



1 Opinion by Hanna.

2 **NATURE OF THE DECISION**

3 Petitioner appeals the city's approval of a tentative  
4 subdivision plan.

5 **FACTS**

6 The applicant proposes an 11-lot subdivision on a 3.81-  
7 acre rectangular property, bounded on the west by 10th  
8 Street, running north and south. 9th Street approaches the  
9 subject property from the south and ends at its southeast  
10 corner. The applicant proposes in part to connect 10th  
11 Street and 9th Street by extending 9th Street at the  
12 southeast corner diagonally through the subject property to  
13 10th Street at the northwest corner. The principal issue in  
14 this appeal is whether the City of Redmond Comprehensive  
15 Plan (plan) designates a portion of 9th Street near the  
16 southeast corner of the subject property as a collector or  
17 as a local street.

18 **FIRST ASSIGNMENT OF ERROR**

19 Petitioner challenges the city's decision to realign  
20 9th and 10th Street, which would have the effect, according  
21 to petitioner, of reclassifying relevant portions of 9th  
22 Street as a collector street, contrary to the city's plan  
23 map. The plan map shows that, notwithstanding other  
24 portions of 9th Street designated as a collector street, the  
25 portion of 9th Street closest to the subject property is  
26 marked as a local street.

1           The city relies on the plan text, which designates the  
2 relevant portion of 9th Street closest to the subject  
3 property as a collector street.<sup>1</sup> Hence, it appears the plan  
4 text and the plan map conflict such that they cannot be  
5 reconciled or harmonized so as to give effect to both  
6 designations.<sup>2</sup> Either that portion of 9th Street is a  
7 collector or it is not.

8           In the proceedings below, the city framed the issue as  
9 whether it could lawfully connect 9th and 10th Streets. It  
10 found that

11           "the proposal to realign 9th Street (a collector)  
12 with 10th Street/Canyon Drive (a collector) is in  
13 keeping with the City's \* \* \* Plan. The Council,  
14 in this case, interprets the Plan as contemplating  
15 that connectivity to facilitate the north-south  
16 traffic movements on the 'collector' street

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<sup>1</sup>The plan identifies the following as collector streets:

"1. North-South

"\* \* \* \* \*

"--W. 10th St. (Pershall Way to Maple Ave.)

"\* \* \* \* \*

"--W. 9th St./Canyon Drive (Maple to Forest Ave.)" Plan  
6-10.

Maple Avenue is an east-west arterial that forms the southern boundary  
of the subject property. Id.

<sup>2</sup>Where code or plan provisions may but do not necessarily conflict with  
one another, depending upon how broadly they are interpreted or applied,  
the appropriate procedure is for the local government to interpret the two  
provisions, if possible, so as to harmonize and give effect to each. See  
Waker Associates, Inc. v. Clackamas County, 22 Or LUBA 233, 243 (1991),  
aff'd 111 Or App 11 (1992).

1 system." Record 22.

2 Necessarily implicit in this interpretation is the  
3 determination that the plan text provision designating the  
4 relevant portion of 9th Street as a collector street  
5 controls the conflicting plan map designation. The city  
6 argues that we should defer to that implicit determination.  
7 Alliance for Responsible Land Use v. Deschutes Cty., 149 Or  
8 App 259, 266, \_\_\_ P2d \_\_\_ (1997).

9 Petitioner submits that the city's interpretation  
10 amounts to an unlawful attempt to amend the city  
11 comprehensive plan, through the guise of interpretation.  
12 Goose Hollow Foothills League v. City of Portland, 117 Or  
13 App 211, 843 P2d 992 (1992); Loud v. City of Cottage Grove,  
14 26 Or LUBA 152 (1993); Murphy Citizens Advisory Committee v.  
15 Josephine County, 26 Or LUBA 181 (1993). However, each of  
16 the cited cases generally involves attempts to add  
17 significant terms to the comprehensive plan. Here, the city  
18 resolves an irreconcilable conflict between two designations  
19 already in the plan by choosing one over the other. In this  
20 circumstance, the reviewing court generally defers to the  
21 local government's choice. Cascade Broadcasting Corp. v.  
22 Groener, 51 Or App 533, 536, 626 P2d 386 (1981); Davenport  
23 v. City of Tigard, 23 Or LUBA 565, 572 (1992).

24 In Cascade Broadcasting Corp., the applicant sought a  
25 conditional use permit to erect broadcasting towers in an  
26 EFU zone. The applicable code contained one section which

1 conditionally permitted the use, and another section which  
2 clearly prohibited it. The Court of Appeals deferred to the  
3 county's choice to prohibit the use, absent a showing that  
4 the choice was clearly contrary to the express language and  
5 intent of the ordinance. 51 Or App at 536.

6 In Davenport, the comprehensive plan designated a  
7 forested natural area both by description and by acreage,  
8 but each designation was inconsistent with the other. We  
9 deferred to the city's preference because either choice was  
10 equally consistent with the comprehensive plan. 23 Or LUBA  
11 at 572.

12 Here, the city's interpretation was premised on  
13 fulfilling what it perceived to be a plan policy for  
14 "connectivity" between collector streets, which 9th Street  
15 indisputably is for most of its length. The parties do not  
16 bring to our attention other policies or provisions, apart  
17 from the conflicting designations, that bear on the proper  
18 interpretation. The city's interpretation appears to be  
19 equally, if not more, consistent with the language and  
20 intent of the plan than the alternative.

21 The first assignment of error is denied.

22 **SECOND ASSIGNMENT OF ERROR**

23 In the second assignment of error petitioner objects to  
24 the city's failure to determine what happens to that portion  
25 of 10th Street bypassed by the realignment. Petitioner  
26 cites no violation of a standard or law, nor articulates any

1 legal basis upon which we might grant relief. It is not our  
2 function to supply petitioners with legal theories or to  
3 make their case for them. Smith v. City of Phoenix, 31 Or  
4 LUBA 358, 362 (1996); Deschutes Development v. Deschutes  
5 Cty., 5 Or LUBA 218, 220 (1982). Petitioner's argument  
6 under this assignment of error is not sufficiently developed  
7 to permit review, and it is denied.

8 The city's decision is affirmed.