

1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 Petitioner appeals an ordinance amending the City of
4 Medford Comprehensive Plan (plan) map designation for 9.3
5 acres.

6 **MOTION TO INTERVENE**

7 Noel Moore and Clifford Motes, the applicants below,
8 move to intervene on the side of respondent. There is no
9 opposition to the motion, and it is allowed.

10 **FACTS**

11 Prior to adoption of the challenged ordinance, the plan
12 map designated the subject 9.3 acres Urban Residential.
13 Under the Urban Residential plan designation, the 9.3 acres
14 could be zoned for up to 10 residential units per acre. The
15 challenged ordinance changes the plan map designation to
16 Urban High Density Residential. Under the Urban High
17 Density Residential plan designation, the 9.3 acres could be
18 zoned for up to 30 residential units per acre.

19 **ASSIGNMENT OF ERROR**

20 The plan includes the following under "Criteria for
21 Plan Amendments":

22 "Because of the important functional differences
23 among the various Plan components, no common set
24 of criteria can be used to assess all proposed
25 Plan amendments. Below are listed the criteria
26 which must be considered when evaluating proposed
27 amendments to each of the specified Plan
28 components. While all of the criteria may not
29 apply to each proposed amendment, all must be
30 considered when developing substantive findings

1 supporting final action on the amendment, and
2 those criteria which are applicable must be
3 identified and distinguished from those which are
4 not."

5 The plan then lists the following criteria for plan map
6 amendments:

7 "1. A significant change in one or more Goal,
8 Policy, or Implementation Strategy.

9 "2. Demonstrated need for the change to
10 accommodate unpredicted population trends, to
11 satisfy urban housing needs, or to assure
12 adequate employment opportunities.

13 "3. The orderly and economic provision of key
14 public facilities.

15 "4. Maximum efficiency of land uses within the
16 current urbanizable area.

17 "5. Environmental, energy, economic and social
18 consequences.

19 "6. Compatibility of the proposed change with
20 other elements of the City Comprehensive
21 Plan.

22 "7. All applicable Statewide Planning Goals."

23 The challenged ordinance adopts as findings a staff
24 report, dated July 20, 1994, and findings submitted by the
25 applicants in support of the decision. Petitioner contends
26 those findings are inadequate and are not supported by
27 substantial evidence.

28 Petitioner's challenges are limited to criteria 2, 3

1 and 5.¹ We address those criteria separately below, after
2 briefly addressing intervenors' waiver arguments.

3 **A. Waiver**

4 Intervenor contend petitioner waived her right to
5 challenge the disputed ordinance for noncompliance with
6 criterion 2, because petitioner did not raise any issue
7 during the local proceedings concerning public need.

8 The issue of public need was raised sufficiently by
9 other parties to the local proceedings. See Spiering v.
10 Yamhill County, 25 Or LUBA 695, 714 (1993). The issue of
11 public need may be raised in this appeal.

12 Intervenor also contend no party raised an issue below
13 concerning incompatibility between existing adjoining single
14 family development and the multi-family development
15 allowable under the plan designation approved by the
16 challenged ordinance. Therefore, according to intervenor,
17 petitioner may not, in this appeal, assert such
18 incompatibility as a "social" consequence under criterion 5
19 above.

20 A general issue was raised below concerning potential

¹Petitioner faults the staff report for not addressing the statewide planning goals (criterion 7) and contends the staff report findings are inadequate to address criteria 4 and 6. However, petitioner simply claims the staff report findings are inadequate because they are conclusions. The applicants' findings, also adopted by the city, include findings addressing the statewide planning goals. Petitioner makes no attempt to challenge the adequacy of the applicants' findings concerning criteria 4, 6 and 7, and we therefore do not consider petitioner's contentions concerning criteria 4, 6 or 7 further.

1 social impacts that might result from the multi-family
2 dwellings that may be constructed under the approved plan
3 designation. Opponents questioned why the proposed multi-
4 family dwellings could not be built elsewhere. Record 15-
5 16. We conclude the city was obligated under criterion 5 to
6 address potential social consequences that might result from
7 application of a plan map designation allowing multi-family
8 development.

9 **B. Demonstrated Need**

10 Petitioner challenges the adequacy of the applicants'
11 findings concerning criterion 2. However, the staff report
12 findings also address criterion 2. The staff report
13 findings cite evidence that while there are a sufficient
14 number of acres currently within the city's urban growth
15 boundary designated for multi-family dwelling development,
16 some of those acres are not available for development due to
17 certain development constraints. The findings go on to
18 conclude, based on locational considerations, that there is
19 a need for additional Urban High Density Residential
20 designated land.²

21 Petitioner makes no attempt to challenge the staff
22 report findings concerning criterion 2, or the evidence
23 cited by intervenors. This subassignment of error is

²Intervenors cite evidence in the record that the comprehensive plan establishes a six percent multi-family housing vacancy rate as desirable, while the actual multi-family housing vacancy rate has fluctuated between two and four percent.

1 denied.

2 **C. Traffic**

3 Petitioner points out the development allowed under the
4 prior plan map designation would generate approximately 370
5 vehicle trips per day. The approved plan map designation
6 could result in many more vehicle trips per day. Petitioner
7 contends "[n]either [the] applicant, the staff, nor the city
8 council made any findings with respect to the adequacy of
9 the streets in the area to handle this increase in traffic
10 loads." Petition for Review 10.

11 The city adopted the following "applicants'" findings:

12 "The subject property is served by Crater Lake
13 Avenue, an improved arterial street. The
14 properties are dissected by American Avenue, an
15 unimproved dedicated public road. Access to the
16 properties will primarily be from American Avenue.

17 "Based on the 1992 Traffic Volume map, prepared by
18 the City of Medford, Crater Lake Avenue, at
19 American Avenue, has a traffic volume of 10,400
20 vehicle trips per day, VTD. The design capacity
21 of Crater Lake Avenue is 28,000 VTD. Expected
22 traffic generation from the proposed change in
23 land use and development of the properties will
24 result in projected traffic [generation] of 1633
25 VTD * * *. This increase will not over load
26 Crater Lake Avenue * * *.

27 "Access from American Avenue is adequate to serve
28 the properties involved. American Avenue will be
29 improved to Medford Urban Standards as a result of
30 the development of the properties. Crater Lake
31 Avenue and local streets (American Avenue) will
32 not be adversely impacted by the proposed land use
33 change.

34 "Construction of arterial and collector streets
35 [is] the responsibility of the City of Medford.

1 The construction of the single family structures
2 will be charged a systems development fee for
3 arterial and collector streets.

4 * * * * *

5 "Based on the above, it is found that the street
6 systems serving the subject property [are]
7 adequate to meet the projected traffic based on
8 the requested Comprehensive Plan change." Record
9 70.

10 Petitioner makes no attempt to challenge the adequacy
11 of the above quoted findings to address the adequacy of
12 streets under criterion 3. This subassignment of error is
13 denied.

14 **D. Social Consequences**

15 Petitioner argues:

16 * * * The finding concerning social consequences
17 focuses solely upon claimed benefits to those who
18 will live in the high density development. * * *
19 There is no hint that the city council even
20 considered the social consequences to the
21 occupants of the single family residential
22 neighborhood immediately adjacent to the subject
23 property * * *." Petition for Review 11.

24 The subject property is affected by drainage, proximity
25 to the municipal airport, major traffic facilities and
26 existing single family development. The staff findings
27 recognize these impacts and find "the interface with
28 adjacent residential uses and industrial lands, could lead
29 to the conclusion that a standard subdivision of duplex and
30 four-plex lots cannot effectively address all of these
31 concerns." Record 51.

32 Intervenors cite testimony in the record expressing

1 concern that the interface of the subject property with
2 industrial lands makes single family development of the
3 subject property undesirable because there are fewer options
4 for design features to minimize conflicts. Intervenors cite
5 other testimony in the record discussing measures that may
6 be taken to buffer impacts between adjoining multi-family
7 and single-family development.

8 The city's findings under criterion 5 concerning social
9 consequences are adequate to respond to the general and
10 undeveloped claims advanced by the opponents concerning
11 social consequences that may result from multi-family
12 development of the subject property. We have reviewed the
13 evidence cited by the parties and conclude a reasonable
14 decision maker could decide as the city did.

15 This subassignment of error is denied.

16 The city's decision is affirmed.