

1 Opinion by Kressel.

2 NATURE OF THE DECISION

3 Petitioner seeks review of certain portions of a rezoning
4 ordinance adopted by the City of Brookings Common Council. The
5 challenged provisions rezoned certain properties from
6 Industrial General (M-G) to Residential High Density (R-HD) and
7 from Residential Medium Density (R-MD) to Residential High
8 Density (R-HD).

9 FACTS

10 In the Fall of 1983, the Brookings Planning Department
11 initiated a rezoning proposal involving numerous properties in
12 the downtown portion of the city. The proposal called for
13 rezoning these properties from various designations to a
14 "Commercial-General" (C-G) designation. Certain amendments to
15 the text of the C-G district were also proposed.

16 At the written request of the owners of beachfront property
17 southwest of the downtown area, the rezoning proposal was
18 expanded to include the properties at issue in this appeal. A
19 35 acre¹ parcel owned by the Agnew Timber Products Company
20 (the Agnew property) was proposed to be rezoned from
21 Industrial-General (M-G) to Residential-High Density (R-HD).
22 Four small properties to the west of the Agnew property were
23 also proposed to be rezoned R-HD. These properties are under
24 three separate ownerships.²

25 The Brookings Planning Commission held hearings concerning
26 the rezoning proposals in November, 1983 and December, 1983.

1 Recommendations of approval were eventually forwarded by the
2 planning commission to the city council.

3 In January, 1984, the city council commenced hearings on
4 the planning commission's recommendations. The hearings were
5 concluded in April, 1984, when the recommended rezoning
6 measures were adopted by Ordinance 385.

7 Additional facts relevant to the appeal are discussed later
8 in this opinion.

9 FIRST ASSIGNMENT OF ERROR

10 Petitioner contends the residential rezoning of the Agnew
11 property and the lots to the west of it violate certain
12 statewide goals and parallel provisions of the Brookings
13 Comprehensive Plan. First, he argues the action violates
14 Statewide Goal 9 (economic development) because it takes
15 acreage (the Agnew property) needed for industrial growth out
16 of that classification. He adds that the continued operation
17 of the remaining industrial uses in the area (a plywood mill
18 and sewage treatment plant) will be threatened by establishment
19 of multi-family residences nearby. We read the challenge under
20 Goal 9 to concern only the Agnew property.

21 Second, petitioner complains the ordinance in question
22 violates Goal 10 (housing) because the decision adds land to
23 the city's housing inventory despite the fact more
24 residentially zoned land is not actually needed. Finally,
25 petitioner alleges the ordinance violates Goal 11 because the
26 rezoning will create procedural and other obstacles to needed

1 expansion of the city's sewage treatment plant, which is
2 located adjacent to the Agnew property.

3 The allegations of statewide goal violations³ are
4 combined with claims that parallel provisions of the city's
5 comprehensive plan are also violated by the rezoning measure.

6 In response to petitioner's goal-related allegations, the
7 city first argues the statewide goals are not applicable in
8 this case because Ordinance 385 is a "housekeeping measure to
9 implement the presently existing acknowledged plan." Brief of
10 Respondent at 8. We find the argument unpersuasive.

11 ORS 197.835(4) reads as follows:

12 "(4) Notwithstanding the provisions of subsections 2
13 and 3 of this section, the board shall reverse or
14 remand a decision to adopt an amendment to an
15 acknowledged comprehensive plan or land use
16 regulation or a new land use regulation if the
17 amendment or new regulation does not comply with
18 the goals. The board shall find an amendment or
19 new land use regulation in compliance with the
20 goals, if:

21 "(a) The board determines that the amendment to
22 an acknowledged land use regulation or the
23 new land use regulation is consistent with
24 specific related land use policies contained
25 in the acknowledged comprehensive plan; or

26 "(b) The amendment to an acknowledged
comprehensive plan or land use regulation or
a new land use regulation, on the whole,
comply with the purposes of the goals and
any failure to meet individual goal
requirements is technical or minor in
nature."

27 The statute clearly establishes a general rule that an
28 amendment to an acknowledged land use regulation (as here) must

1 comply with the goals. Under subparagraph (a), however, we are
2 directed to find goal compliance if the challenged measure is
3 "consistent with specific related land use policies contained
4 in the acknowledged plan." ORS 197.835(4)(a). The city's
5 description of the challenged ordinance as a "housekeeping
6 measure" designed to implement the acknowledged plan seems
7 intended to bring the case within the coverage of that
8 provision. However, if that is the argument, we cannot sustain
9 it. Our reading of the plan leads us to conclude the city's
10 land use policies are highly general in nature. We find
11 nothing to indicate the changes at issue here were specifically
12 contemplated by the acknowledged plan. The city's brief gives
13 us no reason to believe we are incorrect.

14 We conclude the challenged land use decision must be
15 reviewed for compliance with the pertinent statewide goals.
16 ORS 197.835(4).⁴

17 The city next urges us to conclude the challenged measure
18 in fact complies with the goals and plan provisions relied on
19 by petitioner. However, we cannot sustain the city's position
20 for the reasons set forth below.

21 Although the city concedes the rezoning measure in question
22 was required to comply with the Brookings Comprehensive Plan,
23 and we believe compliance with the statewide planning goals was
24 also required, Ordinance 385 contains no findings discussing
25 the relationship between these criteria and the pertinent
26 facts. We believe such findings should have been adopted.

1 Oregon law leaves no doubt that review of quasi-judicial
2 land use decisions is dependent on prior adoption of
3 explanatory findings by local decisionmakers. As the Supreme
4 Court stated in South of Sunnyside Neighborhood League v. Board
5 of Commissioners of Clackamas County, 280 Or 3, 21, 569 P2d
6 1063 (1977):

7 "What is needed for adequate judicial review is a
8 clear statement of what, specifically, the
9 decisionmaking body believes, after hearing and
10 considering all of the evidence, to be the relevant
11 and important facts upon which a decision is based.
12 Conclusions are not sufficient."

13 In response to petitioner's assertion that explanatory
14 findings should have been adopted, the city contends the
15 decision in question is legislative in nature and therefore
16 falls outside the rule enunciated in South of Sunnyside
17 Neighborhood League, supra. The city's position that
18 parcel-specific findings are not required where legislative
19 land use decisions are involved has support in recent case
20 law. See Lima v. Jackson County, 56 Or App 619, 643 P2d 355
21 (1982).⁵

22 Two circumstances surrounding adoption of Ordinance 385
23 support the city's position: (1) the ordinance concerns
24 numerous properties and many ownerships (2) the ordinance was
25 initiated by the city, which was evidently free to suspend the
26 proceeding at any time under the zoning ordinance. See
Strawberry Hill Four Wheelers v. Benton County Board of
Commissioners, 287 Or 591, 602-604, 601 P2d 769 (1979);

1 Neuberger v. City of Portland, 288 Or 155, 603 P2d 771 (1979).

2 Although we are cognizant of the above circumstances, we
3 nonetheless conclude petitioner's challenge concerns
4 quasi-judicial action by the city. The following points guide
5 us.

6 First, although there is certainly room for debate, it is
7 arguable that the entire rezoning proposal was sufficiently
8 focused on specific circumstances and involved pre-established
9 policy so as to justify a quasi-judicial label. Neuberger v.
10 City of Portland, supra. Although Ordinance 385 involved many
11 lots, most in the downtown area, the affected land is a
12 relatively small part of the city. This is not a case where a
13 major portion of the jurisdiction is rezoned, making
14 quasi-judicial procedure unnecessary.⁶ Compare, Culver v.
15 Dagg, 20 Or App 647, 532 P2d 1127, rev den (1975). Further, in
16 effectuating this rezoning, the city concedes it was carrying
17 out preexisting policy, not formulating new policy. See Fasano
18 v. Washington County, 264 Or 574, 507 P2d 23 (1973); Neuberger
19 v. City of Portland, supra. We believe these factors weigh
20 strongly in favor of a quasi-judicial characterization of the
21 rezoning measure.

22 Even if the part of Ordinance 385 rezoning the downtown
23 business district is assumed to be legislative in nature, we
24 have not been cited to authority ruling out separate
25 classification of the properties in question if the facts
26 warrant it. We note the few properties in question are

1 unrelated to the main proposal in terms of location and
2 proposed use. They involve beachfront, not downtown property,
3 and residential rather than commercial zoning. Indeed, the
4 record discloses they were added to the city's overall rezoning
5 "package" as an afterthought, at the behest of the individual
6 property owners. Thus, even if we assume the commercial
7 rezoning portion of Ordinance 385 deserves a legislative
8 characterization,⁷ we believe a different result can and
9 should be reached with respect to the smaller, residential
10 rezoning proposal added just before the hearings began.

11 With respect to this portion of the ordinance, we also
12 believe the city's argument gives too little weight to the fact
13 adoption of Ordinance 385 involved the application of existing
14 policy (i.e., the statewide goals and the comprehensive plan)
15 to specific circumstances, not the formulation of new policy.
16 In Neuberger v. City of Portland, supra, this was the
17 preeminent consideration in the court's analysis of whether to
18 apply the quasi-judicial label to a given land use action. 288
19 Or at 166.

20 We conclude (1) the entirety of the map amendments under
21 Ordinance 385 or (2) at least the portion of Ordinance 385
22 challenged by petitioner, should be characterized as a
23 quasi-judicial land use decision. As such, the decision must
24 be supported by findings explaining the relationship between
25 the governing legal criteria, that is, the statewide goals and
26 the pertinent plan policies, and the pertinent facts. South of

1 Sunnyside Neighborhood League v. Board of Commissioners of
2 Clackamas County, supra. Since the city did not adopt such
3 findings, a remand is appropriate.

4 Normally, the conclusion we have reached above would end
5 our discussion of the goal and comprehensive plan issues raised
6 by petitioner. However, because the distinction between
7 legislative and quasi-judicial action is especially difficult
8 to make in this case, we believe it is appropriate to go
9 further. In the paragraphs below, we proceed on the assumption
10 the city was not obligated to adopt explanatory findings, but
11 might repel petitioner's challenges by demonstrating support in
12 the record for its claim that the pertinent criteria have been
13 satisfied. See Gruber v. Lincoln County, 2 Or LUBA 180,
14 187-188 (1981).

15 Goal 9

16 Petitioner charges the parcel rezoned from industrial to
17 residential use (the Agnew parcel) is the only available site
18 within the city which is suitable for industrial development.
19 The city's comprehensive plan recognizes a need for almost 100
20 acres of industrial land in the city by the year 2000.
21 Brookings Comprehensive Plan at I 14-3(a). The plan's Table of
22 Industrial and Commercial Needs also indicates there are only
23 30 acres of vacant industrially zoned land within the city's
24 borders.

25 As already stated, the challenged ordinance does not
26 discuss the Goal 9 compliance issue. The goal is to "diversify

1 and improve the economy of the state." It would appear the
2 goal is violated where, as here, vacant land recognized in the
3 plan as needed for industrial use is removed from that
4 classification.⁸

5 In its brief, the city argues "it is clear that there is
6 much land left within the City of Brookings for industrial
7 development; and further, . . . , there is even more land suitable
8 for industrial development contained within the urban growth
9 boundary." Brief of Respondent at 9. These general
10 statements, combined with the citations provided to the
11 comprehensive plan, are not adequate to sustain the city's
12 position.

13 The map in the comprehensive plan cited by the city
14 indicates four "alternative sites suitable for economic
15 growth," and evaluates each site in terms of "availability"
16 (undefined in the plan) and the presence of support services,
17 e.g., water, sewer, power and access. Brookings Comprehensive
18 Plan at I 9-8 and 9. One of these alternative sites is the
19 subject of the challenged rezoning. Another is outside the
20 city limits and appears to lack needed services (e.g., sewer).
21 The information provided by the plan about the other sites is
22 insufficient to overcome the central point made by petitioner
23 viz., Ordinance 385 would rezone the only vacant industrial
24 land in the city to a residential classification, despite the
25 plan's recognition that more industrial land is needed.
26 Without a more detailed explanation in the record of how the

1 rezoning decision carries out the acknowledged need for
2 industrial land, we must sustain petitioner's Goal 9 claim.⁹

3 Goal 10

4 In this challenge, petitioner argues the addition of 35
5 acres of multi-family residential zoning, approved under
6 Ordinance 385, violates a Goal 10 guideline requiring a
7 continuing review of housing need projections by the city. The
8 guideline is violated, according to petitioner, because the
9 city was aware the housing need projection in its acknowledged
10 plan was too high when it approved the challenged ordinance.

11 We must reject this challenge. First, the guidelines
12 accompanying the statewide goals are not enforceable legal
13 requirements, but are instead

14 "...suggested directions that would aid local
15 governments in activating the mandated goals. They
16 are intended to be instructive, directional and
17 positive, not limiting local government to a single
18 course of action when some other course would achieve
19 the same results." See Goal 2, part III.

20 See also ORS 197.015(a) (defining "guidelines" as suggested
21 approaches which are advisory in nature).

22 This Board is not authorized to reverse or remand local
23 land use decisions which may contravene planning guidelines.

24 See ORS 197.835 (board may reverse or remand if local decision
25 violates statewide goals or other criteria); Gayken v.

26 Portland, 1 Or LUBA 313 (1980).

We note also that the guideline cited by petitioner is
expressly aimed at the plan-development process, not the

1 implementation process involved in this case. The guideline
2 reads:

3 "(1) Plans should provide for a continuing review of
4 housing need projections and should establish a
5 process for accommodating needed revisions."
6 Goal 10, Guideline B(1).

7 Whether or not the Brookings plan contains a "process for
8 accommodating needed revisions" in the area of housing is not
9 before us in this appeal. We therefore reject petitioner's
10 Goal 10 challenge.

11 Goal 11

12 Goal 11 requires local jurisdictions to "plan and develop a
13 timely, orderly and efficient arrangement of public facilities
14 and services to serve as a framework for urban and rural
15 development." Petitioner's argument this goal is violated by
16 the city's action can be summarized as follows:

- 17 (1) According to the comprehensive plan the city's
18 sewage treatment plant is expecting to reach
19 capacity by 1990.
- 20 (2) Although plant expansion will be required, most
21 of the land adjoining the plant was rezoned from
22 General Industrial to High Density Residential
23 use under Ordinance 385.
- 24 (3) The rezoning will bar or at least inhibit needed
25 plant expansion because a conditional use permit
26 will be required under the residential zoning
category and will probably be opposed by
occupants of the residentially zoned land. Also,
the city's cost of acquiring the needed land will
be greater under the residential zoning
classification than under the industrial
classification.

1 The city's response to these contentions is quoted below:

2 "In regards to the continued argument posed by
3 petitioner in regards to Residential High Density
4 zones in the vicinity of the city's sewage treatment
5 plant, petitioner is not only anticipating future
6 events, which are not part of the record nor can be
7 foreseen, but petitioner in fact does not acknowledge
8 that a large section of property in the industrial
9 zoning is left untouched northeasterly to the present
10 sewage treatment plant. [cf. zoning map]." Brief of
11 Respondent City of Brookings at 9-10.

12 Petitioner's Goal 11 challenge is not adequately met by
13 this response. The goal requires a timely, orderly and
14 efficient arrangement of public facilities and services,
15 including sanitary facilities. The city's plan indicates,
16 consistent with petitioner's assertion, that the plant is
17 "expected to be adequate to meet regional needs until 1990."
18 Brookings Comprehensive Plan I 11-2. The city's answer leaves
19 doubt as to whether (1) it is reasonable to assume expansion of
20 the regional facility will be required after 1990 and (2) if
21 so, whether expansion can be accommodated in a timely, orderly
22 and efficient manner on the land to the northeast of the plant
23 remaining in the industrial zoning classification. On the
24 record before us, we cannot answer these critical questions.
25 Accordingly, a remand is in order.¹⁰

26 Alleged Plan Violations

27 In addition to challenging the rezoning decision under plan
28 policies which parallel Statewide Goals 9, 10 and 11,
29 petitioner claims two other plan provisions are violated by the
30 city's rezoning ordinance. First, petitioner claims

1 implementation measures of the citizen involvement policy
2 (Policy 1) are violated because the rezoning constituted a
3 major plan revision without the necessary citizen involvement.
4 Second, he claims that Goal 2, Policy 2 of the plan, which
5 places the burden of proving need on the proponent of a change
6 in land uses was not met.

7 We reject the first challenge and sustain the second.

8 The challenge concerning citizen involvement cannot be
9 sustained for two reasons. First, petitioner relies on
10 provisions governing plan revisions. The challenged action
11 concerns an amendment of the zoning maps not an amendment of
12 the plan. Second, we do not believe the provisions cited by
13 petitioner, which fall under the heading "implementation
14 measures" constitute binding policy. Instead, we believe the
15 cited implementation measures are advisory in nature. We do
16 not believe we can reverse or remand a decision by the city
17 which contravenes such an implementation measure.¹¹

18 We turn next to the alleged "need" requirement in Policy 2
19 of the city's plan. The policy states:

20 "2. The burden of proving the need for a change in
21 land uses shall be borne by the proponent of the
land use request." Brookings Comprehensive Plan
at 2-1.

22 In discussing the next assignment of error, we conclude the
23 standards of Resolution 213, including the requirement that
24 "need" for the proposed change be demonstrated, are applicable
25 to the challenged portion of Ordinance 385. Accordingly, we
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1 need not separately discuss petitioner's claim under Policy 2
2 of the plan.

3 Because we sustain portions of the first assignment of
4 error, a remand is in order.

5 SECOND ASSIGNMENT OF ERROR

6 In this assignment of error petitioner claims the city
7 failed to consider certain approval criteria when it adopted
8 Ordinance 385. The criteria appear in city Resolution No. 213,
9 a document which, by its terms, establishes "rules for the
10 conduct of quasi-judicial hearings." Section 4 of the
11 resolution requires consideration of the following factors by
12 the decisionmaking panel: (1) the relationship of the proposal
13 to the comprehensive plan and the public need; (2) whether
14 other property is available for the proposed use; (3) whether
15 there has been a mistake in the comprehensive plan or change in
16 the character of the affected area; and (4) other factors
17 relating to the public need for safe and aesthetic surroundings
18 and conditions.

19 Because we have found that the challenged portions of the
20 rezoning ordinance involved quasi-judicial action, we agree
21 Resolution 213 should have been followed when those matters
22 were considered. Accordingly, we sustain this assignment of
23 error.¹²

24 THIRD ASSIGNMENT OF ERROR

25 In this assignment of error petitioner presents two
26 procedural claims. First, he alleges Ordinance 385 changed the

1 zoning of two tax lots which were not included in the city's
2 notices of public hearings. He claims notice that these tax
3 lots would be affected was required by city ordinance. Second,
4 petitioner assails the city for including certain property in
5 the legislative rezoning "package" instead of requiring the
6 owners of those properties to file rezoning applications in
7 their own behalf.

8 Notice

9 Although it appears petitioner is correct that the
10 published notices concerning Ordinance 385 did not describe the
11 two tax lots in question, we nonetheless are unable to sustain
12 the first challenge. The record clearly indicates petitioner
13 was made aware the properties were under consideration at the
14 various hearings held by the city. Record at 9-12. Indeed,
15 petitioner presented testimony in opposition to the proposed
16 rezoning of these tax lots, among others, at hearings held by
17 the city. Id. Under the circumstances, we do not see how
18 petitioner was harmed by the omission. Without pleading and
19 proof of injury, petitioner cannot prevail on this procedural
20 (i.e., lack of notice) challenge. Frye Development Co. v.
21 Marion County, 3 Or LUBA 45 (1981).

22 Application procedure

23 Petitioner next directs our attention to the fact that, at
24 the request of private landowners, the city included the Agnew
25 property and the residential lots to the west of it in the
26 rezoning package eventually approved by Ordinance 385.

1 Petitioner believes the owners of the properties in question
2 should have been required to file individual rezoning
3 applications, rather than have the city "carry the ball" for
4 them. However, petitioner fails to explain why this is so.
5 His claim the city had no authority to act as it did is
6 undermined by Section 9.010 of the zoning ordinance, which
7 authorizes the city council, the planning commission or the
8 property owners to initiate an amendment to the zoning map.

9 Based on the foregoing, we dismiss this assignment of error.

10 FOURTH ASSIGNMENT OF ERROR

11 In this assignment of error, petitioner directs our
12 attention to one of the lots rezoned for high density
13 residential use under Ordinance 385. The property in question
14 is owned by the city attorney, Mr. John Coutrakon.
15 Petitioner's claim is that, although the planning department's
16 inclusion of this property in the rezoning proposal was found
17 unwarranted by the planning commission, the proposal was
18 reinstated as a result of legal advice provided by Mr.
19 Coutrakon.

20 We do not sustain this assignment of error. Our
21 jurisdiction is limited to questions of compliance with the
22 criteria governing land use decisions. ORS 197.835.
23 Petitioner does not explain why the ultimate conclusion reached
24 by the city to include the property in question was legally
25 flawed. We are not authorized to inquire into the motives
26 underlying the actions of city officials.

1 FIFTH ASSIGNMENT OF ERROR

2 In the final assignment of error, petitioner complains the
3 city failed to make findings in support of its decision to
4 rezone the Agnew property and the lots to the west of that
5 property. Petitioner claims findings are required because the
6 city's action with respect to these properties was
7 quasi-judicial in nature.

8 We have previously sustained this claim. No further
9 discussion is necessary.

10 Remanded.

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FOOTNOTES

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1 The request by Agnew Timber excluded a 13 acre parcel zoned M-G.

2 The central business district rezoning proposal was also expanded to include a few other properties outside the district. These properties are not at issue in this appeal.

3 The petition also seems to attack the Brookings Comprehensive Plan under Statewide Goal 2. The argument is that the plan contains conflicting policies and is therefore not "the integrated whole it is supposed to be." Petition at 20. However, the validity of the city's plan may not be challenged in this proceeding. Our review is limited only to the validity of the rezoning decision embodied in Ordinance 385.

4 Although the Department of Land Conservation expressed no objection to the city's post-acknowledgement measure, the automatic acknowledgement provision of ORS 197.625 was avoided by the timely filing of this appeal by petitioner. ORS 197.625(1).

5 Lima involved a challenge to the designation of a single parcel in the county's newly adopted comprehensive plan. The Court rejected the challenge that the designation was unsupported by specific findings and evidence in the record, concluding that parcel-specific findings and evidence were not required in the comprehensive planning process. Although petitioner directed the court's attention to the statutory provision authorizing LUBA to reverse or remand a land use decision "not supported by substantial evidence in the whole record" (now codified as ORS 197.835(8)), the court responded as follows:

"We do not read section 5(4)(a)(C) as having those effects. The more logical interpretation in our view, is that the section authorizes LUBA to reverse or remand a decision which is not supported by

1 substantial evidence only if there is a requirement
2 from sources outside the Act that there be evidence.
3 Section 5(4) is one of the provisions which defines
4 LUBA's scope of review, but the section does not
5 purport to create substantive requirements for the
6 things being reviewed. We are convinced that, had
7 that been the legislature's intent, it would not have
8 chosen such an oblique way to convert the
9 comprehensive plan adoption process into a protracted
10 series of unrelated quasi-judicial zoning actions."
11 56 Or App at 625-26.

12 See also Culver v. Dagg, 20 Or App 647, 532 P2d 1127, rev
13 den (1975) (ordinance rezoning 50 percent of land in county was
14 legislative in nature; county was therefore not required to
15 conduct contested case hearing with respect to each affected
16 parcel).

17 Petitioner does not ask us to conclude findings are
18 required regardless of whether this land use decision is
19 quasi-judicial or legislative. We consider in this case only
20 the argument that the challenged rezoning was quasi-judicial in
21 nature.

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24 The record provides little assistance to one attempting to
25 quantify the scope of Ordinance 385. At oral argument, counsel
26 for the city claimed at least 75 acres were rezoned. However,
the record does not provide information on the point. Nor can
we discern what percent of the city's land was rezoned.

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29 Petitioner does not attempt to characterize the downtown
rezoning portion of the ordinance. We agree with him that it
is severable from the properties at issue here.

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32 Under ORS 197.712(2)(c), plans and regulations must provide
33 for adequate supply of sites of suitable size, type, location
34 and service levels for industrial and commercial uses
35 consistent with plan policies. Although compliance with this
36 statute is not required until the first periodic review of the
city's plan, ORS 197.712(3), the statute supports our
interpretation of the existing goal.

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39 Petitioner also complains the residential rezoning will

1 violate Goal 9 by fostering use of land in a way that is
2 incompatible with economic development. He relies on ORS
3 197.712(2) (d) which states:

4 "(d) Comprehensive plans and land use regulations
5 shall provide for compatible uses on or near
6 sites zoned for specific industrial and
7 commercial uses."

8 Although this statute is not presently in force, ORS
9 197.712(3), we read it to guide or assist us in interpreting
10 Goal 9. A remand for explanation of the compatible issue is
11 therefore in order.

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14 Petitioner's challenges under the provisions of the city's
15 plan which parallel Statewide Goals 9, 10 and 11 do not require
16 lengthy discussion. We sustain the challenges associated with
17 plan Goals 9 and 11 and reject the remaining challenge. Our
18 reasons for doing so have already been set forth.

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21 The plan does not explain the distinction between "policy"
22 and "implementation measures." However, we believe a fair
23 reading of the measures relied on by petitioner result in their
24 classification as advisory in nature.

25 We do not wish to suggest, however, that the city may
26 proceed in violation of its citizen involvement requirements or
the dictates of Goal 1.

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29 Petitioner seems to maintain Resolution 213 is applicable
30 to all planning decisions in the city because implementation
31 measure of Policy 2 of the Brookings Comprehensive Plan
32 provides:

33 "3. Resolution No. 213, as adopted September 19,
34 1978, will be used by the planning commission and
35 city council when considering land use planning
36 related decisions."

37 We decline to read the quoted implementation measure as a
38 means of binding the city to apply the quasi-judicial
39 procedures and approval criteria in Resolution No. 213 to all
40 land planning decisions. If the city had intended to take this
41 extraordinary step, we believe the requirement would have

1 appeared in the "policy" portion of the plan instead of the
2 accompanying "implementation measure." On this point, we note
3 that the "policy" section of Policy 2 expressly states that
"planning related decisions will be in accord with the policies
of the comprehensive plan." (emphasis added).

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