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## **THE PATTON PROPERTY: A CASE STUDY**

### **COMMENTS ON PROPOSED DAMASCUS COMPREHENSIVE PLAN**

#### **INTRODUCTION AND BACKGROUND**

Lowell Patton owns 220 +/- acres of land surrounding the village of Carver at the Southwest edge of the City of Damascus. The Patton property has been ready for development since before it was added to the Metro Urban Growth Boundary and therefore before the City of Damascus was formed. It is the largest parcel of contiguous property under single ownership in the City of Damascus. Throughout this memorandum the Patton property is discussed in an effort to pinpoint problems with the Proposed Damascus Comprehensive Plan in general as well as express deep concerns for the viability of development on the Patton property under that plan. The concerns are so great that requests have been made to withdraw the property from Damascus to allow development pursuant to the acknowledged urban development codes of Clackamas County or Happy Valley. The City of Damascus has summarily denied those requests without discussion or formal documentation from elected officials.

The Patton property was at time of inclusion in the Urban Growth Boundary served by sanitary sewer and water services and contained about 25 acres zoned rural industrial by Clackamas County. The industrial property has historically been the site of a lumber mill; concrete operation; rock quarry; wood and rock crushing, grinding and recycling; trucking operations; logging base and other heavier type

industry uses. It is adjacent on its north to existing urban residential subdivisions permitted at the time by Clackamas County Code. The lot sizes in those subdivisions are approximately 5,000 square feet.

The Patton property could have been fully developed under the existing Clackamas County Comprehensive Plan and implementing ordinances without incorporation into the then proposed City of Damascus. Without Mr. Patton's approval or comment the property was included within the City.

Aware of its immediately developable status the Comprehensive Concept Plan map adopted by the first City Council indicate the Patton property was to be treated separately from the remainder of the City. It was identified as subject to a separate Master Plan by text with a red dotted line surrounding its borders. The initial City Council encouraged Mr. Patton to proceed with a Master Plan for his property separate and apart from the then uninitiated City Comprehensive Plan process.

Mr. Patton commissioned a well respected Portland Landscape Architecture and Planning Firm "Western Planning Associates" to prepare the Master Plan. Input to the Patton Master Plan was commissioned from professionals in, among other disciplines, architecture, demographic and market analysis, wetland and habitat protection, geotechnical engineering, traffic engineering, and utility and water system engineering. Since no Damascus development codes exist the Master Plan was based upon applicable acknowledged urban Clackamas County development codes and Comprehensive Plan.

The Patton Master Plan was created with input from all area service providers. A sewer pump station was installed on the Patton property by Clackamas County. That system is sized to serve the Patton property and a majority of the South Westerly area of Damascus, as well as a portion of Happy Valley. It is currently being used by property in the City of Happy Valley and an area within the City of Damascus.

The Patton team presented its site specific information to the water district and fire district. With those entities input Patton agreed to locate a water tower/ reservoir on his property to serve the SW Damascus and adjacent Clackamas County area.

The Patton team worked with Clackamas County Department of Transportation and Development, Kittelson Engineering, and ODOT in creating a transportation plan, including dedicating land, for the relocation of Highway 224 to redirect unnecessary traffic away from the center of Carver.

The data and design work resulting from preparing the Patton Master Plan has essentially been ignored by the City. The Proposed Damascus Comprehensive Plan frustrates the plans and agreements which resulted from the Patton study and its substantial monetary investment.

The Patton Master Plan was completed in 2007-2008 and offered to the City Council for Review and Comment. By the time the draft plan was offered the make-up of the City Council had changed and it declared the existing Concept Plan and commitments to Patton by the original City Council moot. The Patton repeated requests to have the Patton Master Plan reviewed were unceremoniously denied. Portions of the Patton Master Plan were placed in the record for this acknowledgment process..

Despite repeated offers to share the detailed on-site data generated for creation of the Patton plan the City has refused to accept it as a basis for its Proposed Comprehensive Plan treatment of the Patton property. When it was pointed out that the Proposed Damascus Comprehensive Plan submitted to LCDC for acknowledgment review was in error relating to factors such as roadway location and topographical boundaries there was no viable response. The Patton Master Plan was not given any formal hearing and attempts to present it and its supporting documentation were restricted to 5 minute time limits making it impossible for the City Council to give it any serious consideration.

Given the unreasonably long delay in creating an acknowledgeable Comprehensive Plan and Implementing Ordinances and the equally long projected time frames awaiting full acknowledgment of the Damascus Comprehensive Plan Mr. Patton has repeatedly requested to have his property removed from the City of Damascus, developed under the acknowledged Happy Valley Code, or under the Clackamas County Code then re-annexed if the City desired. Metro, Happy Valley and Clackamas County staff have given unofficial support for such treatment of the Patton property but indicated the City would have to allow removal from its jurisdiction. Those requests have been summarily denied by the City without any officially expressed reason given.

With that introduction in mind please accept the comments addressing some of the Statewide Planning Goals and Guidelines and how they are impacted by the Proposed Comprehensive Plan.

**GOAL 2 PLANNING  
OAR 660-015-00002**

**“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”.**

**Guidelines**

**C. Plan Content**

**“1. Factual Basis for the Plan”**

XXXX

“4. Inventories and other forms of data are needed as the basis for the policies and other decisions set forth in the plan. This factual base should include data on the following as they relate to the goals and other provisions of the plan:

- (a) Natural resources, their capabilities and limitations
- (b) Man-made structures and utilities, their location and condition
- (c) Population and economic characteristics of the area
- (d) Roles and responsibilities of governmental units.”

**“2. Elements of the Plan”**

“The following elements should be included in the plan:

XXXX

- (c) Elements that address any special needs or desires of the people in the area
- (d) Time periods of the plan, reflecting the anticipated situation at appropriate future intervals.

All of the elements should fit together and relate to one another to form a consistent whole at all times.”

***Comment:***

The Proposed Comprehensive Plan as it impacts the Patton property is not based upon fact. Statewide Goal 2, Guidelines require such a factual basis. Even though the Patton site specific information and study results were available and offered to the City they were ignored. As a result significant areas throughout the Patton property are designated improperly or their use unnecessarily limited. It is a reasonable

conclusion that other properties affected by the Proposed Plan are likewise based upon generic and untested assertions.

The Proposed Comprehensive plan has treated the Patton property in accord with a generic mind set without respect for its dominant size, location and overall importance to the future of Southwest Damascus. This complex site offers significant and unique opportunities for development. The Proposed Comprehensive Plan ignores those facts and available data and imposes conservation overly zones, no build zones and slope limitations on a majority of the property.

Mapping designations for the property would not have been placed on the property where chosen had the lands' characteristics been properly addressed. With adoption of the Proposed Comprehensive Plan as submitted for acknowledgement the 220 acre parcel will not accommodate development levels appropriate for land within the Metro Region UGB. If Patton were to attempt to accommodate density levels and industrial uses encouraged by Metro and Statewide adopted standards he would run afoul of the Proposed Comprehensive Plan and have to either ignore those standards or be faced with extensive public hearings, plan and zone amendments, subjective decision making and possible litigation.

The failure of the Proposed Plan to base its treatment of the Patton property upon fact is no better evidenced than the prohibition being placed upon developing residential lots on land that exceeds 25% slope. The purported reason for the prohibition is the possibility of land slides. The Patton property was studied by licensed geotechnical engineers who declared a majority of the areas containing 25% and greater slopes to be supported by solid rock. There is no scientific basis for the arbitrary imposition of density limitation on those portions of the Patton property. Furthermore, the Proposed Comprehensive Plan is arbitrary in its treatment of any land containing slopes greater than 15%. There is no reason for imposing such limitations to development of urban lands that can be scientifically shown to support densities commensuration with Metro and LCDC goals. See discussions below under the Housing Goal.

### **Implementation Measures (F)**

The following types of measure should be considered for carrying out plans:

#### **"1. Management Implementation Measures**

XXXX

(c) Capital improvement budgets which set out the projects to be constructed during the budget period.”

**“2. Site and Area Specific implementation Measures**

XXXX

(c) The provision of land-related public services such as fire and police.”

***Comment:***

Facts upon which to analyze or plan for infrastructure needs and designs necessary to implement the portion of the Proposed Comprehensive Plan relevant to the Patton property are lacking. The location of proposed zones and restrictions are not based upon data necessary to allow their implementation. Unless major changes are made to the proposed plan it is highly likely the cost of implementing it on the Patton property will be prohibitive. The already urbanized land will not be developed.

There is no provision for financing the infrastructure necessary to implement the Proposed Comprehensive Plan. The citizens of Damascus have voted on more than one occasion to implement austere limitations on raising funds to provide for infrastructure. In addition the governing laws adopted by the voters have established significant roadblocks in the way of ever developing a Systems Development Charge program to reimburse private installation of infrastructure. The proposed Comprehensive Plan can not be implemented unless significant changes are made to existing law and those changes have not been addressed in this plan.

**GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS**

**“To protect people and property from natural hazards.”**

The proposed Damascus Comprehensive Plan does not follow or implement this Goal

The applicable standards are as set out in the Goal and its Guidelines:

**“Implementation Guidelines”**

“Upon receiving notice from the Department, a local government shall:”

“2. Allow an opportunity for citizen review and comment on the new inventory information and the results of the evaluation and

incorporate such information into the comprehensive plan, as necessary.”

“3. Adopt or amend, as necessary, based on the evaluation of risk, plan policies and implementing measures consistent with the following principles:”

“a. avoiding development in hazard areas where the risk to people and property cannot be mitigated; and” underlined emphasis added

### Planning Guidelines

“4. When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties.”

The proposed Damascus Comprehensive Plan does not follow or implement this Goal as can be seen in its language which includes the statement:

“Most of the existing steep slopes in the Damascus area have geologic conditions consistent with widespread landslide topography. The inventory assumes that slopes greater than twenty-five (25) percent are potentially unstable. Ten percent or 1,030 acres within Damascus are mapped as areas of steep slopes.” Emphasis added.

The City later declares as a policy that it will:

**“Prohibit development on slopes greater than twenty five percent.”**

### *Comment:*

Codes adopted in creating a Comprehensive Plan and related implementation measures must fall under the Police Powers umbrella to be legally enforceable.

If a code provision does not advance the public’s health, safety and welfare it is considered beyond the adopting government’s scope of authority. However tempting it may seem to adopt such regulations,

unless they can be objectively shown to protect the public's health, safety or welfare based on supportable science, engineering, or other factual data they should not be made into law.

The Proposed Comprehensive Plan can not be shown to protect the public nor is it following the Statewide Goals. It is imposing a limitation on the siting of housing based solely upon a slope percentage and an unsupportable conclusion that any slope over that percentage is so hazardous that its risks can not be mitigated. Eliminating a building site on a specific parcel of property because it falls within general slope parameters can not be shown to come within the purview of the government's Police Power unless it can be shown, based upon sound scientific, geotechnical and engineering data, that to allow such a siting would result in a hazardous situation

Based upon on-site slope and soil stability studies conducted on the Patton property by licensed architects and geotechnical engineers the above referenced Damascus "inventory" not only is arbitrary its factual support is missing. The "inventory" is not accurate for the Patton property, much of which is underlain by solid rock. It is reasonable then to conclude the "inventory" accuracy is suspect regarding other Damascus property. It is important to point out that to this author's knowledge no other jurisdiction in the Portland region prohibits housing placement on slopes in excess of 25% unless the land upon which that percent slope occurs is found to be unstable and/or can not be safely constructed upon.

Approximately 90 acres of Patton property is designate Butte Residential or land in excess of a 25% slope on the Proposed Comprehensive Plan Map. However, based upon the on-site studies only about one half (1/2) of those acres contain slopes greater than 25%. They nevertheless contain the Butte Residential designation which limits density to one unit per acre.

Soil stability studies by geotechnical engineers indicate there to be no hazard on most of the Patton property which exceeds the 25% slope. In fact several locations on the Patton property have historically been used for rock quarrying activities and are not subject to slides of any kind. On site geotechnical studies confirm this.

Slopes over 25% could be the trigger to require on-site geological analysis before construction of housing but to mandate that all slopes over 25% are unbuildable is unfair to property owners and wastes otherwise usable land within the Urban Growth Boundary. Arbitrarily restricting use of otherwise buildable land within the UGB just adds more pressure to

expand the boundary. Slopes greater than 25% are consistently used as housing locations throughout the Portland region after appropriate precautions are taken if necessary.

**GOAL 9: ECONOMIC DEVELOPMENT  
OAR 660-015-0000(9)**

**“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.”**

**Guidelines**

“Comprehensive plans and policies shall contribute to a stable and healthy economy in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability and cost; labor market factors; educational and technical training programs; availability of key public facilities; necessary support facilities; current market forces; location relative to markets; availability of renewable and non-renewable resources; availability of land; and pollution control requirements. Comprehensive plans for urban areas shall:

1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;
2. Contain policies concerning the economic development opportunities in the community;
3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;
4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.

In accordance with ORS 197.180 and Goal 2, state agencies that issue permits affecting land use shall identify in their coordination programs how they will coordinate permit

issuance with other state agencies, cities and counties.”  
Emphasis added

*Comment: paragraphs 1, 2 and 4*

Goal 9 Guideline 2 instructs the City to “Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies”. One of Goal 9’s planning guidelines also holds that: ***“Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development.”***

The Proposed Comprehensive Plan should take into account the availability of natural resources necessary to support the future industrial development and associated populations. The plan should also take into account its social, environmental, energy, and economic impacts upon the resident population.

The Proposed Comprehensive Plan is not based upon nor does it contain sufficient “... analysis of the community’s economic patterns, potentialities and deficiencies. It lacks “policies concerning the economic development opportunities...” For example, it totally ignores approximately 25 acres of the Patton land currently zoned and historically used for light to heavy industry. It fails to identify the value of Highway 224 as an asset to transport natural resources needed for constructing an urban community. Retrieval and transportation of finished and partially finished products necessary to support the City of Damascus or the Carver Center hamlet is not considered.

The plan proposes to change the existing 25 acres of industrial land to commercial use and makes no provision for relocating the industrial uses currently and historically undertaken on that land. Mr. Patton requested a 40-50 acre parcel of his property to be zoned in a manner that would allow relocation and provide for known growth demands of the industrial uses historically undertaken on his 25 acres.

The location Patton proposed for light to heavy industrial use was used in the past as a rock quarrying and gravel creation operation. In preparing the 40-50 acre site as an industrial use location Patton proposed to produce the gravel necessary to develop the rest of his 220 acres. The site is already served by a regional gas line which could be tapped for use by the industry. It has direct and safe access from State Highway 224.

Instead the Proposed Comprehensive Plan map designates about 15 acres of that Patton property as Village Employment. The remainder is zoned either Butte Residential and low density housing. The proposed Village Employment zoning is not compatible with the industry currently occupying 25 acres of Patton land. The zone proposed (Village Employment) is intended to allow retail and recreational uses which are incompatible with the existing industrial use. It also allows uses which will directly compete with nearby Carver Commercial Center uses and thus threatening the viability of the Carver Commercial Center. The Village Employment zone will not allow the uses which have historically taken place on Patton's industrial property.

*Comment: paragraph 3*

The Proposed Comprehensive Plan does not "provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies". As discussed above the Proposed Comprehensive Plan totally ignores the existence of Patton's industrially zoned property. It appears to not provide sites within Damascus for any heavy or even medium heavy industrial activity. The limitations placed upon the Plan's proposed employment zones do not reflect the intent expressed in this goal.

**Guidelines:**

**A. Planning**

“1. A principal determinant in planning for major industrial and commercial developments should be the comparative advantage of the region within which the developments would be located. Comparative advantage industries are those economic activities which represent the most efficient use of resources, relative to other geographic areas.

2. The economic development projections and the comprehensive plan which is drawn from the projections should take into account the availability of the necessary natural resources to support the expanded industrial development and associated populations. The plan should also take into account the social, environmental, energy, and economic impacts upon the resident population.

3. Plans should designate the type and level of public facilities and services appropriate to support the degree of economic development being proposed.

4. Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development.

5. Plans directed toward diversification and improvement of the economy of the planning area should consider as a major determinant, the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

*Comment:*

As discussed above there is insufficient planning for accommodating the industry necessary to create infrastructure and structures needed for the urban level improvements proposed to serve a City. From where will the rock and gravel to be obtained? Where are the companies providing concrete to be located? What about the sewer pipe and storm drainage system manufacturers? What is the best use of existing Highway 224? Where is the electrical generation to be located?

The proposed Comprehensive Plan intends to replace Patton's 25 acre industrial zone and its historic and current uses with a Commercial zone (Culver Center). This is being done without providing a zone to accommodate the existing industrial uses let alone provide for the increased demand for uses that will result from creation and maintenance of the City. The lack of planning for industrial uses and resource reclamation will lead to long highway trips necessary to haul gravel, rock, concrete, asphalt, etc. to Damascus. Where are the uses the City of Damascus does not want to accept as needed for urban development and maintenance to be located? The Proposed Comprehensive Plan forces other jurisdictions to supply Damascus needs. That is not planning, that is passing the buck.

It is important to consider in this situation the actions taken by the Oregon Legislature when it considered a similar set of facts which had occurred in Douglas County. Under Oregon Revised Statute (ORS) Chapter 21 (as amended by the Oregon Legislature in 2005), if applied to the Patton property, the existing Clackamas County Rural Industrial land use designation must be accommodated somewhere on the Patton Property. If it does not get protected somewhere else on the Patton property it must remain where it is currently located and the expansion of the Carver Commercial Center will not occur as proposed. In pertinent part ORS Chapter 21 preface to ORS 221.005 states:

“Sec.6. (1) A lot, parcel or tract may not be included in unincorporated territory proposed to be incorporated as a city unless the owner of the lot, parcel or tract gives written consent to the incorporation, if the lot, parcel or tract:

(a) Is zoned for industrial use or designated for industrial use zoning in and acknowledged comprehensive plan (Patton’s property is zoned Industrial in Clackamas County’s acknowledged plan);

XXXX

(2). After incorporation of a city that includes a lot, parcel or tract described in subsection (1) of this section, the development rights that apply to the lot, parcel or tract under the industrial zoning classification applicable to the lot, parcel or tract when the city is incorporated are retained and run with a lot, parcel or tract.”

The City of Damascus intentionally excluded some industrial uses from its proposed Plan. On September 2, 2010 the City Council was approached by the Industrial Construction Group (ICG) documenting its interest in developing a gas fired electric generator plant on the Patton property near where the regional gas line is located. The approximately Two Hundred Million dollar (\$200,000,000) plant would take approximately Five Hundred Thousand (500,000) man hours of work to construct and provide approximately Thirty (30) permanent living wage jobs. The gas main that runs through the Patton property makes it a viable location for such a plant. The preferred location for the plant is within the 40 to 50 acre area Mr. Patton had proposed to be zoned industrial. The City Council refused to give support for the project and summarily ignored its importance to the region. It is not known at this time whether the opportunity has been lost due to what appears to be the City’s intention to ban any “ugly” or “bad” industry from its boundaries.

**GOAL 10: HOUSING  
OAR 660-015-0000(10)**

**To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.**

**Buildable Lands -- refers to lands in urban and urbanizable areas that are suitable, available and necessary for residential use.**

*Comment:*

The Proposed Damascus Comprehensive Plan does not make efficient, effective or economical use of property to provide sufficient housing density to meet Metro guidelines. The Patton property case study offers a basis for comparing the Proposed Comprehensive Plan residential density impacting provisions with those of Clackamas County's acknowledged urban development plan. Applying the acknowledged Clackamas County codes to the Patton property permits conservatively up to 722 residential units. The zoning and pending development code for the Proposed Comprehensive Plan allows up to 390 residential units on the Patton property.

**Clackamas County Acknowledged Plan and Code**

Based upon the LCDC acknowledged Clackamas County standards the Patton Master Plan, dated 12/17/07, would allow creation of, by conservative estimate, up to 722 residential units on the property. The Clackamas County urban standards would allow a development design consisting of approximately 37% 5,000 square foot, 35% 8,500 square foot and 13% 15,000 square foot residential units. The Patton plan also included approximately 69 acres of open space, a water reservoir site, a school site and 16 acres of right of way which includes land upon which to relocate Highway 224 to allow avoidance of the currently and projected highly gridlocked center of Carver. The remainder of the 220 acres was to be in industrial and commercial zones.

**Proposed Damascus Comprehensive Plan**

To estimate the residential density allowed on the Patton property under the Proposed Comprehensive Plan, Western Planning and Associates applied standards contained in a set of Proposed Damascus Development Code regulations (not submitted by City) to the zone designations included in the Proposed Comprehensive Plan.

The proposed zoning designates the Mr. Patton's property "Butte Residential" (1 or 5 acres per residential unit), "Low Density or Medium Density Residential," "Commercial" and Village Employment. The acreage designated "Low or Medium Density Residential" includes about 32 acres of "Conservation Slopes" (25% plus), 10 acres designated "Buffer" (7 acres

of 15-24.9% slope and 3 acres of 0-13.9% slopes); 12 acres of “Transition Slopes” (15-24.9% slopes) not in Buffers of which 10 acres are Transition Slopes (15-24.9% Sliding Scale). Removing the slope based severely limited property from the total land proposed as Low Density or Medium Density leaves a gross buildable acreage of about 54 acres so zoned. Subtracting about 12 acres for road to serve those acres nets about 43 buildable acres. Those 43+/- acres of “Low or Medium Density Residential” will support a density in the approximate range of 7 units per acre. The proposed plan will therefore allow for approximately 300 residential units on the Patton property zoned “Low or Medium Density Residential”.

A Substantial portion of the Patton property is designated Butte Residential on the Proposed Comprehensive Plan Map. All land with a slope greater than 25% is designated Butte Residential. In addition land with slopes less than 25% has been designated Butte Residential. A Butte Residential zone allows a density of one residential unit per acre.

The Proposed Comprehensive Plan designates approximately 90 acres of Patton land “Butte Residential” which permits only 90 units to be clustered on some unidentified portion of the Patton property.

Thus while up to 722 residential units are approvable for the Patton property under the acknowledged Clackamas County Comprehensive Urban Plan and development code only 390 are allowed under the proposed Damascus plan. Furthermore under the Proposed Damascus Plan approximately Seventy Five percent (75%) of those 390 units will have to be built at an actual density of 11.64 units per acre because they will be clustered in pods. Overall the Proposed Damascus Plan permits fewer than 2.3 residential units per acre on the approximate 170 acres of Patton property not designated for industrial or commercial use.

Metro’s density goal for the property when it was added to the UGB and which was used to support a finding that its addition would in part satisfy the regions’ 20 year supply of residential land was 10 units per acre. If the Patton property is any example that goal will not be achievable under the Proposed Comprehensive Plan.

The development pattern resulting from the Proposed Damascus Plan results in high density pods. That result does not represent the kind of housing and lot sizes identified in a market analysis which was an integral part, also ignored by the City, of the Patton Master Plan.

### ***Topography Conditions Limit Design Alternatives***

Development of the Patton property, a multiple elevation site, will require a high number of circulator streets resulting in more than the normal amount of land dedicated to transportation use. In addition to its topography considerations it must serve as a site to accommodate traffic generated from existing urban level density development on adjacent lands for which no master circulation plan was implemented. This projection includes a road to connect the site's upper terrace with the Carver area and Highway 224. Add to that land necessary to accommodate the potential relocation of Highway 224 through the Patton property. Those realities when added to the proposed zoning scheme further exacerbate the housing density allowed on the site by the Proposed Comprehensive Plan. It is without exaggeration to predict that it is unlikely the very low number of homes contemplated by the Proposed Comprehensive Plan designations will support the cost of needed road systems and utility improvements. Such a fact frustrates the intent of those who included the property within the Metro Portland UGB.

*Clustering:*

Due in part to the Proposed Comprehensive Plan's heavy use of density limitation overlays and slope assumptions the City relies heavily upon a clustering concept to attempt to never the less meet density goals throughout the City. Not only does the clustering proposal not address study identified desires of future homeowners it can be much more expensive to implement than standard subdivision designs.

This clustering concept has practical limitations which would be good to keep in mind prior to accepting it on its face. It goes against the economic realities associated with developing residential land. While in theory the concept may sound appealing it can be much more expensive to implement and will very likely delay installation of infrastructure.

It costs more to extend streets and utilities across non buildable property to access the clusters. It is not cost effective to build streets which do not front housing, preferably on both sides. If streets which do not front residential lots must be built to get to or between clusters of homes, which themselves must be fronted by streets, the cost per residence to provide vehicle circulation increases. This results in an increase in the cost of housing. The increased costs must be spread over the number of lots being created. The lots become more expensive because the cost of accessing them increases. The same extra cost factor is encountered in extending sanitary and storm sewers and water systems to the clusters without serving lots along their path. Those utilities are primarily located in streets.

When considering the need for the overall comprehensive plan to meet regional housing densities the cost of accessing buildable areas within a residential zone becomes a matter that should not be overlooked. If a parcel of a property's designated use is residential it is wise to assure that residential is the dominant use to which that parcel is being put. If the dominant use of a parcel is for environmental or resource protection, then it may not be economical to place small clusters of housing on that parcel.

The placement of transferred density on limited locations within residential zoned lands results in higher than desired density on the portion of property permitted to accept development. An example would be the limiting the buildable area on a 100 acre parcel to 40 acres. Those 40 acres will need to be accessed over the remaining 60 unbuildable acres. Stripping the density from the 60 unbuildable acres and attempting to place it on the remaining 40 acres more than doubles the density of housing on those 40 acres. This result in housing patterns and densities has been determined to be undesirable to the people attracted to Damascus.

Throughout preparation of its Proposed Comprehensive Plan it was stated that a goal of the plan is to create a rural atmosphere. That aesthetic goal will not be easily reached with the plan's reliance on isolated pods of high density housing to meet Damascus's regional fair share of housing mandate. It is suggested that the Proposed Comprehensive Plan include the following goal or premise upon which the zoning designations are to be based.

“The primary use for residentially zoned property is the location of housing. Goals and Policies which conflict with the location of housing in residential zones shall be considered but they shall not be the basis for unnecessarily or unreasonably limiting the provision of appealing and safe housing at a density commensurate with the zoning designation.”

## **Guidelines**

### **A. Planning**

“1. In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include: (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost; (2) a determination of vacancy rates, both overall and at varying rent ranges and cost levels; (3) a determination of expected housing demand at varying rent ranges and cost levels; (4) allowance for a

variety of densities and types of residences in each community; and (5) an inventory of sound housing in urban areas including units capable of being rehabilitated.”

*Comment:*

As mentioned above the development patterns resulting from the Proposed Comprehensive Plan do not reflect sufficient consideration of this standard. The Plan’s resulting compact density pods, limitations on offering view property to the citizens due to slope and buffer mandates, inefficient traffic systems, expensive utility provision obligations, etc. do not represent the kind of housing and lot sizes identified in the market analysis which is an integral part of the Patton Master Plan.

In addition to other limitations the Proposed Comprehensive Plan includes a Columbia Gorge type restriction on otherwise buildable land. The plan limits placement of homes to areas which are not observable by passers by from highways and rivers. This is in addition to and broader than the restrictions placed on land by the Wild Rivers standards. Such restrictions seem inconsistent with the concept of compact urban growth. They also greatly restrict the supply of view land available to homeowners. One of the attractions of the Damascus area is the views of Mount Hood and the Valley from sites within the City. This provision greatly limits opportunities for view type residences.

Under the title Urban Development Standards the City proposes to create a program which will allow “density banking”. The ‘Transfer of Development Credits’ (TDC) program is possibly a Trojan horse designed to justify keeping density off buildable lands restricted by overlays and slope considerations while in concept still meeting the Metro regional housing goal of 10 units per acre.

The TDC concept is purely hypothetical and is untested in Oregon when used in context of a Comprehensive Plan. Oregon’s statewide land use regulation system seems not to favor the implementation of a TDC program. To the extent that the City intends to restrict otherwise achievable density on residential zoned land through overlays and slope restrictions it will have to provide for that density somewhere else or just bank it. If the TDC bank is created it is highly possible the density that is “banked” will never be used and the City will effectively avoid meeting its regional fair share of housing mandate. .

**GOAL 11: PUBLIC FACILITIES AND SERVICES  
OAR 660-015-0000(11)**

**“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”**

## **Guidelines**

### **Planning**

### **Implementation Standards**

1. Capital improvement programming and budgeting should be utilized to achieve desired types and levels of public facilities and services in urban, urbanizable and rural areas.
2. Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.
3. The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.
4. Plans should designate sites of power generation facilities and the location of electric transmission lines in areas intended to support desired levels of urban and rural development.” (See previous discussion regarding ignoring an opportunity to address this guideline)

### ***Comment:***

In preparing its Proposed Comprehensive Plan these guideline standards have been given little consideration. They should have been addressed before attempting to create a viable Comprehensive Plan. Without understanding whether it can even be implemented a Comprehensive Plan is designed to fail. Urbanizable land intended to support regional growth will continue to sit ideal while property owners become more frustrated because of wasted taxes and missed opportunities.

There are no provisions expressed for financing the infrastructure necessary to implement the Proposed Comprehensive Plan. The citizens of Damascus have implemented austere limitations on raising funds to provide for infrastructure. In addition the governing laws adopted by the voters have established significant roadblocks to developing a Systems Development Charge program to reimburse private installation of needed infrastructure. Property which is already served by urban services should

be allowed to develop under other jurisdictions with acknowledged plans and funding mechanisms.

**GOAL 14: URBANIZATION  
OAR 660-015-0000(14)**

**To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.**

The basic tenet of this goal is that:

“Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.”

**Guidelines  
Planning**

XXXX

“4. Comprehensive plans and implementing measures for land inside urban growth boundaries should encourage the efficient use of land and the development of livable communities”

The Proposed Comprehensive Plan contains a policy which states:

“Development shall be clustered in such a way to optimize open space”

***Comment:***

If the clustered area is within a zone whose purpose is to provide a location for housing, commerce or industry shouldn't the housing, commerce or industrial use be optimized in those zones? By zoning it for residential, commercial or industrial use it has been determined the land is needed for designated purpose. Optimizing open space on residentially zoned land is not consistent with the idea of compact urban growth and

appears to be contrary to the concept of urbanization. If the City wishes to optimize open space it should zone for it, not attempt to decrease the availability of building sites by giving first priority to open space in property zoned for housing.

If there are “significant natural resources” on the land it should not have been zoned for housing, commerce or industry. Those resources need to be protected from unnecessary encroachment. But the land should not be counted toward meeting density mandates. Again, as discussed immediately above, the property has been designated for a specific use by the zone it is given. This policy contradicts the zoning designation by limiting the amount of land available for the use for which it is zoned.

*Summary Comments:*

The Proposed Comprehensive Plan does not allow a reasonable projection of housing density allowed in Damascus. There are so many restrictions placed on land that has been zoned residential it is not subject to an accurate estimation of the amount of housing being provided. A total re-evaluation of the proposed slope standards and restrictive overlays needs to be undertaken.

Restricting building on slopes in the 15-24.9% range is arbitrary and lacks any sound scientific purpose. Any blanket declaration that 25%-50% slopes are hazardous to construction is also arbitrary and unnecessarily limits housing designs and view properties. When based upon scientific and structural facts by site specific evaluation slopes between 25 and 50% are buildable and should be allowed to accommodate housing. If there are known slides or other conditions on a building site they can be properly dealt with and construction prohibited if necessary. When the site is substantially supported by rock under reasonably shallow soils as is the case with the Patton property there is no objective reason to prohibit development. It might help to your understanding that daylight basement homes require at least a 25% slope for construction.

Conservation slopes should be considered those over 50%. Buffers to the Conservation slopes need to be factored into the density calculation and should be modifiable based upon sound Geotechnical studies not controlled by an arbitrary standard. The slope restrictions proposed will create lands that have “buffer lock” resulting in a loss of housing options and increase the densities on the developable portions of all sites.

The case study of the Patton property reveals that the 2.3 units per acre allowed on the Patton property by the Proposed Damascus Plan is far below urban land use targets. Such development restrictions can not be

found consistent with producing the 8-10 units to the acre contemplated by Metro and LCDC.

The Patton property presents only one case study. Such studies are lacking for most of the property in Damascus. There is little or no support in the data compiled by Damascus for a finding that the Proposed Comprehensive Plan will be able to meet Metro density guidelines, even with “Density Transfers” to some ‘bank’. There likewise is no basis in market statistics or past history that such a bank is even viable. It will, if accepted, likely become a burial place for the unachieved density.

The Proposed Comprehensive Plan is also deficient because it does not support a finding that it meets Statewide Goals and Guidelines regarding provision of industrial sites. The weaknesses in the proposed plan’s provision for industrial land results in deficiencies that can not be ignored in the acknowledgement review process. Empirical support for a finding that the Proposed Comprehensive Plan meets Statewide Goals and Guidelines is missing. The proposal needs significant revision.

Respectfully submitted,

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