



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development  
Community Services Division  
Portland Metro Regional Solutions Center**

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Erika Palmer, Senior Planner  
City of Damascus  
19920 SE Highway 212  
Damascus, OR 97089



Dear Ms. Palmer,

Thank you for the opportunity to informally review the draft Comprehensive Plans and implementing ordinances that the City's Mayor Spinnett and City Council President Mr. Jackman have developed and are presenting to the City Council to be voted on and forward to the ballot in May for a vote. The review of two competing plans is somewhat untraditional for the department. To be clear, this is an informal review based on the draft copies you provided the department; this is not a review for acknowledgement or goal compliance. Review for goal compliance and a recommendation regarding acknowledgement to the Land Conservation and Development Commission will occur when the City submits its plan to be reviewed for acknowledgement. That submittal will need to include an ordinance; an adopted comprehensive plan and implementing ordinances for all land within the City's planning area<sup>1</sup> and finding of facts that demonstrates how the plan meets the statewide planning goals.

The department understands that the development of the two plans originated in August 2013 when the City Council was unable to reach agreement on another plan that was before them. The two plans the department is reviewing are based on that original plan from last summer with some modifications. The department has some Goal 1 concerns regarding the development of the two plans that will potentially be presented to be voted on with minimal public process. The department understands the process the City is using to afford the general public their first opportunity to officially comment on the plans to be at a public hearing before the City Council the week of the 18 February.

The department will do a complete review for goal compliance when the City submits their final plan with findings of fact. The department did an informal review of the two plans the City provided and we have a few preliminary comments, as follows:

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<sup>1</sup> OAR 660—014-0010(4) Comprehensive plans prepared and adopted by newly incorporated cities shall be reviewed through the plan acknowledgment review process set forth in ORS 197.251 and OAR chapter 660, division 3.

- Goal 1 process – the City can address this in the final findings of fact when the City submits to the department for acknowledgement.
- Goal 5 - If the City deviates from Metro Titles 3 and 13 it must make Goal 6 and Goal 5 findings respectively. The Mayor’s Plan is inconsistent; it removes some statements about locally protected habitat and leaves in others.
- Goal 9 - The map is from the July ‘consensus’ plan and the circles point out areas the two new plans change. The letter tabulates the changes, and even though it makes reference to decreased employment numbers it does not identify the change. There is concern regarding the mix of uses, public facilities and the viability of the City with both of the plans.

For goal compliance the findings have to explain how the land supply provides at least an adequate supply of suitable sites for a variety of employment activities consistent with plan policies, and to do it in a way that is consistent with the assembled evidence. Neither of the plans have done that.

- Goal 10 – Council President’s Plan:
  - 17.201.020(A) – manufactured home parks are not allowed in any residential zones. State law requires that they be allowed in districts allowing 6-12 units per acre. ORS 197.480(2)(b). Thus they must be permitted in the NL and NM districts. The department notes that later in the code in section 17.201.090(G) of 96 there is a section on manufactured home park standards that states in the preamble that they are allowed in residential zoning districts. Perhaps this is a clerical error in the table in 17.201.020(A).
  - 17.201.020(A) – group care facilities are conditional uses in the NM district. ORS 197.667 requires that group care facilities be permitted in any zone where multi-family residences are permitted, and may only be conditional uses in a zoning district where multi-family residences are conditional uses. However, the code may apply the same design standards to group care facilities as to multi-family residences.
  - 17.201.070, 17.202 – the standards for residential development and mixed use development with a residential component are for the most part clear and objective. However, there are several “to the extent practicable” phrases which are not clear and objective. An acceptable way to handle this is to require the standard be met, but allow an exceptions process under certain conditions. This alternative method is actually used throughout the design standards, and should encompass the “to the extent practicable” areas.

#### Mayor’s Plan

- Same problem in 17.201.020(A) as the Council President’s version for manufactured home parks
- Same problem in 17.201.020(A) as the Council President’s version for group care facilities

- 17.201.020(A) – Accessory dwelling units are prohibited on lots of less than ¼ acre. The City should determine whether such a provision is consistent with Metro’s rules.
  - Same problem in 17.201.070 and 17.202 as the Council President’s version for residential development – clear and objective standards. This version adds an additional non-clear and objective standard in 17.202(C)(4).
  - 17.201(F) – The Mayor’s version takes out all foundation requirements for manufactured homes on individual lots, incorrectly asserting that the requirements in the original proposed code and the Council President’s version are preempted by state law. Also, the Council president’s version requires roof pitch to be at least 3 feet per 12 feet of roof, when the state statute (ORS 197.308(c)) states that 3 feet per 12 feet is the maximum pitch that can be required.
- Goal 12 – Council President’s plan – Transportation element: Policy #2 was changed so that transportation connectivity is ensured for both people and wildlife. The other addition of an implementation strategy for Policy #3 for BMP’s on street design is a good one.

The Mayor’s transportation systems plan does not complying with Goal 12.

Specifics - Policy #2 removes ensuring connectivity of the transportation system as a policy. Policy #3 now only encourages rather than requires use of BMP’s in street and pathway design. The implementation strategy for Policy #7 (bike and pedestrian percent) removes industrial from the mix and now only requires incorporation of bike and pedestrian facilities for new development rather than all through the development code as was there previously. The changes made to the implementation strategy for Policy #8 (transit, bike, and pedestrian connectivity) severely limits where such facilities can be located (adjacent to streets only and in new subdivisions). This change limits the ability to create a connected, pedestrian friendly community connects all aspects of the transportation system.

Again, this letter is not a recommendation for acknowledgement or an indication that the plans meet the Statewide Planning Goals; it is an informal review of the two plans provided for us to review. Please let me know if you have any questions.

Regards,

Jennifer Donnelly

CC: Ray Valone, Metro  
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