAILED THE
ATTACHED NOTICE OF ADOPTION TO THE FOLLOWING PARTIES:

DLCD
Plan Amendment Specialist
635 Capitol Street, NE #150
Salem, OR 97301-2540

Metro
Growth Management
600 NE Grand
Portland OR 97232-2736

**No Public Testimony was received
on this proposal.**

SIGNATURE: *Tammy J. Richardson*
DATE OF MAILING: January 9, 2006

Proposed new text is double-underscored.
Proposed deleted text is ~~stricken through~~.

CB 19-05

ORDINANCE NO. 1617

AMENDMENTS TO VOLUME 3, DEVELOPMENT CODE, OF THE GRESHAM COMMUNITY
DEVELOPMENT PLAN, PERTAINING TO SEVERAL CHANGES NECESSARY TO PROMOTE
CLARITY, EASE OF ADMINISTRATION, CONSISTENCY WITH EXISTING COMMUNITY
CONDITIONS, CIRCUMSTANCES AND CONTEMPORARY LAND USE PLANNING
PRACTICES

THE CITY OF GRESHAM DOES ORDAIN AS FOLLOWS:

Section 1. Volume 3, Development Code, Section A5.006 is amended as follows:

Proposed Text Amendment

A5.006 - Subdivisions

- (A) In all subdivisions approved under this document, public streets, sewer, water and storm drainage facilities shall be designed and constructed in accordance with City of Gresham Public Works Standards. All construction within the public right-of-way, and publicly owned utility easements shall be in conformance with the above standards.
- (B) When required for continuation of City streets and utility systems, streets, storm drains, sanitary sewers and waterlines shall be extended to the plat boundaries or to a terminus approved by the Manager where physical constraints prohibit compliance. Improvements outside the boundary of a phased subdivision may be staged as determined by the Manager.
- (C) The subdivision plat shall be recorded prior to the issuance of any building permits.
- (D) The Manager may approve issuance of up to 50 percent of the building permits after the public improvements are ~~substantially complete~~. ~~Substantial completion is defined as~~ completed as described below:
 - (1) Sewer and water facilities are complete and operational, constructed to City standards and ready for acceptance ("Final" inspection corrections completed).
 - (2) Storm drain facilities are complete and operational, constructed to City standards and ready for acceptance ("Final" inspection corrections completed).
 - (3) Streets are curbed and at least one lift (2-inch minimum section) of asphalt is installed. Streetlight installations shall be completed and ready for energizing.
 - (4) As-built drawings of the sewer and water systems are submitted and accepted.
 - (5) All site grading is completed and approved in accordance with the City of Gresham Public Works Standards, the City of Gresham Community Development Code and Gresham Revised Code.

Section 2. Volume 3, Development Code, Section 11.0210 and Gresham Revised Code Section 11.02.110, is amended as follows:

Proposed Diagram

Section 11.0210 - Pre-Application Conference and Early Neighborhood Involvement [GRC Section 11.02.110]

- (A) The Manager will not accept an application for a development action unless the applicant has requested and attended a pre-application conference.
- (1) Pre-application conferences are mandatory for all Type II, and Type III and Type IV review for Site Design Reviews, reviews such as:
- supplemental applications under Section 11.0215,
 - community services,
 - subdivisions, land divisions,
 - street vacations
 - planned developments, ~~and~~
 - major and minor variances,
 - annexations,
 - conversions of elderly housing,
 - future street plans,
 - Type III alterations,
 - demolitions of historic landmarks,
 - Plan Map amendments,
 - development within natural resource zones,
 - development within water quality resource areas,
 - revisions of special purpose district boundaries, and
 - site design review with the exception of minor site design review that involves expansion to an existing use, or a change in use, not requiring extensive site modifications where the manager has determined that a pre-application is not warranted.
- (2) Pre-application conferences are ~~voluntary~~ not required for all Type I reviews, Minor Variances, and resubmittal of development permit applications under Section 11.0215, and may be waived for Home Occupations, Partitions and other low level reviews, except that an applicant choosing to not participate in a voluntary pre-application conference may waive the pre-application conference by signing and submitting a waiver form prepared by the Manager when an applicant submits a waiver form for City approval.

Section 3. Volume 3, Development Code, Section 3.0010 – Definitions, is amended as follows:

Proposed Text Amendment

Section 3.0010 Definitions

Development Site. The total area of a parcel(s) or lot(s) where development is proposed on a property or group of properties that may or may not be under the same ownership.

Site. An area of real property encompassing single or multiple lots that may or may not be in common also be in either single or multiple ownerships, notwithstanding that a particular development permit application may be for development of all or a portion of the site only. Conveyance of less than fee title to different persons, such as by ground lease, shall not prevent the Manager from requiring application for Site Plan Review and subsequent action for the whole “site”.

Section 4. Volume 3, Development Code, Section 4.0110 is amended as follows:

Proposed Text Amendment

Section 4.0110 Low Density Residential (LDR)

The Low Density Residential District is primarily intended for single-family detached and attached dwellings, manufactured homes, and two-unit attached dwellings at a maximum density of 8.71 units per net acre. For all subdivisions, and for those partitions of parent parcels greater than 20,000 square feet, a minimum density of 6.22 units per net acre is required. ~~The maximum density may be increased when developed as a Planned Development under Section 6.0300.~~

Section 5. Volume 3, Development Code, 4.0120 is amended as follows:

Table 4.0120: Permitted Uses In The Residential Land Use Districts

USES	LDR	TLDR	MDR-12	MDR-24	OFR
(A) Detached dwellings	P	P	P (on a lot of record)	NP	P (on a lot of record)
(B) Manufactured homes	P	P	P (on lot of record)	NP	P (on lot of record)
(C) Manufactured dwelling parks	NP	P	P	NP	NP
(D) Attached dwellings <u>on a single lot.</u>	NP	NP	P	P	P
(E) Single family attached dwellings	P ⁴	P	P ⁶	P ⁶	P ⁶
(F) Two-unit attached dwellings	P ⁷	P	P	P	P
(G) Accessory dwellings	P ¹	P ¹	NP	NP	NP
(H) Community services	P	P	P	P	P
(I) Accessory structures	P	P	P	P	P
(J) Home occupations	P	P	P	P	P
(K) Existing grazing, agriculture or horticulture uses	P	P	P	P	P

(L) Poultry and livestock	P ²	P ²	P ²	P ²	NP
(M) Temporary uses	P	P	P	P	P
(N) Parking or storage of not more than five motor vehicles per dwelling unit	P	P	P	NP	NP
(O) Residential Facility	P	P	P	P	P
(P) Residential Home	P	P	P (On a lot of record)	NP	P (On a lot of record)
(Q) Temporary Health and Hardship Dwellings	NP	NP	P ³	L ³	P ³
(R) Interim office uses in existing detached dwelling structures	NP	NP	NP	P	NP
(S) Mini-Storage Facilities	NP	NP	NP	P	NP
(T) Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as clothing, computer, and telephone stores	NP	NP	NP	NP	L ⁵
(U) Retail service establishments providing services or entertainment to the general public such as eating and drinking places and banks	NP	NP	NP	NP	L ⁵

Section 6. Volume 3, Development Code, 4.0120 is amended as follows:

Table 4.0130: Development Requirements for Residential Land Use Districts

	LDR ^{1,2}	TLDR	MDR-12	MDR-24	OFR
(D) Minimum Lot Dimensions (1) Width at building line (a) Interior lot (b) Corner lot (2) Depth (a) Interior lot (b) Corner lot	Single Family detached: (1a) 35 feet (1b) 40 feet (2a) 70 feet (2b) 70 feet; For others, see Section 4.0131(C)	None, except single-family attached shall be as per MDR-24 single-family attached	(1a) 65 feet (1b) 70 feet (2a) 90 feet (2b) 100 feet. <u>Single Family Attached Dwellings:</u> (1)(a) 16 feet ⁸ (b) Corner lot ⁹ (2) 0 feet	All uses except single family detached: (1)(a) 60 feet (b) 70 feet (2) 100 feet Single Family Attached Dwellings: (1)(a) 16 feet ⁸ (b) Corner lot ⁹ (2) 0 feet	(1a) 60 feet (1b) 70 feet (2) 100 feet
(E) Minimum Yard Setback	See Table 4.0130(E). See Section 4.0139 for infill setback standards.	See Table 4.0130(E) -page [4.01]-8 ¹³ See Section 4.0139 for infill setback standards.	See Table 4.0130(E) -page [4.01]-8	See Table 4.0130(E) -page [4.01]-8	See Table 4.0130(E) -page [4.01]-8

⁸ Single-family attached dwelling lots of less than 22 feet width shall take access from an alley or from a shared access
⁹ Abuts an alley = 16 feet; shared access = 25 feet; no alley or shared access = 42 feet

(F) Maximum Building Height	35 feet. See <u>Section 10.1100</u> for shoreline height standards. See Section 4.0139 for infill height standards.	35 feet. See Section 4.0139 for infill height standards.	35 feet. See <u>Section 9.0600</u> when abutting an LDR District for height transition standards.	Single family attached dwellings: 35 feet. Other attached dwellings: 3 stories or 40 feet. Also see <u>Sec. 4.0134(A)</u> . When abutting an LDR District see <u>Section 9.0600</u> for height transition standards.	35 feet. Also see <u>Section 9.0600</u> for height transition standards. See <u>Section 4.0134(C)</u> .
(G) Height Transition	Not Applicable	Not Applicable	Yes, when abutting an LDR District	Yes, when abutting an LDR District	See <u>Section 9.0600</u>
(H) Minimum Street Frontage¹⁰	35 feet. Corner lots: 40 feet except attached single-family dwellings: 16 feet; for corner lots ⁴	See Table Note 12.	45 feet except attached single-family dwellings: 16 feet; corner lots ⁴	Attached dwelling units: 45 feet Attached single-family dwellings: Interior lot = 16 feet; for Corner lots ⁴	Not Applicable except attached single-family dwellings: 16 feet; for corner lots ⁴

Section 7, Volume 3, Development Code, Table 4.0130E is amended as follows:

Table 4.0130 E - Minimum Setbacks in Residential Districts [7]

Single Family Detached: [6]	FRONT			SIDE					REAR	
	Front Facade/ Wall	Front Porch	Garage	Interior Side (Not Zero or Common Wall)	Zero Lot Line Option	Street Side Wall	Street Side Porch	Street Side Garage Access	Rear/ No Alley	Rear/ With Alley
<u>LDR</u> [1]	10 feet	6 feet	18 feet	5 feet	6 inches on zero/ 6 feet on other side [8]	10 feet	6 feet	18 feet	15 feet	6 feet
<u>TLDR</u> [1]	10 feet	6 feet	18 feet	5 feet	6 inches on zero/ 6 feet on other side [8]	10 feet	6 feet	18 feet	15 feet	6 feet
<u>MDR-12</u>	10 feet	10 feet	18 feet	10 feet	NA	20 feet	20 feet	20 feet	15 feet	NA
<u>OFR</u>	10 feet	10 feet	18 feet	10 feet	NA	20 feet	20 feet	20 feet	15 feet	NA
Single Family Attached: [6]										
<u>LDR</u>	10 feet	6 feet	18 feet	5 feet	NA	6 feet	6 feet	18 feet	15 feet	6 feet

TLDR	10 feet	6 feet	18 feet	5 feet	NA	6 feet	6 feet	18 feet	10 feet	6 feet
MDR-24, MDR-12, OFR [2][3]	10 feet	6 feet	18 feet	5 feet	NA	6 feet	6 feet	18 feet	10 feet	6 feet
<u>Attached Dwellings:</u> [6]										
MDR-12 [2][3][4]	10 feet [5]	NA [5]	NA [2] [5]	10 feet	NA	5 feet [5]	5 feet [5]	18 feet [5]	15 feet	15 feet
MDR-24 [2][3][4]	10 feet [5]	6 feet [5]	NA [2] [5]	10 feet	NA	5 feet [5]	5 feet [5]	18 feet [5]	15 feet	15 feet
OFR [2][3][4]	10 feet [5]	NA [5]	NA [2] [5]	10 feet	NA	[5]	NA [5]	NA [5]	15 feet	15 feet

Table 4.0130(E) Notes:

- [2] Buffering and Screenings standards of Section 9.0100 may apply
- [3] Height Transition Standards of Section 9.0600 may apply
- [8] The Zero lot Line option may only be employed on a lot designated as a zero lot line lot through a land division approval. See section 4.0132(3).

Section 8. Volume 3, Development Code, Section 4.0131 is amended as follows:

Proposed Text Amendment

Section 4.0131 Additional Low Density Residential (LDR) District Standards

(A) Average Lot-Size Density

- (1) ~~The average lot size for any new land division in the LDR District must be at least 5,000 square feet and no more than 7,000 square feet in size. The average lot size is determined by calculating the total site area devoted to dwelling lots and dividing that figure by the proposed number of dwelling lots.~~

~~For purposes of this calculation a lot for a two-unit dwelling is counted as two lots. Such a lot may only be developed with a two-unit attached dwelling.~~

~~Accessory dwellings are not included in this the determination of density nor are dedicated streets or tracts created for non-dwelling unit purposes such as open space tracts, except where transfer of density from the tract to the remainder of the site is allowed by a Special Purpose Overlay District.~~

~~A new lot created with a pre-existing dwelling on it shall be a maximum of 8,400 square feet and need not be included in the average lot size calculation. A new lot created with a pre-existing dwelling on it may be greater than 8,400 square feet if included in excluded from the average lot size calculation density calculation only if this new lot is less than 8,400 square feet or if the dwelling sits on a "leftover parcel" as described within Section 4.0132(E).~~

~~The average lot size standards above do not apply to partitions where the parent parcel is 20,000 square feet or less in size.~~

First reading: December 6, 2005

Second reading and passed: January 3, 2006

Yes: Bemis, Echols, McIntire, Becker, Craddick, Widmark, Warr-King

No: None

Absent: None

Abstain: None

Paul May, AIC
City Manager

Charles J. Becker
Mayor

Approved as to Form:

David R. Re
Senior Assistant City Attorney

BEFORE THE CITY COUNCIL OF THE
CITY OF GRESHAM

IN THE MATTER OF AMENDMENTS TO VOL. 3,) Order No. 582
DEVELOPMENT CODE, OF THE GRESHAM)
COMMUNITY DEV. PLAN, PERTAINING TO) CPA 05-3103
SEVERAL CHANGES NECESSARY TO PROMOTE)
CLARITY, EASE OF ADMINISTRATION,)
CONSISTENCY WITH EXISTING COMMUNITY)
CONDITIONS, CIRCUMSTANCES, AND)
CONTEMPORARY LAND USE PLANNING)
PRACTICES)

On December 6, 2005, the City Council held a public hearing to take testimony on amendments to Volume 3, Development Code, of the Gresham Community Development Plan. The amendments update definitions and provide clarifications necessary to promote ease of administration, and maintain consistency with existing community conditions, circumstances, and contemporary land use planning practices.

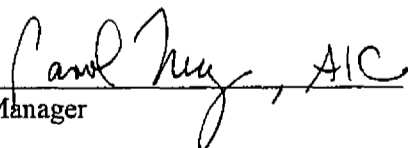
The hearing was conducted under Type IV procedures. Mayor Charles Becker presided at the hearing.

The Council closed the public hearing and approved the proposed amendments at the December 6, 2005 meeting, and a decision was made at the January 3, 2006 meeting.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of the Order.

The Council orders that these amendments are approved, and adopts the findings, conclusions, and recommendations as stated in the attached Planning Commission Recommendation Order and staff report.

Dated: January 3, 2006


City Manager


Mayor

**BEFORE THE PLANNING COMMISSION OF THE
CITY OF GRESHAM**

TYPE IV RECOMMENDATION ORDER

CPA 05-3103

A public hearing was held on November 14, 2005, upon an application to consider proposed amendments to Volume 3, Development Code, of the Gresham Community Development Plan (Omnibus #3) that are necessary to promote clarity, ease of administration, and consistency with existing community conditions, circumstances and contemporary land use planning practices.

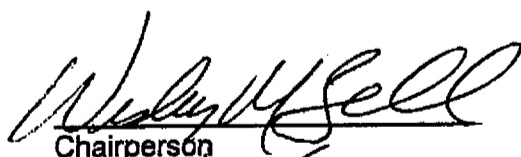
The Commission closed the public hearing at the November 14, 2005 meeting, and a final recommendation to Council was made at the November 14, 2005 meeting.

Wesley Bell, Chairperson, presided at the hearing.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of this Type IV Recommendation Order.

The Planning Commission recommends **ADOPTION** of the proposed Community Development Code amendments to the City Council, and adopts the findings, conclusions and recommendations contained in the attached staff report with the following amendments:

Including additional amendments to Section 11.0210
and GRC Section 11.02.110 as described in the
attached memorandum.



Chairperson

14 Nov 05
Date



MEMORANDUM

Community & Economic Development Department

TO: Chair Wes Bell and Members of the Planning Commission

FROM: Jim Wheeler, Senior Planner
Ron Bunch, Principal Planner

DATE: November 14, 2005

RE: Additional changes to Omnibus 3, Section 11.0210 Pre-Application
Conference and Early Neighborhood Involvement [GRC Section 11.02.110]

Staff has had an opportunity to further discuss changes to this section of the GDC. Staff feels that it is important to specify that "Supplemental Applications" as defined by ORS 227.184 ¹(2) be required to have a pre-application conference. Therefore it is requested that the Planning Commission consider adding another bullet under 11.0210(A)(1) that reads:

- **Supplemental applications under Section 11.0215**

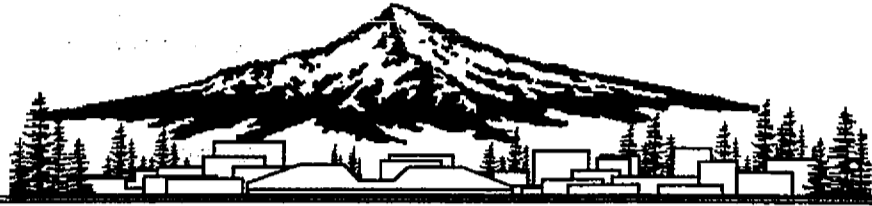
Also, it is requested that the Planning Commission consider adding language to 11.0210(A)(2) that states "resubmittal of development applications under Section 11.0215" does not require a reapplication conference.

Resubmittal of an application differs from a supplemental application in that, the applicant attempts to correct the flaws in a denied application and resubmits for the same land use originally applied for. A supplemental application is for other uses allowed in the zone that was the subject of the denied application.

Therefore it is requested that 11.0210 (A)(2) be revised to read as follows:

- **Pre application conferences are not required for Type I reviews and resubmittal of development permit applications under Section 11.0215, and may be waived for Home Occupations and other low level reviews when an applicant submits a waiver form for City approval.**

¹ The statute states, "A person whose application for a permit is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application." Mpc11-14-05resubmittalsupplementalapps



MEMORANDUM

*Comprehensive Planning - Community & Economic Development Department
City of Gresham*

**STAFF REPORT
TYPE IV HEARING**

**COMMUNITY DEVELOPMENT CODE TEXT AMENDMENTS
PERTAINING TO SEVERAL CHANGES TO THE GRESHAM COMMUNITY
DEVELOPMENT CODE NECESSARY TO PROMOTE CLARITY, EASE OF
ADMINISTRATION, CONSISTENCY WITH EXISTING COMMUNITY CONDITIONS,
CIRCUMSTANCES, AND CONTEMPORARY LAND USE PLANNING PRACTICES**

TO: Planning Commission

FROM: Ron Bunch, Principal Planner
John Pettis, Associate Planner

HEARING DATE: November 14, 2005

REPORT DATE: November 2, 2005

FILE: CPA 05 - 3103

PROPOSAL: Proposed Amendments to the Gresham Community Development Code (Omnibus 3)

EXHIBITS: A. Proposed Community Development Code Text Amendments

Proposed Community Development Code text amendments include the following items:

1. Amendment to GDC, A 5.006 Subdivisions; Clarification of when 50% of building permits may be issued following completion of specific public improvements.
2. Amendment to GDC, Section 11.0200, Development Procedures; Subsection 11.0210 (A) - Pre-Application Conferences; Clarification of type of development applications subject to pre-application requirements.
3. Amendment to GDC, Article 3, Section 3.0010- Definitions; new definitions of "Site", and "Development Site".
4. Amendment to Section 4.01110 - Definitions of Low Density Residential to delete reference to "increase in maximum density" when property is developed as a Plan Development. This language is an overlooked holdover from a previous Code Amendment process. Deletion is necessary to make the Development Code internally consistent.
5. Amendments to Section 4.0100 - To ensure internal consistency throughout the code when reference is made to "Attached dwellings on a single lot"
6. Amendment to Table 4.0130 (E) - Single Family Attached Dwellings changes pertaining to lot dimensions. This amendment included with footnotes is necessary to correct an inadvertent omission from a previous code update effort.
7. Table 4.0130 (E) - 0 Lot Line Option reference to footnotes to clarify that the zero lot line development option may only be employed on a lot designated as a zero lot line lot as part of, or through, a land division approval.
8. Section 4.0131 Additional Low Residential (LDR) District Standards:
 - (i) Removal of unclear language pertaining to required average lot sizes in LDR districts; Clarify language pertaining to when a new lot, if created with a pre-existing dwelling on it, may be excluded from density calculation; and
 - (ii) Remove redundant language pertaining to recording of final plat for land division, as a condition of approval of site design review and issuance of building permits for single-family attached dwellings. This statement is provided elsewhere in the code.

RECOMMENDATION: Staff recommends the Planning Commission recommend to the City Council adoption of the proposed Community Development Code text amendments as contained in Exhibit A.

SECTION I EXECUTIVE SUMMARY

This proposal is putting forward numerous text amendments to the Community Development Code. The reason for these amendments are that they are needed to address frequently recurring issues associated with the administration of the City's land use program. Also, there are several instances in the Development Code where existing text is either confusing, redundant with other sections, inconsistent with past interpretation, or inconsistent with current and projected community conditions and contemporary land use planning practices.

These proposed amendments will help City staff be more efficient when administering the Gresham Community Development Code. Also, these changes are important to address issues of Code uncertainty and vagueness by both clarifying and adding language to address circumstances that were unforeseen when the Code was originally promulgated.

Germane examples include the following:

There is a need to be clear when it is possible to issue up to 50% of the building permits for a subdivision based on a definitive completion of specific public improvements (amendments to GDC A5.006 Subdivisions).

There is a need to list more land use applications as requiring "pre-application" conferences. This is because several complex land use applications are currently not required to have pre-application conferences. Experience has shown that time and money, both on part of the staff and the applicant, are saved when these matters are discussed in advance in formal pre-application conferences (amendments to GDC Section 11.0210, (A,1 and A,2) Development Procedures.

There is a need to remove redundant and unneeded language throughout the Code. For example, GDC Section 4.0110 - "Definition of Low Density Residential" contains language that was removed from the "Planned Development Section" during a previous code update. Therefore, this language is not applicable, but the current GDC still retains it. This is an important clarifying action, because the existence of this language causes confusion, pertaining to whether or not density may be increased as part of Planned Development Review.

SECTION II APPLICABLE COMMUNITY DEVELOPMENT CODE PROCEDURES

- | | | |
|----|-----------------|---------------------------------|
| A. | Section 11.0400 | Legislative Actions |
| B. | Section 11.0205 | Type IV Procedure – Legislative |

**SECTION III
APPLICABLE COMMUNITY DEVELOPMENT PLAN POLICIES**

- A. Section 10.014 Goal 2 – Land Use Planning, Land Use Policies, Regulations and Community Design; Goal and Policies 1, 6, 23
- B. Section 10.100 Citizen Involvement; Goal and Policies 1, 10

**SECTION IV
FINDINGS OF FACT
CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN**

The proposed amendments to the Gresham Community Development Code are consistent with all applicable criteria as indicated by the following findings and conclusions.

Community Development Code Procedures

Section 11.0400 – Legislative Actions: The proposed amendments to the Community Development Code comprise a legislative action requiring a Type IV Land Use Procedure. Required notice of the public hearing for this text amendment has been published in the Gresham Outlook in accordance with the requirements of this article.

Section 11.0205 – Type IV Procedure: Both the Planning Commission and City Council will consider this proposal at public hearings in conformance with this section.

Community Development Plan Policies

The following are Community Development Plan policies that relate directly to this proposal. Findings and conclusions are provided to illustrate how the proposal conforms to the Community Development Plan.

- A. Section 10.014 Goal 2 – Land Use Planning, Land Use Policies, Regulations and Community Design; Goal and Policies 1, 6, 9, 23

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

Findings: The proposed amendments to the City's Development Code are being undertaken to maintain up-to-date land use regulations to guide decision-making necessary to manage urban growth. It is necessary to periodically review the City’s need for new and revised land use regulations to address contemporary conditions and circumstances. Regulations and standards become outdated and inapplicable as conditions change over time. This is particularly evident in this case regarding the need for new or revised Development Code Definitions; for standards to guide decisions when it is appropriate to issue building permits after requisite public facilities are constructed; and to remove unneeded and redundant code language to reduce ambiguity.

Therefore, for the City to maintain a solid legislative foundation for its land use program, periodic review and maintenance of the Development Code is required.

Conclusions: Per the findings and reasons above, the proposed amendments serve to maintain and reinforce the City's implementing regulations (Development Code) 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 shall also serve the best interests of Gresham.**

Findings: The proposed Community Development Code text amendments propose to amend the Gresham Development Code text regarding the matters listed above. This is necessary to increase the efficiency and timeliness of land use decision-making and to accommodate the need for standards to address current conditions and circumstances. This proposal will also address circumstances not envisioned when the Code was first promulgated.

It is in the City's best interest to ensure a timely and efficient decision-making process and to ensure there are standards to address the changing land use conditions and circumstances. Without these amendments, Gresham's land use decision-making process would be less efficient and effective. Furthermore, changed conditions, such as the need to have definitive standards when building permits can start being issued for subdivision approval, based on completion of specific public improvements, are needed to ensure the public's health and safety and the logical and efficient provision of public facilities and services.

The proposed amendments have been coordinated with the Oregon Department of Land Conservation and Development (LCDC), consistent with its Post Acknowledgment Plan Amendment Administrative Rules. LCDC has made no substantive comment; therefore the proposed amendments are consistent with state and regional requirements.

Conclusions: Per the findings and reasons above, the proposed amendments to the Gresham Community Development code have been determined to be consistent with state and regional requirements and to also serve the best interests of Gresham.

Policy 6: **The City shall, consistent with applicable laws, ensure that all required public facilities and services are available or committed prior to development approval, or are constructed or provided concurrently with development or prior to development occupancy.**

Findings: The proposed amendments to the Community Development Code would ensure that there is a logical and efficient provision of public facilities. This will be better accomplished by definitive standards that specifically spell out when building permits can start to be issued for new subdivisions based upon completion of required public facilities and services amendments to (GDC A5.006 (D)). Furthermore, amendments to GDC Section 11.0200, Development Procedures, will ensure that requisite public facilities and services are discussed prior to the application of development permits and that applicants are made aware of needed public improvements before completing application processes.

Conclusions: Per the findings and reasons above, the proposed amendments to the Gresham Community Development Code are consistent with and implement the above policy.

Policy 23: Gresham shall coordinate the development, adoption and amendment of its land use related goals, policies, and implementing measures with other affected jurisdictions, agencies, and special districts.

Findings: The proposed amendments to the Community Development Code have been sent to the Department of Land Conservation and Development pursuant to the Department's Post Acknowledgment Plan Amendment requirements. This required 45-day notice allows the Department to review the proposal for conformance with all applicable Statewide planning goals and to coordinate the same with other potentially affected agencies and jurisdictions. No substantive comment has been received from the department or other interested parties.

Conclusions: Per the findings and reasons above, the proposed package of amendments to the Community Development Code are consistent with and implement the above policy for the reasons stated.

Section 10.100 - Citizen Involvement; Goal and Policies 1, 10

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

Findings: The following describes how the proposal is consistent with and implements the above three criteria.

In addition to following all prescribed Development Code procedures for legislative notice, City staff has held a separate work session with the Planning Commission on these particular amendments. This was a public meeting and the public had opportunities to participate and present its views.

Copies of the draft proposal have been made available for public review and comment. As previously stated, the Gresham Community Development Code, Section 11.0205, Type IV Procedures, requires legislative actions to be subject to public hearings before both the Planning Commission and City Council. Both bodies will consider the proposal only after public hearings where citizens have an opportunity to testify.

Conclusions: For the reasons stated above, the process to bring the proposed amendments to public hearings and final decision complies with and implements the applicable goal to provide opportunities for citizens to participate in all phases of the planning process.

**SECTION V
CONSISTENCY WITH METRO URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN AND STATEWIDE PLANNING GOALS**

Findings and conclusions for all amendments to the Gresham Community Development Plan must demonstrate continued compliance with regional and state requirements.

The Gresham Community Development Plan / Code is consistent/complies with the Metro Functional Plan and Statewide Planning Goals and Administrative Rules. In terms of whether the proposed amendments are also consistent, the following identifies where the Functional Plan and state requirements are applicable.

Metro Functional Plan

It is determined that these proposed amendments to the Gresham Community Development Code do not affect or are otherwise applicable to the Metro Functional Plan. In particular, this proposal will not change actual land use designations and, thereby, affect the City's currently acknowledged housing or employment capacity, Title 1. Furthermore, the proposed amendments will not affect the City's compliance with Title 2, Parking; Title 3, Water Resource Quality; Title 4, Retail and Industrial Areas; Title 6, Regional Accessibility; Title 7, Affordable Housing; or Title 11, UGB Concept Planning.

Statewide Planning Goals

Findings: The proposal is directly applicable to Statewide Planning Goal 1, Citizen Involvement; Goal 2, Land Use Planning;

Statewide Planning Goal 1 requires that jurisdictions develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. For the reasons previously stated, the City concludes that the proposed amendments to the Community Development Code are consistent with the Statewide Planning Goals. This is because the process used to hear and recommend adoption of the proposed changes is consistent with the City's own acknowledged Citizen Involvement Program.

Statewide Planning Goal 2, Land Use Planning requires jurisdictions "To establish a land use planning process and framework for all decisions and actions related to the use of land and to assure an adequate factual basis for such decisions and actions." The City finds that the proposed Development Code changes represent an improvement to the existing framework for making land use decisions. The reasons are that the proposed amendments will allow more efficient and effective land use decision-making to occur, by removing uncertainty through adoption of more specific and contemporary definitions and specific standards.

Conclusion: The proposal is consistent with and implements Statewide Planning Goal 2 for the above reasons.

SECTION VI OVERALL CONCLUSION

The proposed Plan text amendments (attached) are consistent with applicable criteria, including the policies of the Community Development Plan and the Statewide Planning Goals, as contained or referenced within this report.

SECTION VII RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council adoption of the proposed Community Development Code text amendments attached in Exhibit A.

End of Staff Report

