

LAND USE
BOARD OF APPEALS
OCT 25 4 36 PM '89

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3 SENSIBLE TRANSPORTATION OPTIONS)
4 FOR PEOPLE (STOP), ELIZABETH)
(MEEKY) BLIZZARD, SUSAN PETER,)
5 ALDEN E. POTTER, GREG HOFFENBACKER,)
BRIAN J. MARTIN, and DAVID L.)
6 STEWART,)

7 Petitioners,)

8 vs.)

9 METROPOLITAN SERVICE DISTRICT,)

10 Respondent,)

11 and)

12 CITY OF BEAVERTON, CITY OF FOREST)
13 GROVE, CITY OF HILLSBORO, CITY OF)
KING CITY, CITY OF McMINNVILLE,)
14 CITY OF NEWBERG, CITY OF SHERWOOD,)
CITY OF TIGARD, CITY OF TUALATIN,)
15 CITY OF WILSONVILLE, BEAVERTON)
AREA CHAMBER OF COMMERCE, FOREST)
16 GROVE CHAMBER OF COMMERCE,)
HILLSBORO CHAMBER OF COMMERCE,)
17 SHERWOOD CHAMBER OF COMMERCE,)
TUALATIN CHAMBER OF COMMERCE,)
18 WILSONVILLE CHAMBER OF COMMERCE,)
McMINNVILLE CHAMBER OF COMMERCE,)
19 TIGARD AREA CHAMBER OF COMMERCE,)
PORTLAND METROPOLITAN CHAMBER OF)
20 COMMERCE, I-5 CORRIDOR ASSOCIATION,)
FOREST GROVE/CORNELIUS ECONOMIC)
21 DEVELOPMENT CORPORATION, SUNSET)
CORRIDOR ASSOCIATION, TUALATIN)
22 VALLEY ECONOMIC DEVELOPMENT)
CORPORATION, McMINNVILLE)
23 INDUSTRIAL PROMOTIONS, and HOME)
BUILDERS ASSOCIATION OF)
METROPOLITAN PORTLAND,)

24 Intervenors-Respondent.)

25 Appeal from Metropolitan Service District.
26

LUBA No. 89-030

FINAL OPINION
AND ORDER

1 Keith A. Bartholomew, Portland, filed the petition for
review and argued on behalf of petitioners.

2 Larry Shaw, Portland, filed a response brief and argued on
3 behalf of respondent.

4 Jack L.Orchard, Portland, filed a response brief on behalf
of intervenors-respondent. With him on the brief was Ball,
5 Janik and Novack.

6 John M. Junkin, Hillsboro, and John L. DuBay, Portland,
filed an amicus brief on behalf of amici Washington and
7 Multnomah Counties.

8 HOLSTUN, Chief Referee; SHERTON, Referee; KELLINGTON,
Referee, participated in the decision.

9 REMANDED

10/25/89

10 You are entitled to judicial review of this Order.
11 Judicial review is governed by the provisions of ORS 197.850.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 Opinion by Holstun.

2 NATURE OF THE DECISION

3 Petitioners appeal Metropolitan Service District (Metro)
4 Ordinance 89-282, which amends Metro's Regional Transportation
5 Plan (RTP).¹

6 MOTION TO INTERVENE

7 Ten cities, nine chambers of commerce and six private
8 associations move to intervene on the side of respondent. There
9 is no opposition to the motion, and it is allowed.

10 MOTION TO APPEAR AS AMICI

11 Multnomah and Washington Counties move to appear as amici.
12 There is no opposition to the motion, and it is allowed.

13 FACTS

14 Metro's RTP was first adopted in 1982. The RTP is a
15 "functional plan," as that term is used in ORS 268.390(2)
16 (requiring Metro to adopt "functional plans" for activities such
17 as transportation which have a significant impact on the
18 metropolitan area). The RTP is also "an urban transportation
19 plan 'describing policies, strategies and facilities or changes
20 in facilities'" which is required to receive federal funds for
21 transportation improvements under 23 CFR 450.110(a). Petition
22 for Review 4. See Citizens for Better Transit v. Metro Service

23
24 ¹Metro includes the City of Portland as well as a number of other cities
25 and unincorporated areas of Clackamas, Multnomah and Washington Counties in
26 the metropolitan area. Metro's boundaries are described in ORS 268.125.
Those boundaries extend north to the confluence of the Willamette and
Columbia Rivers, east to the cities of Troutdale, Gresham and Boring, south
to the City of Wilsonville, and west to the City of Forest Grove.

1 Dist., 15 Or LUBA 623, 624 (1987).

2 In 1987, Metro adopted the Southwest Corridor Study (SCS),
3 a study of alternative transportation strategies. The SCS
4 identifies four major travel movements in the southwest portion
5 of the metropolitan area between Sunset Highway and Interstate 5
6 (I-5) south of Portland. One of the four identified major
7 travel movements is the following:

8 " * * * Circumferential movements between the Far
9 Southwest and Washington County West along Highway
10 217, Murray Boulevard and a combination of Tualatin-
Sherwood Road, Tualatin Road, Durham Road, and rural
roads in Western Washington County * * *." SCS 1.

11 The SCS projects that by the year 2005, circumferential
12 movement daily trips will increase by "40% to 270,000 daily
13 trips." Id. The SCS identifies two alternatives to address
14 circumferential movements--the 217/Sunset Alternative and the
15 Bypass Alternative.² The SCS provides the following description
16 of these two alternatives:

17 "The concepts differ markedly between the two
18 alternatives in how they accommodate the
19 circumferential [sic] traffic movements. The
20 217/Sunset Alternative * * * envisions the existing
21 system of the Sunset Highway, Highway 217 and I-5 as
22 the backbone of the system, distributing fairly heavy
23 movements onto the major cross streets (185th,
24 216/219, Murray Boulevard, Tualatin-Sherwood Road).
As a result, major improvements, such as a widening to
six lanes, are called for on the Sunset Highway,
Highway 217, and Highway 99W through Tigard plus
auxiliary lanes along some sections of Highway 217.

25 ²The Bypass Alternative and various options within that alternative are
26 referred to in different ways in the record. In this opinion we use the
terms Bypass Alternative or Western Bypass to refer to the proposed freeway
which is at issue in this appeal.

1 In addition, a new two-lane arterial is proposed
2 connecting Highway 99W at Edy Road with Scholls Ferry
3 Road to serve movements between the Sherwood and Aloha
4 areas.

5 "The Bypass Alternative envisions a splitting of the
6 circumferential movement between Highway 217 and a new
7 four-lane arterial Bypass connecting I-5 with the
8 Sunset Highway in Western Washington County * * *.
9 Traffic is then distributed more evenly along the
10 east/west arterials for local access. As a result of
11 this alternative concept, smaller-scale improvements
12 to the Sunset Highway, Highway 217, Highway 99W and
13 Tualatin-Sherwood/Edy Road are proposed." SCS 3.

14 The Bypass Alternative is the alternative recommended by
15 Metro in the SCS. On May 28, 1987, Metro adopted Resolution
16 87-763, adopting the SCS. The resolution directs staff to
17 incorporate certain portions of the SCS (including portions
18 concerning the Western Bypass) into the RTP.

19 On March 9, 1989, the Metro Council adopted Ordinance
20 89-282, which adopts the RTP Update.³ The RTP Update includes
21 the Western Bypass. The Western Bypass is depicted in the SCS
22 and the RTP as a generalized corridor located partially within
23 and partially outside the Metro Urban Growth Boundary (UGB).

24 The Western Bypass is shown as part of the region's
25 "Principal Arterial System," the function of which is to "Carry
26 Statewide Traffic and Cross-Regional Traffic." RTP Update Table
27 4-1. Chapter 5 of the RTP Update identifies "Regional
28 Transportation Improvements to the Year 2005." RTP Update 5-1

29 ³The RTP Update includes the following: (1) a draft RTP Update document
30 dated December 1988, (2) several amendments to the December 1988 document,
31 (3) findings addressing the statewide planning goals and regional goals
32 and objectives, and (4) a memorandum of understanding with Washington
33 County concerning Western Bypass land use issues. Record 1-39.

1 to 5-25. Transportation capital improvements are grouped into
2 "committed, 10-Year Priority and 10-20 year need categories."
3 RTP Update 5-3. The RTP Update 10-Year Priority Projects
4 includes construction of the first phase of the Western Bypass
5 between I-5 and 99W, as well as preliminary engineering for the
6 second and third phases connecting the Western Bypass with
7 Sunset Highway. Construction of the latter two phases is
8 included in the listings of "10-20 Year Projects." RTP Update
9 5-14 to 5-19.

10 In their appeal of Metro's adoption of the RTP Update,
11 petitioners challenge the inclusion of the Western Bypass,
12 alleging Metro failed to demonstrate the Western Bypass complies
13 with statewide planning goals (goals) and Metro's regional goals
14 and objectives.

15 JURISDICTION

16 A. Introduction

17 Metro challenges our jurisdiction to review its decision
18 adopting the RTP Update. Metro contends that because its
19 decision adopting the RTP Update is not a land use decision,
20 LUBA lacks review jurisdiction. ORS 197.825(1).

21 Metro argues that, unlike other local governments, it is
22 not required by statute to adopt a comprehensive plan in
23 compliance with the goals. Metro points out ORS 197.175(2)(a)
24 explicitly imposes that requirement on cities and counties, but
25 not on Metro. Metro further argues that it is unique among
26 units of government in this state. Unlike cities, counties,

1 special districts and state agencies, Metro contends it has no
2 general statutory charge to carry out its planning functions and
3 responsibilities in accordance with the goals. ORS
4 197.175(1)(cities and counties); 197.180(1)(a)(state agencies);
5 197.185(1)(special districts). Metro acknowledges that it is
6 required to comply with the goals when adopting the Metro UGB or
7 when adopting regional goals and objectives. ORS 268.390(3);
8 268.380(1). However, Metro argues that, aside from these two
9 instances, Metro's planning responsibilities and activities are
10 not required to be carried out in compliance with the goals.

11 Based on arguments that it has no statutory responsibility
12 to adopt the RTP Update as part of a "comprehensive plan" for
13 the district in compliance with the goals and no general
14 statutory charge to carry out its functional planning
15 responsibilities in accordance with the goals, Metro argues its
16 decision adopting the RTP Update is neither a land use decision
17 as defined in ORS 197.015(10)⁴ nor a "significant impact test"

18
19 ⁴ORS 197.015(10) provides in part:

20 "'Land use decision':

21 "(a) Includes:

22 "(A) A final decision or determination made by a local
23 government * * * that concerns the adoption,
amendment or application of:

24 "(i) The goals;

25 "(ii) A comprehensive plan provision;

26 "* * * * *

1 land use decision.⁵ See Billington v. Polk County, 299 Or 471,
2 703 P2d 232 (1985); City of Pendleton v. Kerns, 294 Or 126, 653
3 P2d 992 (1982); Petersen v. Klamath Falls, 279 Or 249, 566 P2d
4 1193 (1977).

5 In order to determine whether Metro's decision is a "land
6 use decision" as defined in ORS 197.015(10), we must determine
7 whether Metro's adoption of the RTP Update is a decision that
8 concerns the application of either a comprehensive plan or the
9 goals. Before turning to the language in ORS chapters 197 and
10 268 that Metro relies upon in contending that its decision does
11 not involve application of the goals or a comprehensive plan, we
12 first examine prior statutory language concerning Metro's, and
13 its predecessor Columbia Region Association of Government's
14 (CRAG's), planning authorities and responsibilities.

15 B. Statutory History of CRAG and Metro

16 1. 1973 Legislation

17 Oregon Laws 1973, chapter 80 (Senate Bill 100) established
18 the basic statutory framework for land use planning in Oregon.
19

20 * * * * *

21
22 ⁵The gist of Metro's argument is that because it was not required to
23 apply comprehensive plan provisions or the goals to its decision, its
24 decision does not satisfy the definition of land use decision in ORS
25 197.015(10), supra at n 4. Metro further argues that with the exception of
26 our decision in Citizen for Better Transit v. Metro Service Dist., 15 Or
LUBA 482 (1987), the appellate court and LUBA cases concerning "significant
impact test" land use decisions have all concerned decisions by
governmental bodies with statutory responsibility generally to conduct
their planning responsibilities in compliance with the goals. Metro
contends that because it lacks such statutory responsibility, the
"significant impact test" should not apply to Metro decisions.

1 The statutes have been amended significantly since 1973, but the
2 basic framework continues more or less as originally adopted by
3 the legislature in 1973. The legislative findings adopted in
4 1973 included the following:

5 * * * * *

6 "(4) The promotion of coordinated statewide land
7 conservation and development requires the
8 creation of a state-wide planning agency to
9 prescribe planning goals and objectives to be
applied by state agencies, cities, counties and
special districts throughout the state."

10 * * * * * Or Laws 1973, ch 80, sec 1.

11 The legislature's statement of policy provided:

12 "The Legislative Assembly declares that, in order to
13 assure the highest possible level of liveability in
14 Oregon, it is necessary to provide for properly
prepared and coordinated comprehensive plans for
cities and counties, regional areas and the state as a
whole. These comprehensive plans:

15 "(1) Must be adopted by the appropriate governing
16 body at the local and state levels;

17 "(2) Are expressions of public policy in the form of
18 policy statements, generalized maps and
19 standards and guidelines;

20 "(3) Shall be the basis for more specific rules,
21 regulations and ordinances which implement the
22 policies expressed through the comprehensive
23 plans;

24 "(4) Shall be prepared to assure that all public
25 actions are consistent and coordinated with the
26 policies expressed through the comprehensive
plans; and

"(5) Shall be regularly reviewed and, if necessary,
revised to keep them consistent with the
changing needs and desires of the public they
are designed to serve." Or Laws 1973, ch 80,
sec 2.

1 The above quoted legislative findings and statements of
2 legislative purpose are codified at ORS 197.005(4) and 197.010,
3 in nearly identical language. The 1973 legislature's desires
4 for statewide planning goals to guide planning efforts and for
5 all levels of government to prepare comprehensive plans and
6 implementing regulations in accordance with those statewide
7 planning goals was specifically implemented by other sections of
8 Oregon Laws 1973, chapter 80. For example, section 33 required
9 that the Land Conservation and Development Commission (LCDC)

10 "adopt state-wide planning goals and guidelines for
11 use by state agencies, cities, counties and special
12 districts in preparing, adopting, revising and
13 implementing existing and future comprehensive plans."

14 Section 17 required that cities and counties adopt comprehensive
15 plans in compliance with the goals and "exercise their planning
16 and zoning responsibilities in accordance with * * * the state-
17 wide planning goals * * *." Section 21 required that "[s]tate
18 agencies carry out their planning duties, powers and
19 responsibilities and take actions * * * affecting land use in
20 accordance with state-wide planning goals." Section 20 required
21 that "[s]pecial districts shall exercise their planning duties,
22 powers and responsibilities and take actions * * * affecting
23 land use in accordance with state-wide planning goals * * *."⁶

24 The Metropolitan Service District did not exist in its

25 ⁶These requirements continue in nearly identical language at ORS 197.225
26 (LCDC to adopt goals); ORS 197.175 (cities and counties to comply with
goals); ORS 197.180 (state agencies to comply with goals); ORS 197.185
(special districts to comply with goals).

1 present form in 1973. However, Oregon Laws 1973, chapter 482
2 enacted enabling legislation for the Columbia Region
3 Association of Governments (CRAG). Among the powers given CRAG,
4 Oregon Laws 1973, chapter 482, section 9 provided:

5 "[CRAG] shall:

6 "(1) Adopt by rule regional land use planning goals
7 and objectives;

8 "(2) Prepare, maintain and modify as necessary a plan
9 for the region in accordance with the goals and
10 objectives;

11 "(3) Designate areas and activities having
12 significant impact upon the orderly and
13 responsible development of the region and
14 establish rules and regulations for the
15 development, use and control of such areas and
16 activities;

17 "* * * * *"

18 Although Oregon Laws 1973, chapter 482 did not explicitly
19 direct that CRAG adopt its regional land use planning goals and
20 objectives (regional goals and objectives) and plans for the
21 region in accordance with the statewide planning goals, CRAG was
22 by definition a "unit of local government." Or Laws 1973,
23 ch 482, sec 5. Oregon Laws 1973, chapter 80, section 3 defined
24 "special district" to include "any unit of local government,
25 other than a city or county * * *." Therefore, CRAG was also a
26 "special district;" and, under Oregon Laws 1973, chapter 80,
section 20, CRAG was required to carry out its planning
functions in accordance with the statewide planning goals. CRAG
adopted regional goals and objectives in 1976. Respondent's
Brief Appendix I.

1 2. 1977 Legislation

2 Metro was created following the adoption of enabling
3 legislation in 1977. Or Laws 1977, ch 665. Section 17 of the
4 legislation directed Metro to adopt "land-use planning goals and
5 objectives for the district consistent with [the statewide
6 planning] goals * * *."⁷ Section 25 of the legislation provided
7 that the regional goals and objectives adopted by CRAG would
8 remain in effect "until lawfully superseded or repealed" by
9 Metro. Metro has never repealed or superseded CRAG's regional
10 goals and objectives, and they remain in effect.

11 When Metro was created in 1977, it was, by definition, a
12 "special district." ORS 197.015(10) (1977) defined "special
13 district" to include "any unit of local government, other than a
14 city or county * * *." Accordingly, under ORS 197.185 (1977)
15 Metro was required to carry out its "planning duties, powers and
16 responsibilities and take actions * * * affecting land use * * *
17 in accordance with statewide planning goals * * *."

18 3. 1981 Legislation

19 In 1981, the legislature amended the definitions in
20 ORS 197.015, adding a new defined term, "local government," and
21 amending the existing definition of "special district" as
22 follows:⁸

23 _____

24 ⁷Metro was later directed also to adopt an urban growth boundary for the
25 district, in accordance with the statewide planning goals. Or Laws 1979,
ch 402, sec 1.

26 ⁸In the portions of Oregon Laws 1981, chapter 748 quoted in this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

"* * * * *

"(12) 'Local government' means any city, county or metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 197.190.

"* * * * *

"[10] (15) 'Special District' means any unit of local government, other than a city, county, metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 197.190 [or county,] authorized and regulated by statute and includes, but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

"* * * * *" Or Laws 1981, ch 748, sec 1.

As a result of these 1981 amendments, Metro is a "local government," but not a "special district," as those terms are defined in ORS ch 197.

Although ORS 197.175 (which requires cities and counties to adopt comprehensive plans and carry out their planning and zoning responsibilities in accordance with the goals) was also amended in 1981, it was not amended to apply to Metro. Furthermore, because Metro was no longer a special district, due to the above quoted amendments to the definitions in ORS 197.015(10), the requirement in ORS 197.185 that special districts exercise their planning responsibilities and

opinion, brackets indicate existing statutory language deleted by the legislation, and bold text indicates new statutory language adopted by the legislation.

1 activities in compliance with the goals no longer applied to
2 Metro.⁹

3 Thus, the 1981 legislation removed Metro from the
4 definition of "special district" (and, therefore, from the
5 general statutory charge in ORS 197.185 that special district
6 planning responsibilities and activities be in compliance with
7 the goals), but did not expressly expand ORS 197.175, the
8 statutory section that imposes that obligation on other local
9 governments (e.g. cities and counties), to include Metro.
10 Because of these 1981 changes, Metro argues it has no duty to
11 adopt a comprehensive plan or to apply the goals except, as
12 noted above, where ORS 268.380(1) and 268.390(3) explicitly
13 impose a goal compliance obligation.

14 However, Oregon Laws 1981, chapter 748, section 1 also
15 adopted amendments to the definition of "comprehensive plan" as
16 follows:

17 "(5) 'Comprehensive plan' means a generalized,
18 coordinated land use map and policy statement of
19 the governing body of a [state agency, city,
20 county or special district] **local government**
21 that interrelates all functional and natural
22 systems and activities relating to the use of
23 lands, including, but not limited to, * * *
24 transportation systems, * * *."

25 In addition, Oregon Laws 1981, chapter 748, section 29a

26 ⁹ORS 197.185 was amended to provide that special districts within
Metro's boundaries must enter into cooperative agreements with Metro to
specify tasks that must be completed to bring the special district's plans
into compliance with the goals. In addition, Oregon Laws 1981, chapter
748, section 27 amended ORS 197.190, assigning Metro the coordination
responsibilities under that section previously performed by counties within
the Metro boundaries.

1 adopted amendments to ORS 197.250 as follows:

2 "* * * all comprehensive plans and [any zoning,
3 subdivision and other ordinances and] **land use**
4 **regulations** adopted by a [city or county] **local**
5 **government** to carry out [such] **those**
6 **comprehensive** plans and all plans, programs, rules
7 or regulations affecting land use adopted by a state
8 agency or special district shall be in conformity with
9 the [state-wide planning] goals within one year [from]
10 **after** the date [such] **those** goals are approved by
11 the commission."

12 Finally, ORS 197.251, which governs LCDC acknowledgment
13 review of comprehensive plans, was amended in part as follows:

14 "[Upon request by a city or county the commission may
15 grant:]

16 "[(1) A compliance acknowledgment which shall be an
17 official order of the commission formally
18 recognizing that the comprehensive plans or
19 zoning, subdivision or other ordinances or
20 regulations adopted by the city or county are
21 in compliance with the state-wide planning
22 goals. * * *.]

23 "(1) Upon the request of a local government,
24 the commission shall by order grant, deny
25 or continue acknowledgment of compliance
26 with the goals.* * *.

27 "* * * * *

28 "(5) A commission order granting, denying or
29 continuing acknowledgment shall * * *

30 "(a) Identify the goals with which the
31 comprehensive plan and land use
32 regulations comply and those with which
33 they do not comply * * *.

34 "* * * * *

35 "* * * * *" Or Laws 1981, ch 748, sec 7.

36 4. Metro's Current Statutory Status

37 Metro is correct that, as a result of the definitional

1 amendments noted above, Metro is not a city, county, state
2 agency or special district, as those terms are defined in ORS
3 chapter 197. Therefore, neither ORS 197.175, 197.180, nor
4 197.185 imposes a general obligation that Metro carry out its
5 planning activities and responsibilities in accordance with the
6 goals.

7 However, although Metro is correct that no provision of ORS
8 chapter 197 expressly directs Metro to adopt a comprehensive
9 plan, the above noted amendments to ORS 197.015(5) and 197.250
10 suggest that Metro was to be included in the requirement
11 directly imposed on cities and counties to adopt comprehensive
12 plans and land use regulations in compliance with the goals.
13 In addition, ORS 197.251 was amended to substitute "local
14 government" where the terms "city and county" previously
15 appeared. This amendment suggests that Metro was expected to
16 submit a comprehensive plan and land use regulations of some
17 sort for acknowledgment review.¹⁰ See League of Women Voters v.
18 Metro Service Dist., supra, slip op at 14. These amendments are
19 inconsistent with Metro's contention that the 1981 definitional
20 amendments discussed above were intended to eliminate the goal
21 compliance obligation which had previously been imposed on Metro
22 by ORS 197.185.

23
24
25 ¹⁰Even before the amendments to ORS 197.251 in 1981, Metro submitted the
26 metropolitan area UGB to LCDC for acknowledgment. The UGB was acknowledged
in 1980. See League of Women Voters v. Metro Service Dist., ___ Or LUBA
___ (LUBA No. 88-102, July 11, 1989), slip op 54, n 1.

1 C. Conclusion

2 The parties have not submitted any legislative history to
3 assist our understanding of what the legislature intended by its
4 1981 amendments. Our obligation is to determine from the
5 statutory language as a whole, giving effect to all parts of the
6 statutes, whether Metro's decision is a decision to which the
7 goals or a comprehensive plan provision apply.

8 The legislature has not used the term "comprehensive plan"
9 with great precision or consistency.¹¹ In some sections of
10 ORS chapter 197, it is suggested that governmental units other
11 than cities and counties may adopt comprehensive plans. See ORS
12 197.010 ("comprehensive plans for cities and counties, regional
13 areas and the state as a whole * * * [m]ust be adopted by the
14 appropriate governing body at the local and state levels").
15 Prior to its repeal in 1977, ORS 197.280 provided:

16
17
18 ¹¹ORS 197.015(5) defines "comprehensive plan" as follows:

19 "'Comprehensive Plan' means a generalized, coordinated land use
20 map and policy statement of the governing body of a local
21 government that interrelates all functional and natural systems
22 and activities relating to the use of lands including, but not
23 limited to sewer and water systems, transportation systems,
24 educational facilities, recreational facilities, and natural
25 resources and air and water quality management programs.
26 'Comprehensive' means all-inclusive, both in terms of the
geographic area covered and functional and natural activities
and systems occurring in the area covered by the plan.
'General nature' means a summary of policies and proposals in
broad categories and does not necessarily indicate specific
locations of any area, activity or use. A plan is
'coordinated' when the needs of all levels of governments,
semipublic and private agencies and the citizens of Oregon have
been considered and accommodated as much as possible. 'Land'
includes water, both surface and subsurface, and the air."

1 "Prior to approval by the commission of its state-wide
2 planning goals and guidelines under ORS 197.240, the
3 goals listed in ORS 215.515 shall be applied by state
4 agencies, cities, counties and special districts in
the preparation, revision, adoption or implementation
of any comprehensive plan."

5 However, ORS chapter 197 now generally refers to comprehensive
6 plans in connection with cities and counties (e.g., ORS 197.175)
7 and local governments (e.g., ORS 197.015(5); 197.250 and
8 197.251).¹²

9 We agree with Metro that it occupies a somewhat unique role
10 in Oregon's land use planning program. In some respects, Metro
11 exercises powers similar to LCDC's (e.g. when it adopts regional
12 goals and objectives which other local governments within its
13 boundaries must comply with under ORS 268.380(1) and (2)).
14 Metro performs the coordination role normally assigned to
15 counties under ORS 197.190. Metro adopts the metropolitan area
16 UGB, a function normally performed by both cities and counties.
17 Finally, Metro adopts functional plans, a task frequently

18
19 ¹²We note that prior to amendments adopted in 1988, Goal 2 provided:

20 "City, county, state and federal agency and special district
21 plans and actions related to land use shall be consistent with
22 the comprehensive plans of cities and counties and regional
plans adopted under ORS 197.705 through 197.795." (Emphasis
added.)

23 In 1988 Goal 2 was amended to substitute "ORS Chapter 268" (Metro's
24 enabling statute) for the above emphasized reference to CRAG's enabling
25 statute. LCDC appears to view Metro's regional plans as equivalent to
26 comprehensive plans. We are uncertain whether LCDC intends by the
reference to "regional plans" to include Metro's functional plans, or
whether the reference was intended to encompass only the UGB and regional
goals and objectives which Metro is expressly required to adopt in
conformance with the goals under ORS ch 268.

1 performed by special districts as well as cities and counties.

2 It is largely because we agree with Metro that it is unique
3 that we disagree with Metro's position that it has no statutory
4 obligation to adopt a comprehensive plan in compliance with the
5 goals. It is undeniable that the statutory charge that Metro
6 adopt a comprehensive plan is far less explicit and clear than
7 the statutory requirement in ORS 197.175(2) that cities and
8 counties do so. It is also correct that Metro does not
9 currently exercise all of the powers that would be required to
10 adopt a comprehensive plan that fully addresses the expansive
11 subject matter envisioned for a comprehensive plan in ORS
12 197.015(5). See n 11, supra. However, we conclude the
13 amendment of ORS 197.015(5), 197.250 and 197.251 in 1981 to
14 include Metro can only mean the legislature intended Metro to
15 adopt and submit for acknowledgment a comprehensive plan of some
16 sort. See League of Women Voters v. Metro Service Dist., supra.

17 As noted earlier in this opinion, ORS 268.380(1) and
18 268.390(3) expressly require Metro to adopt a UGB and regional
19 goals and objectives in compliance with the goals. We conclude,
20 at a minimum, the UGB and regional goals and objectives that
21 Metro concedes must be adopted in compliance with the goals are
22 part of Metro's comprehensive plan, required to be prepared in
23 compliance with the goals and acknowledged by LCDC under
24 ORS 197.250 and 197.251. Otherwise the 1981 changes in
25 statutory language to substitute "local governments" for "cities
26 and counties" were unnecessary.

1 As noted earlier in this opinion, Metro's regional goals
2 and objectives are the same regional goals and objectives
3 adopted in 1976 by CRAG, and remain in effect by virtue of
4 Oregon Laws 1979, chapter 665, section 25. The statement of
5 purpose for the regional goals and objectives provides as
6 follows:

7 "The purpose of the Goals and Objectives is to give
8 structure and direction to regional planning
9 consistent with the adopted Statewide Land
10 Conservation and Development Commission (LCDC) Goals
11 and to implement CRAG's statutory responsibility. The
12 Goals and Objectives are to be binding directly only
13 on CRAG and they shall be applied to local
14 jurisdictions through elements of the Regional Plan.
15 It is not intended that the Goals and Objectives be
16 used as legal justification for local land use
17 decisions, unless they have been implemented by
18 elements of the Regional Plan."

19 We believe the above statement of purpose makes it clear that
20 Metro's regional planning efforts, including functional plans
21 such as the RTP, must be accomplished consistent with these
22 regional goals and objectives.¹³

23 The adoption and amendment of Metro's functional plans,
24 including the RTP, is an exercise of planning authority and
25 responsibility that Metro must carry out in conformance with its
26 own regional goals and objectives. Because the regional goals
and objectives constitute at least a part of Metro's

¹³Although Metro no longer has the power to adopt a "regional plan" as that term was used in CRAG's enabling statutes, Metro does have authority to adopt functional plans. We conclude the legislature intended the goals and objectives Metro inherited by virtue of Oregon Laws 1979, chapter 665, section 25 to apply to Metro's planning duties in the same way they applied to CRAG's, at least until Metro takes action to repeal or supersede those regional goals and objectives, as allowed by section 25.

1 comprehensive plan, Metro's amendment of the RTP "concerns the
2 * * * application of * * * [a] comprehensive plan provision" and
3 is by definition a land use decision under ORS
4 197.015(10)(a)(ii).¹⁴ See, n 4, supra. We, therefore, have
5 jurisdiction to review Metro's decision. ORS 197.825(1).

6 SCOPE OF REVIEW

7 Metro contends that even if LUBA should determine that it
8 has review jurisdiction, our scope of review does not extend to
9 review of its decision for goal compliance, because its
10 functional plans are not one of the two matters Metro is
11 required by statute to adopt in compliance with the goals.

12 Metro's regional goals and objectives have not been
13 acknowledged by LCDC. ORS 197.835(2) provides:

14 "The board shall reverse or remand a land use decision
15 not subject to an acknowledged comprehensive plan and
16 land use regulations if the decision does not comply
17 with the goals."

18 Because Metro's regional goals and objectives have not been
19 acknowledged, Metro's land use decision is not subject to an
20 acknowledged comprehensive plan, and we are required to reverse
21 or remand the decision if it does not comply with the goals. We
22 reject Metro's contention that we may not review its decision
23 for compliance with the goals.¹⁵

24 ¹⁴Whether the RTP is itself a part of Metro's comprehensive plan is a
question we need not decide in this appeal proceeding.

25 ¹⁵Although we agree with petitioners that we have jurisdiction to review
26 Metro's decision and that our scope of review includes review for goal
compliance, we reach our conclusions on these points for different reasons

1 FIRST ASSIGNMENT OF ERROR

2 "Metro erred by amending its Regional Transportation
3 Plan to provide for the construction of a multi-
4 million dollar freeway without demonstrating that the
5 facility complied with the statewide planning goals or
6 justifying a reasons exception to the applicable
7 goals."

8 Petitioners contend Metro's decision concerning the Western
9 Bypass fails to demonstrate (1) compliance with applicable
10 goals, (2) that the goals do not apply to the decision, or (3)
11 that an exception to the goals is justified. Petitioners
12 contend a freeway designed to facilitate intra and inter-urban
13 circumferential travel located outside the acknowledged UGB on
14 rural lands violates Goal 14 (Urbanization) and Goal 11 (Public

15 than argued by petitioners. Both parties argue at length concerning
16 whether Metro's decision is a "significant impact test" land use decision,
17 an issue we do not reach in this opinion. Our decision in this case is not
18 consistent with some of the language in our decision in Citizens for Better
19 Transit v. Metro Service Dist., 15 Or LUBA at 489, n 5, where we concluded
20 an amendment to Metro's Transportation Improvement Program was a
21 "significant impact test" land use decision and said:

22 "Metro must comply with statewide planning goals in specific
23 instances. It must adopt land use planning goals and
24 objectives for the district in compliance with the goals. ORS
25 268.380(1). It must recommend or require land use plans of
26 cities and counties within its boundaries to be amended to
27 comply with the goals. ORS 268.380(2). It must adopt urban
28 growth boundaries for the district in compliance with the
29 goals. ORS 268.390(3). However, no statute requires it to
30 exercise planning powers and responsibilities or make land use
31 decisions in compliance with the goals in other circumstances."

32 Our decision in Citizens for Better Transit did not reach the issue of
33 whether Metro's decision in that case was a statutory land use decision,
34 although the above quoted language suggested that in our view it was not.
35 The above quoted portion of our opinion focused exclusively on
36 ORS chapter 268 without considering whether Metro's regional goals and
37 objectives and other statutory provisions might require application of a
38 comprehensive plan provision or the goals to Metro's decision. In this
39 decision we conclude such requirements exist in ORS chapter 197 and Metro's
40 regional goals and objectives for the decision challenged in this
41 proceeding.

1 Facilities and Services). Petitioners also allege a number of
2 other goals are violated, because resources located within the
3 proposed freeway corridor and protected by those goals, may be
4 impacted.¹⁶

5 Petitioners contend that Metro's findings addressing each
6 of the goals petitioners cite are conclusionary, fail to
7 demonstrate goal compliance and defer the decision concerning
8 whether the Western Bypass complies with goal requirements to
9 Washington County. Petitioners contend Metro's deferral of goal
10 compliance issues to Washington County is an impermissible
11 delegation of Metro's regional transportation planning
12 authority.¹⁷

13 Before resolving petitioner's charges, we first examine the
14 nature of Metro's obligation to adopt findings demonstrating
15 compliance with the goals.

16 A. Nature of Metro's Goal Finding Obligation

17 According to Metro, the decision to build the Western
18 Bypass has not yet been made. Metro contends its inclusion of
19 the Western Bypass in the RTP is simply a recommendation.
20 Washington County is encouraged to include the Western Bypass in

21
22 ¹⁶Petitioners cite Goal 3 (Agricultural Lands), Goal 4 (Forest Lands),
23 Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) and
Goal 6 (Air, Water and Land Resources Quality).

24 ¹⁷ORS 268.030(4) provides that Metro "shall provide for those aspects of
25 land use planning having metropolitan significance." ORS 197.390(2)
26 provides Metro shall "adopt functional plans for * * * transportation and
other aspects of metropolitan area development * * *." ORS 197.395(2)
provides "all * * * planning authority [shall] remain in the council of the
metropolitan service district."

1 its comprehensive plan but is not required by anything in the
2 RTP to do so. Metro further argues the memorandum of
3 understanding between Washington County and Metro, adopted by
4 Ordinance 89-282, explicitly provides that all goal issues will
5 be fully addressed by the county at the time it amends its
6 comprehensive plan to include the Western Bypass.¹⁸

7 Metro points out that the Western Bypass is the only aspect
8 of its RTP Update challenged in this appeal. Metro argues:

9 "Very little of the RTP is directive. The RTP, as it
10 relates to implementation of transportation
11 improvement projects, is a set of recommendations that
12 local governments are 'encouraged' to follow. In
13 general, RTP consistency requires that local
14 governments include recommended projects in their
15 comprehensive plan with appropriate statewide goal
16 findings. Each RTP project recommendation is
17 contingent upon that city or county action before the
18 RTP project recommendation becomes final.
19 Specifically, for new proposed improvements that would
20 likely impact resource lands, like a project in the
21 Western Bypass corridor, consistency with statewide
22 goals must be demonstrated prior to a final RTP
23 recommendation, including the Washington County study
24 addressing specific goals identified by Metro as
25 potentially impacted.

26 "This contingent RTP recommendation on the Bypass,
27 then, is merely a project-specific expansion of the
28 limited RTP directive for all projects recommended in
29 the RTP. All modernization projects in local
30 comprehensive plans must be consistent with the RTP
31 goals and policies. The RTP Consistency Process in
32 the RTP for local comprehensive plans makes only a

33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

¹⁸Although the memorandum of understanding between Metro and Washington County does not include other local governments, we cannot tell whether other local governments may have to amend their comprehensive plans as well. As noted *infra*, if local governments other than Washington County must amend their comprehensive plans, the RTP Update makes it clear that any relevant goal issues must be addressed by those local governments as well.

1 very short list of highway design, capacity and
2 project uniformity criteria mandatory. For
3 recommended projects 'encouraged' by the RTP, like
4 those for the Western Bypass corridor, the local plan
5 can adopt either policies implementing some mix of
6 encouraged projects or explain why none of the
7 recommended projects are feasible or appropriate.
8 For the Bypass, failure to comply with statewide goals
9 is one way that particular projects may prove to be
10 not feasible. If it is not feasible for that reason,
11 the RTP will be amended.

12 ** * * * *

13 ** * * The only thing that has been 'decided,' subject
14 to compliance with all applicable statewide goals, is
15 to recommend a major transportation facility somewhere
16 in the Western Bypass corridor based on a systems
17 level study which indicates that such a facility would
18 be needed by 2005 from growth projected in existing
19 comprehensive plans. This contingent recommendation
20 is intended to comply with federal regulations to
21 project an integrated regional system study hypothesis
22 to qualify for federal planning funds and to aid local
23 governments by demonstrating one coordinated,
24 integrated plan of improvements for a regional
25 transportation system indicated by systems level
26 analysis. No system decision, such as recommending a
limited access freeway in the Western Bypass Corridor,
is intended to be a final decision to construct any
particular facility * * *." (Footnotes and references
to the RTP Update omitted.) Respondent's Brief 33-37.

17 Respondent notes the RTP Update specifically provides as
18 follows:

19 "When Metro amends RTP policies * * * system plan
20 elements * * * or compliance criteria * * *, it will
21 evaluate and adopt findings regarding broad regional
22 compliance with all applicable state planning goals.
23 There may be local (site-specific) goal issues or Goal
24 14 issues associated with a policy decision at this
25 level -- as, for example, when a major new facility is
26 added to the system. * * * However, a system decision
should not foreclose or appear to foreclose full and
fair consideration of all relevant goal issues at the
time the project specifics are adopted by the local
jurisdiction." RTP Update 8-14 to 8-15.

In view of the above described aspects of its decision,

1 Metro contends little was required of it in the way of goal
2 findings, and its findings are adequate to demonstrate the RTP
3 Update complies with the goals. See 1000 Friends v. Washington
4 County, ___ Or LUBA ___ (LUBA Nos. 88-106, 88-107 and 88-108,
5 May 5, 1989), slip op 12 ("goal findings are only required to
6 the extent * * * land use planning courses of action are adopted
7 or rejected") (emphasis omitted).

8 It is not disputed that, if the Western Bypass is approved
9 by Metro and included in the comprehensive plans of all affected
10 local governments, the Western Bypass must comply with the
11 goals. Rather, the parties' disagreement concerns when the
12 Western Bypass must be shown to be consistent with the goals,
13 and what entity or entities have the responsibility to determine
14 compliance with particular goal requirements. Metro contends it
15 may defer much of the responsibility for goal compliance
16 findings to Washington County.

17 Petitioners concede some goal compliance issues associated
18 with the Western Bypass may be properly addressed by the county
19 at a later point in the process. However, petitioners argue the
20 goal compliance issues it raises under this assignment of error
21 must be addressed by Metro now, as part of its decision to
22 include the Western Bypass in the RTP Update.¹⁹

23
24
25 ¹⁹Petitioners point out, and respondent does not dispute, that if the
26 county amends its plan to include the Western Bypass and that decision is
not reversed or remanded, Metro's decision concerning the Western Bypass is
complete and no further amendments to the RTP will be required.

1 Although ORS 197.190 and 268.380(4) assign Metro the
2 coordination role within its boundaries, those statutes do not
3 explicitly state how Metro is to coordinate the various local
4 and regional interests. ORS 197.015(5) provides that
5 coordination requires that "the needs of all levels of
6 governments, semipublic and private agencies and the citizens of
7 Oregon have been considered and accommodated as much as
8 possible." Construing this power together with its power to
9 "recommend or require" that local comprehensive plans be amended
10 to conform to regional functional plans, Metro apparently
11 pursues two approaches in its RTP Update. It adopts mandatory
12 provisions which it requires local governments to incorporate
13 into their comprehensive plans, and it also adopts nonmandatory
14 provisions which it recommends that local governments
15 incorporate into their acknowledged comprehensive plans.

16 Much of the RTP Update (including the Western Bypass) is
17 simply a recommendation. In other words, affected local cities
18 and counties may accept Metro's recommendation, adopt
19 appropriate goal findings in addition to those already adopted
20 by Metro as part of the RTP Update, and include the
21 recommendation in their comprehensive plans. When cities and
22 counties proceed in this manner, the land use decision
23 concerning the recommendation is complete when the required
24 comprehensive plan amendments are adopted.²⁰ However, for
25

26 ²⁰In the RTP Update, Metro states in several places the land use

1 recommended projects, a local government remains free to reject
2 the recommendation or to provide alternatives when it considers
3 including the recommendation in its comprehensive plan.²¹ For
4 recommended portions of the RTP Update such as the Western
5 Bypass, Metro has adopted general goal findings and explicitly
6 deferred the duty of finding the proposal complies with other
7 applicable or potentially applicable goal requirements to
8 Washington County to perform as part of its comprehensive plan
9 amendment process.

10 Other portions of the RTP Update are mandatory.²²

12 decision to construct the Western Bypass cannot be considered "final" until
13 the county adopts goal findings and amends its comprehensive plan to
14 include the Western Bypass. See, e.g., RTP 8-14 ("No system decision made
15 at the [RTP] level can be considered a final land use decision, since at
16 least one subsequent decision on projects specifics will be needed before
17 anything can be built.") This suggests, incorrectly, that in planning and
18 constructing a project like the Western Bypass there necessarily is only
19 one "final" land use decision. See Kirpal Light Satsang v. Douglas County,
20 ___ Or LUBA ___ (LUBA No. 88-082, January 18, 1989), slip op 18, n 15 .
21 Complicated land use projects, particularly those involving multiple
22 jurisdictions, often result in several land use decisions. See Hemstreet
23 v. City of Seaside, ___ Or LUBA ___ (LUBA No. 87-094, April 22, 1988), slip
24 op 6-10; Tides Unit Owners Assoc. v. City of Seaside, 11 Or LUBA 84, 90
25 (1984). Metro's decision to recommend the Western Bypass is "final." We
26 agree with Metro that a decision to build the Western Bypass will not be
27 "complete" until action is taken by Washington County. However, assuming
28 Washington County does so, no further amendment of the RTP will be
29 necessary.

30 ²¹If a local government refuses to amend its comprehensive plan to
31 include a recommended project, the RTP Update does include procedures
32 whereby Metro may then adopt additional goal findings and order a local
33 government to amend its comprehensive plan to include the project. RTP
34 Update 8-20 to 8-21.

35 ²²The RTP Update provides:

36 " * * * Specific items in the RTP that require local
37 comprehensive plan compliance are as follows:

38 "- Highway System Design criteria * * *;

1 Regarding the mandatory portions of the plan, Metro apparently
2 recognizes it has a greater goal compliance obligation, because
3 under ORS 268.390(4) it may require local governments to amend
4 their plans to include the mandatory provision.

5 The RTP Update provides in part:

6 "4) RTP decisions require local action to include
7 the project in its comprehensive plan, in
8 conjunction with adoption of appropriate goal
9 findings, before the decision becomes final.
10 The local jurisdiction is thus responsible for
11 local (i.e., site-specific) goal requirements."
12 RTP 8-13.

13 "** * * Metro will prepare findings to address the
14 broad regional interest in the statewide planning
15 goals based on the information used in the RTP
16 consistency review * * * and will identify as part of
17 its goal findings related to the RTP amendment any and
18 all goals it believes must be addressed by the local
19 jurisdictions before a project decision to implement
20 the system plan can be finalized. If the local
21 jurisdiction determines that the project cannot comply
22 with the statewide planning goals, the RTP will be
23 amended as needed to eliminate reliance on such a
24 project and initiate a cooperative analysis to develop
25 an alternative solution." RTP Update 8-14 to 8-15.

17 The above RTP language suggests Metro's goal findings may
18 properly be limited to goal considerations it identifies as
19 regional in nature and scope, while primarily local or site
20 specific aspects of recommended projects may properly be
21

23 "- Highway Capacity and Project criteria * * *;

24 "- Transit System Designation criteria * * *;

25 "- Transitway Implementation criteria * * *;

26 "- Regional Bicycle Route designation * * *."
RTP Update 8-2.

1 addressed by local governments, at the time affected
2 comprehensive plans are amended to include the RTP recommended
3 projects. Without minimizing the difficulty of distinguishing
4 between regional goal considerations that must be addressed by
5 Metro, local or site specific goal considerations that are
6 properly addressed by cities and counties, and goal
7 considerations that may need to be addressed by both entities,
8 we agree with Metro that at least some goal considerations
9 concerning the Western Bypass need not be finally resolved by
10 Metro as part of the RTP Update and may be resolved by
11 Washington County when it amends its comprehensive plan.

12 We also agree with Metro that where it has simply
13 recommended a project such as the Western Bypass, the nature of
14 Metro's decision and the nature of the remaining decision to be
15 rendered by the affected local government(s) supports Metro's
16 position that correspondingly less detailed goal findings are
17 required of Metro. In this circumstance Metro has exercised its
18 coordination function in a way that leaves significant
19 flexibility at the city and county level to refuse the
20 recommendation or propose alternatives that are more responsive
21 to local or site specific considerations. Where this is the
22 case, we believe it is appropriate that Metro identify the
23 regional goal issues raised by its decision and adopt findings
24 concerning those regional goal issues. For local and site
25 specific goal issues, Metro may explicitly require that the
26 affected local governments address such issues when the local

1 governments amend their comprehensive plans to include the RTP
2 Update recommendation.²³

3 Petitioners suggest Metro has improperly delegated its
4 regional functional planning authority under ORS 268.395(2),
5 which requires that all planning authority remain with the Metro
6 Council.

7 The RTP Update explains one of its objectives is to achieve
8 RTP/comprehensive plan consistency for RTP recommended projects
9 in a cooperative manner. We are aware of no statutory authority
10 that Metro in all cases mandate, rather than recommend,
11 particular transportation improvements. The RTP Update also

12
13
14 ²³Although LCDC has not adopted an administrative rule to clarify
15 Metro's goal compliance obligations when adopting or amending functional
16 plans, our determination that Metro must address those goal issues that are
regional, but may allow local governments to make the initial determination
concerning goal issues that are more site specific and local, is consistent
with LCDC's state agency coordination administrative rule.

17 LCDC's administrative rule for state agency coordination provides that,
18 except in specific situations specified in the rule, a state agency
satisfies its goal compliance obligation by "assuring that its land use
19 program is compatible with the applicable acknowledged comprehensive
plan(s) * * *." OAR 660-30-065(2). Only in the situations enumerated in
20 subsection (3) of the rule are state agencies required to adopt findings
addressing the goals. See Schreiners Garden v. DEO, 71 Or App 381, 385,
21 692 P2d 660 (1984) (state agencies may rely on local government
determination of compliance with land use requirements when issuing permits
affecting land use.)

22 Similarly, OAR 660-30-085(1) allows local governments to rely on state
23 agency programs in certain instances "for the purpose of meeting one or
more statewide goals or individual goal requirements." Thus LCDC, the
24 state agency charged with administration of the state's land use program,
apparently embraces the possibility that in specific situations state
25 agencies may satisfy some goal compliance obligations they would otherwise
be required to address directly by relying on land use determinations
26 adopted by local governments. Similarly, local governments may, in certain
instances, rely on state agency programs to satisfy goal requirements they
would otherwise be required to address.

1 explains Metro may disagree with the local government's response
2 to its recommendation and may take further action to adopt
3 appropriate goal findings and to order that the required
4 comprehensive plan amendment be adopted by the local government.
5 RTP Update 8-19 to 8-20. Metro has not delegated its authority
6 to order that the county's comprehensive plan be amended to
7 include recommended RTP projects.

8 A second, closely related argument advanced by petitioners
9 is that Metro has improperly delegated its goal compliance
10 obligation concerning the Western Bypass to Washington County.
11 However, the cases petitioners rely upon in asserting that Metro
12 has improperly delegated its goal compliance obligation, arose
13 in different contexts than the Metro decision challenged in this
14 proceeding.²⁴

15 As we have already determined, Metro is required to adopt
16 findings addressing regional goal considerations at the time the
17

18 ²⁴petitioners are correct that in some circumstances LCDC may not
19 acknowledge a comprehensive plan that relies upon state agency programs to
20 perform the local government's goal compliance obligation. See Audubon
21 Soc'y v. LCDC, 92 Or App 496, 500-502, 760 P2d 271 (1988); 1000 Friends of
22 Oregon v. LCDC (Coos County), 75 Or App 199, 212, 706 P2d 987 (1985); but
23 see 1000 Friends of Oregon v. LCDC (Tillamook County), 303 Or 430, 439, 737
24 P2d 607 (1987); OAR 660-30-065(2); 660-30-085(1). Also, local governments
25 with comprehensive plans or land use regulations that make compliance with
26 state agency regulations an approval criterion for local permit approval
may not approve the permit and defer determination of compliance with the
regulation to a later date. Vizina v. Douglas County, ___ Or LUBA ___
(LUBA No. 88-014, August 26, 1988), slip op 8; Bennett v. Linn County, 14
Or LUBA 217, 228-229 (1986); Spalding v. Josephine County, 14 Or LUBA 143,
147 (1985). Finally, LCDC may not acknowledge a comprehensive plan which
does not comply with the goals at the time of acknowledgment, but delegates
responsibility to achieve goal compliance in the future to a local planning
body. Collins v. LCDC, 75 Or App 517, 523, 707 P2d 599 (1985).

1 RTP Update is adopted, whereas affected local governments have
2 the obligation to address more locally relevant and site
3 specific goal considerations when they amend their comprehensive
4 plans to include RTP projects. In this case, Metro's decision
5 does not defer all determinations concerning the compliance of
6 the Western Bypass with the goals until the Washington County
7 Comprehensive Plan is amended. Except as noted infra,
8 determinations concerning compliance with regional goal
9 requirements are included in the RTP and findings of compliance
10 with local, site specific goal requirements will occur as part
11 of Washington County's decision to amend or refuse to amend the
12 comprehensive plan to include the Western Bypass. Metro
13 admittedly is relying on Washington County to show the Western
14 Bypass is consistent with certain goal requirements, and
15 Washington County must demonstrate those goal requirements are
16 satisfied before the Western Bypass may be constructed.

17 In summary, the relevant question is whether Metro as the
18 local government charged with providing for regional aspects of
19 transportation planning has properly performed its goal
20 compliance obligation to address regional goal considerations in
21 adopting the RTP Update. If it has done so, we believe it may
22 allow Washington County to make goal compliance determinations
23 that involve primarily local or site specific considerations.

24 B. Metro's Goal Findings

25 1. Goals 14 and 11

26 Metro's findings do not determine whether the proposed

1 Western Bypass violates the prohibition of Goals 11 and 14
2 against urban uses and facilities on rural land.²⁵ Metro's Goal
3 14 findings begin with an explanation of how an efficient
4 transportation system is necessary for land within the UGB to
5 develop in a proper and timely manner allowing the UGB to
6 perform its function of promoting an orderly and efficient
7 transition from urban to rural uses. Petitioners do not
8 explicitly challenge this portion of Metro's findings. Metro's
9 Goal 14 findings go on to state:

10 "Currently, work is proceeding towards developing
11 findings for the proposed Westside Bypass in the
12 Tualatin to Hillsboro Corridor, undertaken according
13 to an intergovernmental agreement between Metro and
14 Washington County. * * * Washington County will
15 investigate these issues in detail. * * *" Record 19.

16 The intergovernmental agreement (or memorandum of understanding)
17 cited in the findings provides in part:

18 "* * * * *

19 "Goal Demonstrations

20 "This task will * * * result in the preparation of the
21 necessary written material/applications.

22 "A. Goal 14 demonstration - prepare findings and

23 ²⁵The classification of uses or facilities as "urban" or "rural" is a
24 somewhat uncertain legal question to be decided on the facts of each case.
25 Hammack & Associates, Inc. v. Washington County, 89 Or App 40, 45-46, 747
26 P2d 373 (1987). However, it is clear that Goal 11 and Goal 14 prohibit
urban uses or facilities on rural land unless it can be demonstrated that
the urban uses do not come within the goals' prohibition or an exception to
the goals is justified. 1000 Friends of Oregon v. LCDC (Curry County), 301
Or 447, 477, 724 P2d 268 (1986). Of course, approval of urban uses or
facilities on rural land could also occur consistently with Goals 11 and 14
through an amendment of the UGB to include the Western Bypass corridor
within the UGB so that the affected land is no longer "rural" within the
meaning of Goal 14.

1 materials to achieve one or more of the
2 following:

3 "1. Make a record demonstrating compliance with
4 Goal 14 because the facility does not
5 convert rural land to urban uses (County to
6 make land use decision);

7 "2. Comply with Goal 14 by obtaining a UGB
8 amendment (Metro to make land use
9 decision), or;

10 "3. Justify a 'reasons' exception to Goal 14
11 (Metro and/or Washington County to make
12 land use decisions).

13 "B. Goal 11 demonstration - if the facility is
14 regarded as an 'urban facility' in the rural
15 area, then an exception to this goal may be
16 required; analyze situation in order to
17 determine need for exception; prepare a
18 'reasons' exception or demonstrate compliance
19 with Goal 11." Record 43.

20 Metro's findings and the memorandum of understanding make
21 it clear that Metro has specifically deferred responsibility for
22 determining in the first instance whether Goal 14 precludes the
23 proposed Western Bypass and, if so, whether an amendment to the
24 UGB or exceptions to Goals 11 and 14 are justified. Under the
25 memorandum of understanding if Washington County concludes that
26 the proposed Western Bypass can be built consistent with Goals
11 and 14, Metro need not take any additional action concerning
the RTP. Even if Washington County concludes that Goals 11 and
14 would be violated, necessitating a UGB amendment or
exceptions to Goals 11 and 14, Washington County, rather than
Metro, will make that initial determination.²⁶

²⁶The memorandum of understanding does specify in several places that
the county is to seek Metro's advice and assistance. Record 39, 42.

1 Unlike cities and counties in other areas of the state,
2 cities and counties within Metro's jurisdiction do not adopt a
3 UGB. Within Metro's jurisdiction, the responsibility for
4 justifying, adopting and securing acknowledgment of the
5 metropolitan area UGB has been assigned to Metro.
6 ORS 268.390(3). In assigning this responsibility to Metro, the
7 legislature presumably determined adoption and administration of
8 the metropolitan area UGB required Metro's unique regional
9 perspective, rather than leaving adoption and administration of
10 the UGB to the large number of cities and counties making up the
11 metropolitan area.

12 In view of Metro's unique authority and responsibility for
13 establishing and administering the regional UGB in conformance
14 with Goal 14, we believe the threshold determination concerning
15 applicability of Goal 14 to the Western Bypass must be made by
16 Metro. This determination is not properly deferred to
17 Washington County, notwithstanding Metro's retention of ultimate
18 authority to override Washington County's determination
19 concerning the applicability of Goal 14 to the Western Bypass.

20 Whether the Western Bypass may be located within a corridor
21 outside the acknowledged UGB is an issue squarely presented in
22 petitioners' challenge to the RTP Update. Unlike petitioners'
23 other goal challenges, the Goal 14 issue (i.e. whether a freeway
24 crossing rural land is justified in view of other possible
25 options within the UGB) is not primarily a site specific issue;
26 rather, it is primarily a regional issue. We conclude Metro

1 must answer this issue before including the Western Bypass in
2 the RTP Update, even if it is included only as a recommendation.

3 Similarly, if Metro concludes that an exception to Goal 14
4 or an amendment to the UGB is required, Metro, rather than
5 Washington County, is the proper body to determine this regional
6 issue as well. Metro, as the local government that prepared the
7 SCS and justified and obtained acknowledgment of the UGB, is the
8 appropriate body to determine whether a UGB amendment or Goal 14
9 exception can be justified.

10 We sustain the portion of the first assignment of error
11 alleging Metro failed to carry out its obligations to show the
12 Western Bypass is consistent with Goal 14 or, if not consistent
13 with Goal 14, that an exception to Goal 14 or a UGB amendment to
14 accommodate the Western Bypass is justified.

15 Goal 11's prohibition against locating urban levels of
16 public facilities and services on rural land is closely related
17 to Goal 14's prohibition against locating urban uses on rural
18 land.²⁷ Metro, not Washington County, must (1) demonstrate that
19 locating the Western Byass outside the UGB does not violate Goal
20 11's prohibition of urban levels of facilities and services on
21 rural land, (2) amend the UGB, or (3) justify an exception to

22
23
24 ²⁷Since the Western Bypass would be a type of public facility, if its
25 location outside a UGB would violate Goal 14, it would violate Goal 11 as
26 well. Although the memorandum of understanding recognizes the possibility
that an exception to Goal 11 may be required to locate this type of public
facility outside the UGB, Metro's findings do not address this issue.

1 Goal 11.²⁸ We sustain petitioner's Goal 11 challenge.

2 This subassignment of error is sustained.

3 2. Goals 3, 4, 5 and 6

4 For Goals 3, 4, 5 and 6, Metro adopted findings explaining
5 the RTP Update was not intended to directly affect lands
6 containing resources protected by these goals. The findings
7 state, generally, that developing an efficient transportation
8 system within the UGB will reduce pressures to develop resource
9 lands. In addition, Metro's findings note that projects that
10 might affect lands protected by these goals, such as the Western
11 Bypass, must be included in Washington County's comprehensive
12 plan with required findings demonstrating the project complies
13 with Goals 3, 4, 5, and 6.

14 We agree with Metro that the goal considerations it
15 deferred to Washington County under Goals 3, 4, 5 and 6, as a
16 prerequisite to including the Western Bypass in the county's
17 comprehensive plan (unlike the Goal 11 and Goal 14
18 considerations discussed above) are predominantly local and site
19 specific. Such predominantly local and site specific
20 considerations may properly be considered by the county in its
21 comprehensive plan amendment process. Any alignment selected

22 _____
23 ²⁸It is not entirely clear how Metro would go about adopting an
24 exception to Goals 11 and 14. An exception must be adopted as a
25 comprehensive plan amendment. ORS 197.732(8). Johnson v. Tillamook
26 County, ___ Or LUBA ___ (LUBA No. 87-074, August 8, 1988), slip op 6;
Confederated Tribes v. Wallowa County, 14 Or LUBA 92, 100 (1985). We note
we have already concluded the Metro UGB and regional goals and objectives
are at least a part of Metro's comprehensive plan.

1 within the rural portion of the Western Bypass corridor will
2 cross "rural" lands within the meaning of Goals 11 and 14. It
3 is less certain that resources protected by Goals 3, 4, 5 and 6
4 will be affected. It would appear that any alignment within the
5 rural portion of the corridor will affect at least some
6 agricultural or forest lands subject to protection under Goals 3
7 and 4, but we cannot say whether different alignments might have
8 different impacts on any such resource lands. Further, we
9 cannot tell from the materials cited by petitioners whether
10 resources protected by Goals 5 and 6 would be affected
11 differently by different alignments.

12 Metro's findings on Goals 3, 4, 5 and 6, though general and
13 not site specific, are adequate to address the required regional
14 considerations under these goals. In our view, the local and
15 site specific Goal 3, 4, 5 and 6 considerations deferred to
16 Washington County are properly decided by the county, as
17 provided in the RTP Update and the memorandum of understanding.

18 This subassignment of error is denied.

19 The first assignment of error is sustained in part.

20 SECOND ASSIGNMENT OF ERROR

21 "Metro erred by amending its Regional Transportation
22 Plan to provide for the construction of a multi-
23 million dollar freeway without demonstrating that the
24 facility complied with the Metro goals and
25 objectives."

26 Under this assignment of error petitioners allege Metro's
findings are not adequate to demonstrate compliance with a
number of the regional goals and objectives Metro inherited from

1 CRAG. Petitioners contend the regional goals and objectives
2 they cite "are remarkably similar to the statewide goals and
3 impose many of the same restrictions."²⁹

4 _____
5 ²⁹Petitioners contend the following regional goals and objectives impose
6 the same substantive requirements imposed by Goals 11 and 14:

7 "LAND DEVELOPMENT: Land uses and public facilities, utilities
8 and services shall be planned to foster:

9 "* * * * *

10 "5. orderly development of land within urban areas, within
11 governmental fiscal capabilities and optimal use of
12 existing facilities, utilities and services;

13 "6. orderly development of non-urban lands, within
14 governmental fiscal capabilities and optimal use of
15 existing facilities, utilities, and services;

16 "* * * * *" Regional Goal 1; Respondent's Brief Appendix I-15.

17 "All lands in the region shall be included in one of the
18 following three general classifications:

19 "a. Urban: Lands shall be inventoried and designated within
20 urban growth boundaries for future urban growth to meet
21 urban population needs forecast for a minimum of twenty
22 (20) years. The primary use of lands within urban growth
23 boundaries shall be urban development.

24 "b. Natural Resource: Agricultural lands shall be
25 inventoried, preserved and maintained and forest lands
26 shall be inventoried and conserved for farm and forestry
27 uses or other natural resource activities, within
28 designated Natural Resource Areas.

29 "c. Rural: Lands shall be designated within rural growth
30 boundaries to meet a variety of use patterns allowing
31 flexibility of housing location. Typical uses include:
32 small farms and large-lot homesites. Development within
33 rural growth boundaries shall remain non-urban in
34 character and density, but shall occur in a manner that
35 would not preclude future urban development. Lands
36 within rural growth boundaries may be converted in the
37 future to urban use only upon determination of public
38 need." Regional Objective V, Sec 1; Respondent's Brief
39 Appendix I-20.

40 "* * * * *

1 As petitioners correctly note, Metro must comply with its
2 regional goals and objectives. Objective II provides in part:

3 "* * * conformity with the [regional goals and
4 objectives] throughout the region is best assured by
5 development and administration of a regional plan
6 which clarifies and implements the [regional goals and
7 objectives] and by compliance with such plan by local
jurisdictions in the region. Therefore, the [regional
goals and objectives] shall constitute requirements to
which CRAG [now Metro] must conform its Regional Plan
* * *."

8 Although Metro may not have authority to adopt a regional plan
9 as such, it does have authority to adopt functional plans for
10 the region. We conclude Objective II requires that Metro assure
11 the RTP Update complies with the regional goals and objectives.

12 As noted above, the regional goals and objectives
13 petitioners cite replicate the goal concerns petitioners raise
14 under the first assignment of error.³⁰ The memorandum of
15

16
17 "a. Support of Development. Development shall be supported
18 by types and levels of public facilities and services
appropriate for, but limited to, uses permitted in Urban,
Rural and Natural Resource Areas.

19 "* * * * *." Regional Objective IX, Sec. 1; Respondent's Brief
20 Appendix I-26.

21 We agree with petitioners, and Respondent does not dispute, that the
22 above quoted regional goal and objectives requirements are substantively
equivalent to the requirements of Goals 11 and 14 limiting urban use of
rural lands.

23 Although we do not set forth the regional goals and objectives cited by
24 petitioners which parallel Goals 3, 4, 5, and 6, we also agree with
petitioners that those provisions state essentially the same requirements
as the corresponding statewide planning goals.

25 ³⁰At least petitioners do not identify policies or requirements present
26 in the regional goals and objectives that are different from or in addition
to the requirements imposed by the statewide goals.

1 understanding explicitly provides that in addition to its
2 obligation to adopt goal compliance findings, the county must
3 demonstrate the Western Bypass complies with the regional goals
4 and objectives.³¹

5 As in the case of the statewide planning goal requirements
6 discussed under the first assignment of error, we believe
7 Metro's somewhat general findings addressing the regional goals
8 and objectives replicating requirements in statewide planning
9 goals 3, 4, 5, and 6 are adequate.³² The findings addressing
10 these regional goals and objectives are adequate because they
11 address the regional issues implicated by the cited regional
12 goals and objectives. As with the findings addressing statewide
13 planning goals 3, 4, 5 and 6, we believe Metro's general
14 findings addressing these regional goals and objectives in the
15 RTP, together with the requirement that Washington County will
16 address these regional goals and objectives in a site specific
17 manner when the county's comprehensive plan is amended to
18 include the Western Bypass, assure that both regional and local
19 site specific considerations under the regional goals and
20 objectives will be fully addressed.

21
22 ³¹The memorandum of understanding provides in part:

23 "Washington County will prepare findings demonstrating the
24 consistency of the Corridor Project with local, regional and
25 State goals or policies. The County will make the necessary
26 land use decisions as required." Record 39.

25 ³²Metro's findings addressing these regional goals and objectives in
26 large part simply incorporate by reference the portions of its findings
addressing the related goals.

1 Regarding the regional goals and objectives that parallel
2 the Goal 11 and Goal 14 prohibitions against urban uses and
3 facilities on rural lands, we find Metro has improperly deferred
4 responsibility for demonstrating compliance with these regional
5 goals and objectives to Washington County. As we explained
6 under the first assignment of error, the statutes allocate to
7 Metro the responsibility for establishing and maintaining the
8 regional UGB. Metro's findings must demonstrate that the
9 regional goals and objectives that replicate the Goal 11 and
10 Goal 14 prohibitions against urban uses and urban facilities on
11 rural land are not violated. Metro's findings fail to do so.

12 The second assignment of error is sustained in part.

13 Metro's decision is remanded.

1 CERTIFICATE OF MAILING

2
3 I hereby certify that I served the foregoing Final Opinion
4 and Order for LUBA No. 89-030 on October 25, 1989, by mailing
5 to said parties or their attorney a true copy thereof contained
6 in a sealed envelope with postage prepaid addressed to said
7 parties or their attorney as follows:

8 Keith A. Bartholomew
9 Attorney at Law
10 300 Willamette Bldg.
11 534 SW 3rd Avenue
12 Portland, OR 97204

13 Daniel Cooper
14 Larry Shaw
15 Legal Counsel
16 Metropolitan Service District
17 2000 SW First Avenue
18 Portland, OR 97201

19 Jack L. Orchard
20 Ball, Janik & Novack
21 One Main Place
22 1211 SW Main Place, Suite 1100
23 Portland, OR 97204-3274

24 Dated this 25th day of October, 1989.

25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1460
1461
1462
1463
1464
1465
1466
1467
1468
1469
1470
1471
1472
1473
1474
1475
1476
1477
1478
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1489
1490
1491
1492
1493
1494
1495
1496
1497
1498
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1580
1581
1582
1583
1584
1585
1586
1587
1588
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1730
1731
1732
1733
1734
1735
1736
1737
1738
1739
1740
1741
1742
1743
1744
1745
1746
1747
1748
1749
1750
1751
1752
1753
1754
1755
1756
1757
1758
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1799
1800
1801
1802
1803
1804
1805
1806
1807
1808
1809
1810
1811
1812
1813
1814
1815
1816
1817
1818
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828
1829
1830
1831
1832
1833
1834
1835
1836
1837
1838
1839
1840
1841
1842
1843
1844
1845
1846
1847
1848
1849
1850
1851
1852
1853
1854
1855
1856
1857
1858
1859
1860
1861
1862
1863
1864
1865
1866
1867
1868
1869
1870
1871
1872
1873
1874
1875
1876
1877
1878
1879
1880
1881
1882
1883
1884
1885
1886
1887
1888
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
1904
1905
1906
1907
1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
2025
2026
2027
2028
2029
2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2060
2061
2062
2063
2064
2065
2066
2067
2068
2069
2070
2071
2072
2073
2074
2075
2076
2077
2078
2079
2080
2081
2082
2083
2084
2085
2086
2087
2088
2089
2090
2091
2092
2093
2094
2095
2096
2097
2098
2099
2100
2101
2102
2103
2104
2105
2106
2107
2108
2109
2110
2111
2112
2113
2114
2115
2116
2117
2118
2119
2120
2121
2122
2123
2124
2125
2126
2127
2128
2129
2130
2131
2132
2133
2134
2135
2136
2137
2138
2139
2140
2141
2142
2143
2144
2145
2146
2147
2148
2149
2150
2151
2152
2153
2154
2155
2156
2157
2158
2159
2160
2161
2162
2163
2164
2165
2166
2167
2168
2169
2170
2171
2172
2173
2174
2175
2176
2177
217