



Maryland DEPARTMENT OF PLANNING

May 4, 2023

Chair John Bauer
City of Gaithersburg
Planning Commission
31 South Summit Avenue
Gaithersburg MD 20877

Re: Housing Element of the Master Plan - An Element of the City of Gaithersburg 2018
Comprehensive Plan

Dear Chair Bauer:

Thank you for requesting Maryland Department of Planning (MDP) comments on the Housing Element of the Master Plan - An Element of the City of Gaithersburg 2018 Comprehensive Plan Update. We appreciate your participation in the state plan review process. MDP feels that good planning is important for efficient and responsible development that adequately addresses all the elements of the comprehensive plan. Planning's attached review comments reflect the agency's thoughts on ways to strengthen the city's plan amendment as well as satisfy the requirements of the state Land Use Article.

The Department forwarded a copy of the draft amendment to state agencies for review including the Maryland Historic Trust, the Departments of Transportation, Environment, Natural Resources, Commerce, Disabilities, and Housing and Community Development. To date, we have received comments from the Department of Housing and Community Development and their response is included with this letter. Any plan review comments received after the date of this letter will be forwarded upon receipt.

MDP respectfully requests that this letter and accompanying review comments be made part the of city's public hearing record. Furthermore, MDP also asks that the city consider our comments as revisions are made to the draft plan amendment, and to any future plans, ordinances, and policy documents that are developed. Please feel free to contact me at (410) 767-1401 or Susan Llareus, Local Assistance & Training Planning Supervisor, at susan.llareus@maryland.gov

Sincerely,

Charles Boyd, AICP, Director
Planning Coordination

cc: Rob Robinson III, Long Range Planning Manager, City of Gaithersburg
Joseph Griffiths, Local Assistance and Training Manager, MDP
Susan Llareus, Planning Supervisor, MDP



Maryland DEPARTMENT OF PLANNING

Maryland Department of Planning Review Comments May 4, 2023 City of Gaithersburg Comprehensive Plan Amendment Housing Element

The Maryland Department of Planning (MDP) received the *Housing Element of the Master Plan - An Element of the City of Gaithersburg 2018 Comprehensive Plan Update* (Draft) from the City of Gaithersburg Planning & Code Administration on March 9, 2023. It was then forwarded to other state agencies. The statutory requirements of the Land Use Article (LUA) require MDP and specific state agencies to review draft plans, which the following evaluation reflects. Any additional state agency comments will be forwarded to the city as soon as possible.

Draft Comprehensive Plan Amendment Summary

The Draft is the first ever housing element for Gaithersburg (City) and the Introduction Chapter (p.7) references recent state legislation requiring a housing element, i.e., Maryland House Bill (HB) 1045 (2019) and HB 90 (2021). The Draft (p.8) states that the housing element provides “...an opportunity to establish the City's housing policies and overall goals for the City of today and moving forward.”

Municipal Minimum Planning Requirements

LUA Sections 3-102 and Section 1-509 require municipal comprehensive plans to include the following:

- Community facilities element
- Area of critical state concern element
- Goals and objectives element
- Housing element
- Land use element
- Development regulations element
- Sensitive areas element
- Transportation element
- Water resources element
- Mineral resources element, if current geological information is available
- Municipal growth element
- Optional elements of a comprehensive plan for a municipality may include a:
 - community renewal element.
 - conservation element.
 - flood control element.
 - a natural resources element.

- a pollution control element.
- information concerning the general location and extent of public utilities.
- a priority preservation area (PPA) element.
- Finally, if the local jurisdiction has adopted growth tiers in accordance with LUA Section 1-502, the growth tiers must be incorporated into the jurisdiction's comprehensive plan.

Maryland State Visions (Section 1-201 of the Land Use Article)

Maryland’s Planning Visions law (2009) created 12 Planning Visions (12 Visions), which reflect the state’s aspirations to develop and implement sound growth and development policies. Consequently, jurisdictions are required to implement the 12 Visions through a comprehensive plan.

Plan Analysis

- The Introduction (p.7) refers to Maryland’s vision for housing, which is one of the 12 Visions, and states that, “This Element builds upon the State’s 12 Planning Visions, one of which is ‘...a range of housing densities, types, and sizes [that] provides residential options for citizens of all ages and incomes.’”
- While the Draft appears to fulfill the intent of this vision, other planning visions could also apply, such as community design, growth areas, and plan implementation. To better connect the housing element with the rest of the comprehensive plan, consider also referencing and addressing these.

Maryland State Elements

The LUA describes the required comprehensive plan components for a municipality but does not mandate how they are to be addressed. The following plan element checklist can be helpful as Gaithersburg continues its comprehensive plan update.

Checklist of Maryland Code (Land Use Article) requirements for local comprehensive plans for a municipality in Maryland			
State Comprehensive Plan Requirements	MD Code Reference	Additional MD Code Reference	Housing Element Amendment page references
(1) A comprehensive plan for a non-charter county or municipality MUST include:	L.U. § 3-102(a)		
(a) a community facilities element	L.U. § 3-102(a)(1)(i)	L.U. § 3-108 -- Community facilities element.	Not included
(b) an area of critical state concern element	L.U. § 3-102(a)(1)(ii)	L.U. § 3-109 -- Areas of critical State concern element	Not included
(c) a goals and objectives element	L.U. § 3-102(a)(1)(iii)	L.U. § 3-110 -- Goals and objectives element	Housing goals throughout the plan
(d) a housing element	L.U. § 3-102(a)(1)(iv)	L.U. § 3-114 -- Housing element SB-687(2021)	Entire document
(d) a land use element	L.U. § 3-102(a)(1)(v)	L.U. § 3-111 -- Land use element	Not included

Checklist of Maryland Code (Land Use Article) requirements for local comprehensive plans for a municipality in Maryland			
State Comprehensive Plan Requirements	MD Code Reference	Additional MD Code Reference	Housing Element Amendment page references
(e) a development regulations element	L.U. § 3-102(a)(1)(vi)	L.U. § 3-103 -- Development regulations element	Not included
(f) a sensitive areas element	L.U. § 3-102(a)(1)(vii)	L.U. § 3-104 -- Sensitive areas element	Not included
(g) a transportation element	L.U. § 3-102(a)(1)(viii)	L.U. § 3-105 -- Transportation element	Not included
(h) a water resources element	L.U. § 3-102(a)(1)(ix)	L.U. § 3-106 -- Water resources element	Not included
(i) a mineral resources element, IF current geological information is available	L.U. § 3-102(a)(2)	L.U. § 3-107 -- Mineral resources element	Not included
(j) for municipalities only, a municipal growth element	L.U. § 3-102(a)(3)	L.U. § 3-112 -- Municipal growth element	Not included
(k) for counties only if located on tidal waters, a fisheries element	L.U. § 3-102(a)(4)	L.U. § 3-113 -- Fisheries element	Not applicable
Optional: (2) A comprehensive plan for a non-charter county or municipality MAY include: (a) a community renewal element; (b) a conservation element; (c) a flood control element; (d) a natural resources element; (e) a pollution control element; (f) information concerning the general location and extent of public utilities; and (f) a priority preservation area (PPA) element	L.U. § 3-102(b)	L.U. § 3-102(b)(2)(i)	
(3) Visions -- A local jurisdiction SHALL through the comprehensive plan implement the 12 planning visions established in L.U. § 1-201	L.U. § 3-201(c)	L.U. § 1-201 -- The 12 Planning Visions	Page 7
Optional: (4) Growth Tiers -- If the local jurisdiction has adopted growth tiers in accordance with L.U. § 1-502, the growth tiers must be incorporated into the jurisdiction's comprehensive plan	L.U. § 1-509		Not included

As shown above, only the housing element, goals and objectives, and the 12 Visions are addressed in the Draft. However, many other elements can influence planning for different housing types and their locations, housing equity, and affordability. Therefore, Gaithersburg should consider a more wholistic approach to comprehensive planning by updating interrelated elements simultaneously or completing the entire document at one time.

Conformance to Section 3-201(a) of the Land Use Article

The following analyzes how the Draft addresses the LUA housing element requirements, and other elements that inform this review, and whether other elements related to housing should be considered in future comprehensive plan amendments in accordance with Section 3-201(a).

Community facilities element: The community facilities element should include a timeline that reasonably extends into the future and identifies the general location, character, and extent of public and semipublic buildings, lands, and facilities.

Plan Analysis

- The Draft could better explain the need for community facilities (also known as public facilities) to support additional housing for low income and workforce households, including potential impacts on community infrastructure. Likewise, it could better address the community facilities impacts of an increasingly aging population (p. 20) and the needs of those with disabilities.
- Instead of waiting to address adequate public facilities through the development review process, the housing element should address the potential impacts of added residential development on public facilities now. This would also help to better inform the capital budgeting process. By expanding the planning perspective and better coordinating and communicating between Gaithersburg and Montgomery County, the needs of low-income and workforce households, seniors and persons with disabilities could be better understood.

Goals and objectives element: Comprehensive plan goals and objectives must guide the development, economic growth, and social well-being of the community.

Plan Analysis

- The Draft addresses future housing needs with goals related to planning and zoning, city housing programs and services, and by promoting equity and social justice.

Housing element: The housing element must address the need for housing that is affordable to low-income and workforce households within the jurisdiction. The plan must also define and address average median income, low-income housing, and workforce housing, in accordance with state requirements and include an assessment of affordable housing needs for low-income and workforce households in the jurisdiction. The housing element must also assess fair housing and ensure that a jurisdiction is affirmatively furthering fair housing through its housing and urban development programs.

Plan Analysis

Relating to HB-1045 (Housing Affordability):

- The Draft currently does not define low-income and workforce housing using the definitions in LUA [Section 3-114](#) and Housing and Community Development Article (HCDA) [Section 4-1801](#) for both rental and homeownership. That oversight should be corrected. Also, the glossary defines “Low Income (LI) Housing – An individual or persons living together, who have an adjusted income that is between 50% and 80% of the area median income (AMI),” which is not consistent with the definition in Section 3-114 (4). It states that

“Low-income housing” means housing that is affordable for a household with an aggregate annual income that is below 60% of the area median income.”

- Likewise, the Draft does not define workforce housing in the glossary, which is defined as follows in HCDA Section 4-1801.

“(1) ‘Workforce housing’ means:

(1) rental housing that is affordable for a household with an aggregate annual income between 50% and 100% of the area median income; or

(2) homeownership housing that:

(i) except as provided in item (ii) of this item, is affordable to a household with an aggregate annual income between 60% and 120% of the area median income; or

(ii) in target areas that are recognized by the Secretary for purposes of administering the Maryland Mortgage Program, is affordable to a household with an aggregate annual income between 60% and 150% of the area median income.”

- The term “priority populations” is used in the Draft (p.59) in association with footnote #18. That definition should be included in the glossary. In addition, the terms “priority populations” and “workforce” should be clarified as being synonymous, if that is the intent. This change could better align the Draft with the requirements and definitions of the state code.
- The Draft appears to meet the housing needs assessment requirements in the LUA. Chapter 3 – Background, thoroughly analyzes Demographic Data (Section 3.2), Socioeconomic Data (Section 3.3), Existing Housing Stock (Section 3.4) and Residential Pipeline (Section 3.5).

Relating to HB-90 (Affirmatively Furthering Fair Housing):

Affirmatively Further Fair Housing (AFFH) is defined in Section 2-401 of the Housing and Community Development Article as:

- Overcoming patterns of segregation.
- Fostering inclusive communities free from barriers that restrict access to housing and opportunity based on protected characteristics.
- Addressing significant disparities in housing needs and access to opportunity.
- Replacing segregated living patterns with truly integrated and balanced living patterns.
- Fostering and maintaining compliance with civil rights and fair housing laws.

The following key Draft highlights appear to address the AFFH requirements of the LUA housing element.

- The Draft addresses AFFH by including the *Draft Metropolitan Washington Regional Analysis of Impediments to Fair Housing/Fair Housing Plan’s (January 2023)* identification of Equity Emphasis Areas (EEA) and the Metropolitan Washington Council of Government regional analysis of impediments to fair housing (p.54).
- The regional analysis found that “the location of renters largely correlates with patterns of racial and ethnic segregation” (p. 55), which the Draft uses to inform fair housing recommendations.
- The Draft (p. 61) identifies that housing challenges “...are most acute for families with incomes below \$40,000 per year...” and that the city will “work with neighboring

jurisdictions and the MD Department of Housing and Community Development to affirmatively further fair housing.”

MDP AFFH Recommendations

- The Draft should ensure that low income and workforce housing be in areas of opportunity with access to public transit, goods and services, including full line grocery stores, medical facilities, employment centers and high-quality schools.
- The Draft should identify low-income areas that could benefit from state and federally funded urban development projects. Recommendations should also be added to implement such projects as a way of fostering social equity and justice, which is described as a goal. For further information see the U.S. Department of Housing and Urban Development's [AFFH webpage](#).

Land use element: The land use element must reasonably project into the future the most appropriate and desirable land use patterns, including their general location, character, extent, and land use interrelationships on public and private land.

Plan Analysis

- Gaithersburg’s website indicates that its land use element was last adopted December 19, 2011 (Resolution R-88-11). The Draft includes the following land use recommendations to promote housing.
 - Perform ongoing reviews of land use zoning, regulations, and processes for barriers or obstacles to producing diverse housing or to incentivize the types of units either not being built and in short supply relative to demand (page 48).
 - Promote mixed-income communities in the Land Use Element and zoning revisions (page 49).
- A determination should be made whether to amend the land use element or fully update it so that it aligns with Draft plan goals. Since comprehensive plan elements are interrelated, they should be guided, considered, revised, and developed under a unified direction that follows the community’s vision.

Development regulations element: It includes recommendations for land development regulations that implement the plan; encouraging flexible development regulations and promoting innovative and cost-saving site design that protects the environment. Within designated growth areas, it should further include innovative economic development techniques and streamlined development application review, including permits and subdivision plats.

Plan Analysis

- Chapter 7 includes a matrix of plan recommendations, implementation timelines, and responsible parties. These may lead to new development regulations to be addressed by amending various implementation tools such as the zoning ordinance, subdivision regulations, or other aspects of the municipal code.

Transportation element: This element must reasonably project into the future the most appropriate and desirable locations, character, and extent of transportation facilities to move people and goods, accommodate bicycle and pedestrian access and travel-ways, and estimate their anticipated use.

Plan Analysis

- Gaithersburg most recently approved a transportation element in 2011. When planning for affordable, low income and workforce housing, transportation and housing become closely linked because commuting costs can influence where people choose to live. [The Housing + Transportation \(H+T\) Affordability Index](#) provides a comprehensive view of affordability that includes both the cost of housing and the cost of transportation at the neighborhood level. The Draft and its subsequent implementation should incentivize low income and workforce housing near transit. This approach would further AFFH strategies, which are also key social equity and justice components.
- A map that shows locations in Gaithersburg would enhance the Equity Emphasis Areas (EEA) discussion.

Municipal growth element: The municipal growth element (MGE) is only required in Maryland municipal comprehensive plans. The MGE must plan for and describe the municipality's past growth patterns, the capacity of land available for new and infill development, and areas outside of the existing corporate boundaries into which a municipality wishes to grow. The MGE must calculate the land area needed to satisfy the demand for growth based on population projections and desired densities. The MGE needs to consider and include any rural buffers, transition areas, and sensitive areas to be protected. MGEs must also consider and plan for the community facilities and public infrastructure, as well as their financing mechanisms, required to accommodate desired growth. If a municipality wishes to annex land, such areas must be included and described in the MGE.

Plan Analysis

- While Gaithersburg adopted the Municipal Growth Element Master Plan April 6, 2009, it should consider updating the MGE to reflect development capacity based on Draft zoning, land availability, and housing recommendations.
- When updating the MGE, Gaithersburg should consider where infill and redevelopment in compact walkable areas should be encouraged based on Draft goals and objectives. Likewise, if affordable and fair housing can best be realized through annexations, an updated MGE could identify appropriate locations and processes for annexations and subsequent agreements to meet those ends. An updated MGE should also be mindful of the HCDA's definition of AFFH, which includes taking meaningful actions to overcome patterns of segregation and to foster inclusive communities with access to opportunity. Infill development and annexations should be planned for and implemented with this objective in mind, including locating affordable housing in areas of opportunity that are well integrated into the larger community.

The City of Gaithersburg is a Sustainable Community

Gaithersburg is part of the Montgomery County Sustainable Community Action Plan and that designation includes housing as a subject. The Action Plan should therefore be reviewed for consistency with the Draft, determining whether its housing actions conflict with or support Draft recommendations.

The following link is to the Montgomery County Sustainable Communities designation for the areas listed below, which includes Gaithersburg:

[Unincorporated Areas: Aspen Hill, Bethesda/Chevy Chase vicinity, Burtonsville, Clarksburg, Fairland, Gaithersburg vicinity, Germantown, Olney, Wheaton, White Oak and North, West and East Silver Spring Incorporated Municipalities: Barnesville, Chevy Chase.](#)

If MDP can further assist or facilitate assistance/information from other state agencies as Gaithersburg continues processing this amendment, please contact Susan Llareus, Planning Supervisor for the Maryland Capital Region, at susan.llareus@maryland.gov

Maryland Department of Planning Review Comments May 4, 2023
Draft Housing Element of the Master Plan –
An Element of the City of Gaithersburg 2018 Comprehensive Plan Update

STATE AGENCY COMMENTS

The following pages contain comments from other state agencies in support of the Maryland Department of Planning (MDP) review of the **Draft Housing Element of the Master Plan – An Element of the City of Gaithersburg 2018 Comprehensive Plan Update** as part of the standard 60-day review period for municipalities. Comments not included here may be submitted under separate cover, or via the State Clearinghouse. If comments from other agencies are received by MDP, they will be forwarded to the city.

Attachments

Page 10 Maryland Department of Housing and Community Development (letter)

April 18, 2023

Joseph Griffiths
Manager of Local Assistance and Training
Maryland Department of Planning
301 West Preston Street, 11th Floor
Baltimore, MD 21201

Dear Mr. Griffiths,

Thank you for the opportunity to review and comment on the City of Gaithersburg Comprehensive Plan Housing Element (the “Plan”). When reviewing plans, the Maryland Department of Housing and Community Development (“DHCD”) comments on items for which political subdivisions can strategically leverage DHCD’s resources to accomplish their housing and community development goals. DHCD also reviews comprehensive plans for consistency with relevant statute and, if appropriate, Sustainable Communities Action Plans.

Overall, DHCD staff were impressed with the quality of the Plan. Staff in the DHCD Division of Neighborhood Revitalization reviewed the plan and provided the following comments, which are meant to help realize the Plan’s goals. We present the following in no particular order:

1. The housing and economic development components of the Plan are generally consistent with and build upon the Sustainable Communities Action Plan.
2. For older housing stock, DHCD can assist with financial support for home repairs that improve comfort, livability, and accessibility for homeowners through its Special Loan Programs. Planning staff and residents can learn more about these programs at <https://dhcd.maryland.gov/Residents/Pages/SpecialLoans.aspx> or contact the program directly at 301-429-7409 or DHCD.SpecialLoans@maryland.gov.
3. The Plan identifies a need to redevelop vacant housing along Frederick Avenue for which the DHCD’s Strategic Demolition Fund could assist. Planning staff can learn more about Community Legacy online at <https://dhcd.maryland.gov/Communities/Pages/programs/SDF.aspx> or contact your DHCD SRP project manager.
4. The Plan does not show that the City of Gaithersburg has conducted a point-in-time count to identify the total number of people experiencing homelessness in Gaithersburg, but the Plan does identify goals and actions regarding services for people experiencing homelessness. For information on DHCD’s programs addressing homelessness, please

see more online at <https://dhcd.maryland.gov/HomelessServices/Pages/GrantFunding.aspx> or contact the Homelessness Solutions Program Manager, Suzanne Korff, at 410-209-5850 or Suzanne.Korff@maryland.gov. If you are experiencing homelessness and need immediate assistance, call 240-907-2688.

5. The Plan identifies the community's needs with respect to income and affordability. The City of Gaithersburg or non-profits active in Montgomery County may be eligible to apply for discretionary Community Services Block Grant (CSBG) funds administered by DHCD in order to provide services for low-income individuals and families at or below 125% of poverty. The City of Gaithersburg staff can learn more about CS programs online at <https://dhcd.maryland.gov/Communities/Pages/programs/CSBG.aspx> or contact the Poverty Solutions Team at 301-429-7525 or csbg.dhcd@maryland.gov.
6. The Plan identifies a need for affordable housing, including workforce and low-income housing. A portion of the City of Gaithersburg contains HUD Qualified Low-Income Housing Tax Credit (LIHTC) Census Tracts and currently has 8 LIHTC properties. If planning staff want to support further LIHTC development, they may find more info online at <https://dhcd.maryland.gov/HousingDevelopment/Pages/lihtc/default.aspx> or contact Edward Barnett, Director of Rental Lending, at 301-429-7740 or edward.barnett@maryland.gov. For resources to address the needs of low income residents, the Maryland Affordable Housing Trust may be able to provide resources. For more information online, visit <https://dhcd.maryland.gov/housingdevelopment/pages/maht/default.aspx> or contact Kecia Campbell, Program Administrator, at maht.dhcd@maryland.gov or 301-429-7504.
7. A portion of the City of Gaithersburg is within a Maryland Mortgage Program ("MMP") target area and residents therefore have enhanced eligibility for the state's homeownership incentives. Planning staff and residents may learn more about Maryland's homeownership programs at <https://mmp.maryland.gov/pages/default.aspx>.
8. The Plan identifies a goal to support local minority- and women-owned businesses. Info on DHCD's support for businesses can be found online at <https://dhcd.maryland.gov/Business/Pages/SmallBusinesses.aspx> or by contacting Mike Haloskey, Director of Business Lending Programs, at 301-429-7523 or Michael.Haloskey@maryland.gov.

We in the Division of Neighborhood Revitalization look forward to continuing our productive partnership with Gaithersburg in its future initiatives. Again, thank you for the opportunity to comment on the Plan. If you have any questions regarding the comments above, please contact me at carter.reitman@maryland.gov or 410-209-5849.

Sincerely,

Carter Reitman
Program Manager, State Revitalization Programs



Cc: Susan Llareus, Maryland Department of Planning
Rita Pritchett, Maryland Department of Planning
John Papagni, DHCD Division of Neighborhood Revitalization



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