

DEC 1 1 02 PM '89

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

3	TEKTRONIX, INC., an Oregon)	
4	corporation,)	
)	
5	Petitioner,)	LUBA Nos. 89-038 and 89-056
)	
6	vs.)	FINAL OPINION
)	AND ORDER
7	CITY OF BEAVERTON,)	
)	
8	Respondent.)	

9 Appeal from City of Beaverton.

10 Jack Orchard, Portland, filed the petition for review and
11 argued on behalf of petitioner. With him on the brief was Ball,
Janik and Novack.

12 Pamela Beery, Beaverton, filed the response brief and
13 argued on behalf of respondent.

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

15 AFFIRMED 12/1/89

16 You are entitled to judicial review of this Order.
17 Judicial review is governed by the provisions of ORS 197.850.

1 Opinion by Kellington.

2 NATURE OF THE DECISION

3 Petitioner appeals City of Beaverton Ordinance No. 3661
4 amending the Beaverton Comprehensive Plan (plan) text and maps,
5 designating an alignment for a new east-west arterial street
6 within the city limits and a conceptual alignment for a
7 connecting east-west arterial street outside of the city limits,
8 in Washington County (county).

9 FACTS

10 Canyon Road is an east-west arterial connecting the City of
11 Beaverton (city) and the City of Portland:¹

12 "[i]n 1986 [city] staff and ODOT [Oregon Department of
13 Transportation] began to examine some alternatives to
14 reducing Canyon Road congestion problems. Eventually
15 the effort was expanded to include [the] County and
16 METRO [the Metropolitan Service District]. METRO'S
17 role was to provide the traffic modeling forecast
18 data, utilizing the agency's EMME-2 computer system,
19 and the county provided technical assistance in using
20 the model and interpreting the results.

21 "By fall of 1987, traffic data had been developed
22 through this process for some 14 different
23 alternatives. These alternatives reflected three
24 conceptual approaches: (1) those which focused
25 improvements on Canyon itself (i.e. access control,
26 widening or 'double decking'); (2) alternatives which
involved improvements separate from Canyon (i.e. new
parallel roads and widening of other parallel
roadways); and (3) concepts of one way pair systems
that utilized various combinations of Canyon Road with
other roadways.

27 "Although this combined agency effort developed
28 expansive data for these alternatives, considerable
29 analysis was necessary to evaluate and determine a
30 preferred alternative. To assist in this

31 ¹Canyon Road connects with the Tualatin Valley Highway west of the city.

1 determination, the city contracted with a
2 transportation and planning consulting team * * *.
3 The principal objective of the consultant review
4 process was to clarify the alternatives and devise an
5 appropriate method of evaluation." Record 14-15.

6 The city appointed the Canyon Road Technical Advisory
7 Committee (CRTAC) to study and develop a range of solutions to
8 solve identified traffic problems on Canyon Road. The CRTAC
9 included transportation officials from the county, the city,
10 ODOT, and Metro. After the CRTAC developed 14 different options
11 to address the problems identified, the city appointed the
12 Canyon Road Advisory Committee (CRAC) to refine the proposals of
13 the CRTAC. The CRAC developed preferred solutions to the
14 traffic congestion problems related to Canyon Road, utilizing
15 information generated by the CRTAC. The CRAC had 15 members,
16 including representatives from METRO, the county, ODOT and
17 Tri-Met. The CRAC reviewed the 14 alternatives and recommended
18 the "3C" alternative.²

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²The 3C alternative is shown on the amended plan maps, plates 5, 8 and
12. It is summarized as follows:

19 "Canyon Road is intended to serve as the primary, or principal,
20 arterial and will continue to carry a significant portion of
21 regional traffic. The new east-west arterial and the new
22 north/south connecting streets of the 3C-1 alternative will
23 provides a supporting function to Canyon Road. In this regard,
24 the General Plan acknowledges that these streets serve a
25 smaller subregion and subsequently provide a more localized
26 transportation system role. Accordingly, these streets are
defined as minor arterials on the City's Functional
Classification Plan (Plate 5), and in the Plan text definition
of the minor arterial function classification." Record 2.

"The design of this east-west arterial has progressed into much
greater detail than is usual for General Plan Amendments. The
City of Beaverton staff has worked diligently along with the
planning and engineering staffs of Washington County, State of

1 The "3C" alternative contemplates a new arterial extending
2 through the city, passing just north of Beaverton Mall with a
3 conceptual alignment along Millikan Way outside of the city.³
4 Millikan Blvd. is a public right of way from Murray Road to its
5 intersection with the Tualatin Valley Highway, west of the city.
6 Millikan Way is a private right of way owned by petitioner.
7 Millikan Way is located within the county, outside of the city
8 limits. Millikan Way is within the city's urban planning area
9 and is subject to an intergovernmental planning agreement
10 between the city and the county.

11 The "3C" alternative was ultimately adopted by the city

12
13 Oregon Department of Transportation and Tri-Met to develop a
design at 1" = 100'.

14 "The functional characteristics of freeway, arterial, local
15 street, light rail and bus operations were basic criteria.
Also of prime importance was public testimony given during the
16 Canyon Road Advisory Committee process and at Public Hearings
held by the Planning Commission and City Council.

17 "It should be understood that much more specific design work
18 needs to be undertaken before the road is actually defined."
Record 48.

19 ³The segment of the proposed street alignment along Millikan Way is a
20 dotted line on the plan Functional Classification maps (plates 5 and 8).
The proposed plan amendment states the following with respect to Millikan
Way:

21 "Additional relief from traffic congestion will come with the
22 construction of a major east-west arterial north of Canyon and
south of Center Street. This street should have direct access
23 to Highway 217 in the form of a redesigned interchange with
Walker and/or Canyon Road. The road will extend west to
24 eventually connect with Millikan Blvd. west of Murray. The
specific alignment west of Hocken to Murray will have to be
25 determined based upon the city's ability to utilize Millikan
Way, a private street owned by Tektronix. However, if Millikan
26 Way cannot be utilized for this segment of the street, this
segment may have to be constructed south of Millikan Way."
Record 112.

1 council in amendments to the city's comprehensive plan. This
2 appeal followed.

3 FIRST AND SECOND ASSIGNMENTS OF ERROR

4 "The City's designation of an alignment for the Canyon
5 Road reliever arterial (including the use of Millikan
6 Way), was undertaken without the necessary
7 coordination required under Statewide Planning
8 Goal 2."

9 "The City failed to follow the required coordination
10 process under City Plan Amendment Criterion 6 and
11 Comprehensive Plan Transportation Element Objective 1
12 in the establishment of an alignment for the Canyon
13 Road reliever arterial."

14 Respondent challenges our jurisdiction to review the first
15 and second assignments of error. Respondent argues that we have
16 no jurisdiction to review petitioner's claim that the city did
17 not properly "coordinate" its decision with other affected
18 governmental units because petitioner is not an affected
19 governmental unit. Respondent contends that this Board only has
20 jurisdiction to review coordination challenges brought by
21 affected governmental units.

22 We disagree. As petitioner points out, ORS 197.825
23 specifies our jurisdiction to review appeals of land use
24 decisions and provides no limitation on our jurisdiction to
25 review specific issues concerning a land use decision.⁴

26
27 ⁴Subject to exceptions not relevant here, ORS 197.825(1) provides in
28 relevant part:

29 "** * * the board shall have exclusive jurisdiction to review
30 any land use decision of a local government * * *"

1 We conclude we have jurisdiction to review the first and
2 second assignments of error.⁵

3 Under these assignments of error, petitioner argues the
4 county failed to coordinate its decision as required by
5 Statewide Planning Goal 2 (Goal 2) and by plan provisions which
6 also impose coordination requirements. Petitioner also argues
7 that the city failed to demonstrate that the proposed plan
8 amendments are consistent with the county's comprehensive plan
9 as required by Goal 2 and by city Ordinance 1800.

10 Goal 2 requires that the plan:

11 "* * * be consistent with the comprehensive plans of
12 cities and counties and regional plans adopted under
ORS Chapter 268."

13 Goal 2 also requires that:

14 "Each plan and related implementation measure shall be
15 coordinated with the plans of affected governmental
units."

16 _____
17 ⁵Respondent also argues that even if LUBA has jurisdiction to review
18 petitioner's first and second assignments of error, petitioner does not
19 have standing to request our review of those assignments. However,
respondent does not develop this argument.

20 Petitioner argues that under ORS 197.830(2) and (3), it has standing to
21 seek LUBA review of the city's decision because it (1) filed a notice of
22 appeal, (2) has interests adversely affected by the decision, in that it
owns a portion of Millikan Way over which the new east-west arterial is
contemplated to extend, and (3) appeared before the city during the local
proceedings leading to the the challenged plan amendment.

23 Respondent does not offer any specific reason why petitioner should not
24 have standing to challenge the city's decision in this case based on its
25 allegations that the city failed to coordinate its decision with affected
units of government. We conclude petitioner has standing to seek review of
the city's decision based on the allegations in the first two assignments
of error.

26 Accordingly, respondent's challenge to petitioners' standing is denied.

1 Goal 2 adopts the definition of "coordination" contained in
2 ORS 197.015(5) which provides, in part, the following:

3 "A plan is 'coordinated' when the needs of all levels
4 of governments, semipublic and private agencies are
 accommodated as much as possible."

5 The city's plan requires that the city:

6 "Coordinate transportation projects, policy issues and
7 development actions with all affected governmental
 units in the area." Plan Transportation Element
8 Objective 1.

9 Section 8 of city Ordinance 1800 establishes plan amendment
10 criteria. Section 8, Criterion 6, provides that all plan
11 amendments must be:

12 "Coordinat[ed] and consisten[t] with goals and
13 development plans of affected state, regional and
14 local jurisdictions."

15 Section 9 of Ordinance 1800 requires the city to make findings
16 demonstrating compliance with all of the plan amendment criteria
17 of Section 8.⁶ Section 9 applies to all plan amendments, making
18 no distinction between plan amendments that are quasi-judicial
19 and plan amendments which are legislative.

20 Petitioner argues that nothing in the record demonstrates
21 that the city "coordinated" its alignment choice for the
22 east-west arterial with affected units of local government.
23 Petitioner contends that while there was dialogue between the
24 city and the affected units of government before the Millikan

25 ⁶The criteria for a plan amendment include, among other requirements,
26 that the amendment must be consistent with the plan and the Statewide
 Planning Goals.

1 Way alignment was selected by the city, there was no specific
2 effort to coordinate the city's selection of the Millikan Way
3 alignment with the county. Specifically, petitioner argues:

4 "The record [in this case] is extensive. In addition
5 to City staff review, the Citizens Committee, the
6 Planning Commission and the City Council each
7 deliberated over the reliever arterial. Yet the
8 Findings do not reflect any statement of position by
9 Washington County or by the other agencies concerning
10 the reliever arterial alignment, generally, or
11 specifically in its use of Millikan Way. In a broader
12 sense, the Findings also do not reflect that the
13 various agencies were requested to review the proposed
14 alignment as it would affect transportation facilities
15 under their respective jurisdictions." Petition for
16 Review 14.

17 Citing Rajneesh v. Wasco County, 13 Or LUBA 202, 210
18 (1985), petitioner states a decision is coordinated if the
19 following events occur:

20 "1. The makers of the plan engaged in an exchange of
21 information between the planning jurisdiction
22 and affected governmental units, or at least
23 invited such an exchange.

24 "2. The jurisdiction used the information to balance
25 the needs of all governmental units as well as
26 the needs of the citizens in the plan
27 formulation or revision."

28 Petitioner also argues that the city's own plan requires
29 the city to coordinate its decision with other local governments
30 and that, as a consequence, the city had a greater
31 responsibility to coordinate as follows:

32 "When the city is required by its own plan to
33 coordinate its decision making with affected
34 [governmental units], as in this case, it is not
35 sufficient procedurally or substantively for the city
36 to treat the [governmental unit] as it would any other
37 person in the area. The comprehensive plan requires
38 that the [governmental unit] is entitled to special

1 treatment. The city must make a meaningful attempt to
2 find out how the [governmental unit] will or may be
3 affected, and then it must seek to accommodate the
4 [governmental unit] 'as much as possible.'" Twin Rocks Water District v. City of Rockaway, 2 Or
5 LUBA 36, 46 (1980).

6 Petitioner also argues that the city did not determine that
7 the proposed alignment was consistent with the plans of the
8 county.

9 Petitioner argues that the following city findings are
10 inadequate to satisfy the Goal 2 coordination requirements:

11 "The Transportation plan update complies with Goal 2.
12 The update is part of the City's continuing efforts to
13 update its Plan to reflect changing needs of the
14 community, one of the purposes of the statewide
15 planning process. As such, the update has followed
16 all legal and other procedural processes required of a
17 major plan update. An extensive amount of data and
18 information has been gathered to establish a factual
19 basis for the specific recommendations. This data and
20 information is contained in the three working papers
21 incorporated [into] and made a part of the record of
22 this proposal." Record 26.

23 Petitioner further contends that the following city
24 findings adopted to establish compliance with plan Objective 1
25 are inadequate:

26 "1. Coordinate transportation projects, policy
issues and development actions with all affected
governmental units in the area.

"The Canyon Road Study has been coordinated with
all affected governmental units -- METRO, Oregon
Department of Transportation (ODOT), Tri-Met,
and Washington County. The computer modeling
was conducted on METRO's EMME No. 2 model, which
provides a uniform regional traffic assignment
based upon regional population and employment
forecast. The same model was used by Washington
County in its transportation plan update. This
model is recognized and used by all of the other
agencies as well. Thus, all of the affected
agencies are talking the same data.

1 "In addition to data, the City developed a
2 technical coordinating committee composed of
3 these agencies and staff to oversee the project
4 and discuss the issues. Washington County,
5 ODOT, METRO and Tri-Met all provided direct
6 technical assistance." Record 19.

7 Finally, petitioner argues that the following findings
8 adopted to establish compliance with Ordinance 1800 are
9 inadequate. Petitioner contends that these findings
10 specifically establish that the plans of the city and the county
11 are not consistent:

12 "6. Coordination and consistency with goals and
13 development plans of affected state, regional
14 and local jurisdictions.

15 "METRO, Tri-Met, Washington County and the
16 Oregon Department of Transportation have been
17 involved with Beaverton's planning process
18 through the Washington County Transportation
19 Coordination Committee. In addition, Beaverton
20 established a special technical coordinating
21 committee for this project with those
22 jurisdictions. Simultaneous with Beaverton's
23 efforts, the county has also been in the process
24 of updating its transportation plan. Each
25 recommendation which has had an impact on an
26 area of the county outside the City has been
coordinated with the county.

"The east-west arterial will require
considerable redesign of the interchanges of
Walker Road and Canyon, as well as widening of
Highway 217, a state facility. It will be
necessary to have these projects put into the
Department of Transportation's Six Year Program,
which will not be open again until 1990.
Between now and then work will continue with the
state on the implementation plan * * *.

"The City and the county planning processes have
been somewhat iterative; that is, both
jurisdictions have developed recommendations or
ideas which have affected the other. Both
entities agree that plans must be consistent.
The public hearings' draft of the county's draft

1 does not indicate the east-west arterial because
2 the City's study was not completed in time for
3 it to be considered." Record 28-29.

4 Respondent argues that it did coordinate with the affected
5 units of government, in compliance with both Goal 2 and the
6 city's plan. Respondent contends that the cases cited by
7 petitioner support the city's position that it properly
8 coordinated with affected units of government in reaching its
9 decision. Respondent further contends that even though the
10 city's findings may be inadequate, there is evidence in the
11 record which "clearly supports" a finding that the city
12 satisfied its coordination responsibilities.
13 ORS 197.835(10)(b).⁷ Respondent cites several parts of the
14 record where the county, ODOT, Tri-Met and Metro assisted in the
15 formulation of the proposed east-west arterial alignment
16 alternative adopted by the city to solve its traffic congestion
17 problems. Specifically, respondent attaches to its brief an
18 appendix citing several places in the record where one or more
19 of the affected units of government participated in the process
20 which led to the city's decision, and where the city utilized
21 the information provided by these affected units of government.

22 Among the portions of the record cited is a transcript of a

23 ⁷ ORS 197.835(10)(b) provides in relevant part:

24 "Whenever findings are defective because of failure to recite
25 adequate facts or legal conclusions or failure to adequately
26 identify the standards or their relation to the facts, but the
parties identify relevant evidence in the record which clearly
supports the decision or a part of the decision, the board
shall affirm the decision or the part of the decision supported
by the record * * *."

1 meeting between city officials and members of the CRAC,
2 including a county representative and a Metro representative.
3 At this meeting the proposed arterial alignment was discussed.
4 In addition, the record indicates there were discussions with
5 the county's representative, regarding solutions to Canyon Road
6 traffic congestion and regarding the use of Millikan Way,
7 Record 728-729, 732-733. There are also citations to
8 discussions by the CRAC chair regarding the use of Millikan Way,
9 Record 716, 721, 725-726. Specifically, there are statements
10 from the CRAC chair that the CRAC was going to recommend that
11 the preferred alignment for the proposed arterial would be one
12 which utilizes Millikan Way.⁸ Record 734. Furthermore, the
13 CRAC did ultimately recommend that the preferred alignment
14 include Millikan Way. Record 276-280.

15 Additionally, respondent points to several instances where
16 ODOT was an active participant regarding the proposal.
17 Respondent also contends that the record shows that Tri-Met and
18 ODOT specifically offered favorable comments on the proposed
19 plan amendment. Record 266, 519, 606. Furthermore, respondent
20 attaches to its brief relevant portions of the Metro Regional
21 Transportation Plan (RTP), in which Metro included the city's
22 proposed conceptual alignment outside the city limits and the
23 city's selected alignment within the city limits. Respondent

25
26 ⁸We note that the Metro and county representatives were present at this meeting.

1 reasons that this is further evidence that the city coordinated
2 with affected units of government, specifically Metro, in the
3 processes leading to the city's decision.

4 Respondent argues petitioner's contention that the city was
5 required to separate various aspects of its decision and
6 individually coordinate each of the parts is unworkable and not
7 required. Specifically, respondent maintains:

8 "Petitioner attempts to distinguish coordination of
9 the 'technical' aspects of the city's plan amendment
10 from the 'alignment choice' aspects of the City's plan
11 amendment and to say that coordination for the former
12 may be adequate but coordination for the latter is
13 lacking. The City contends that it is impossible to
14 distinguish the various elements of this process,
15 since work on all aspects proceeded simultaneously
16 through the Canyon Road Advisory Committee (CRAC) and
17 the Canyon Road Technical Advisory Committee (CRTAC),
18 as well as other groups noted in App 2. The technical
19 base and proposal for a conceptual alignment are
20 inseparable in terms of the analysis which produced
21 them and the data which supports them * * *."
22 Respondent's Brief 12.

23 Respondent argues that the city's contacts with affected
24 units of government demonstrates that the city did coordinate
25 with them. Citing Rajneesh Travel v. Wasco County, supra,
26 respondent contends that it is the effort to coordinate which
satisfies the coordination requirements contained in the plan
and Goal 2.

27 Additionally, respondent suggests that the proposed plan
28 amendment is "consistent," as that term is used in Goal 2 and in
29 Ordinance 1800, with the county's plan. Respondent attaches to
30 its brief (1) a portion of a document entitled Washington County
31 Recommended Transportation Improvement Projects, (2) an

1 intergovernmental agreement between the city and the county, and
2 (3) a memorandum of understanding between the city and the
3 county planning directors. We understand respondent to attach
4 these items to demonstrate that the plans of the city and the
5 county are consistent, as well as that the proposed amendment
6 was coordinated with the county. Respondent contends that the
7 intergovernmental agreement and the memorandum of understanding
8 outline how the city and county coordinate and assure plan
9 consistency regarding the city's transportation plan amendments.
10 Respondent argues that in the transportation planning process:

11 "It is simply a reality of multi jurisdictional
12 transportation improvements that someone has to make
13 the 'first move' and implement plan amendments to
14 accommodate the improvements * * *." Respondent's
15 Brief 13.

16 Respondent maintains that the city made the "first move" in a
17 complex transportation planning process and that the city's move
18 was made as contemplated by Goal 2, the city's intergovernmental
19 agreement with the county and the memorandum of understanding
20 between the city and county planning directors. Respondent
21 contends, therefore, its decision is consistent with the
22 county's plan.

23 Respondent suggests that under these circumstances, the
24 consistency requirement is met where the city amendments
25 designate only a conceptual alignment within the county and the
26 county places the city's conceptual alignment on the county's
maps for study to determine the appropriateness of a
corresponding county plan amendment to accommodate the city's
suggested alignment within the county.

1 The plan and Goal 2 coordination and consistency
2 requirements establish separate standards which we address
3 separately below.

4 A. Coordination

5 We agree with respondent that it satisfied the coordination
6 requirements imposed by Goal 2, its plan and Ordinance 1800. We
7 agree with petitioner that the findings are conclusory and
8 inadequate to establish that the city's decision was
9 "coordinated." However, we also agree with respondent that the
10 evidence in the record cited by the city "clearly supports" a
11 determination that the city actively solicited an exchange of
12 information and considered input from the affected units of
13 government.

14 The city appointed representatives from affected units of
15 government to serve on two different committees. The CRTAC
16 identified a range of feasible transportation options reasonably
17 available to the city to solve identified traffic congestion
18 problems. The CRAC refined and chose from those alternatives
19 developed by the CRTAC and made a recommendation to the city
20 council regarding the best alternatives. The city utilized a
21 transportation model developed by Metro to determine
22 transportation alternatives to solve the problems the city
23 identified. ODOT was an active participant in every phase of
24 this process.

25 In this case, it is not dispositive that there are no
26 specific recommendations from affected units of government

1 regarding the particular alignment the city chose. It is clear
2 that the city provided all of the affected units of government
3 opportunities to have meaningful input into the process which
4 led to the city's decision.⁹ It is equally plain that the
5 affected units of government took advantage of those
6 opportunities and helped to shape the city's decision.¹⁰

7 Where, as here, the record shows that the affected units of
8 government were active participants in a continuous process
9 which lead to the city's decision, we disagree with petitioner's
10 claim that the city was required to provide distinct
11 opportunities to comment each time the project became more
12 focused. Petitioner's argument regarding the Millikan Way
13 alignment suggests that some units of government may disagree
14 with the city's choice of a conceptual alignment utilizing
15 Millikan Way. However, nothing in the coordination requirement
16 of Goal 2, the plan or Ordinance 1800 requires affected units of
17 government to agree with the decision finally made by another
18 government. See Jackson County v. BCVSA, 53 Or App 823, 632 P2d
19 1349 (1981); Citizens for Better Transit v. Metropolitan Service

21 ⁹Coordination requires that the city consider and accommodate the
22 county's needs as as much as possible. This means that the county must
23 have an opportunity to raise issues, and if the county does raise issues,
that the city must address them. Eddy v. Multnomah County, ___ Or LUBA ___
(LUBA No. 89-072, November 8, 1989), slip op 12-13.

24 ¹⁰It appears that all affected local governments had an opportunity to
25 raise, and some did raise, concerns regarding the proposed use of Millikan
26 Way during one or more of the CRAC meetings. However, it was the CRAC,
which included representatives from the affected units of government, which
recommended to the city the use of Millikan Way as the preferred
alternative.

1 District, 15 Or LUBA 482, 486 (1987).

2 Here, we believe the city both:

3 "* * * engaged in an exchange of information between
4 the planning jurisdiction and affected governmental
5 units, or at least invited such an exchange * * *
[and]

6 "* * * used the information to balance the needs of
7 all governmental units as well as the needs of the
citizens in the plan formulation or revision."
8 Rajneesh v. Wasco County, 13 Or LUBA at 210.

9 Accordingly, we conclude that the city satisfied its
10 coordination obligations.

11 This subassignment of error is denied.

12 B. Consistency

13 It is not altogether clear what is meant by the Goal 2 and
14 Ordinance 1800 requirements that the city's plan be consistent
15 with the plans of Metro and the county. Because the consistency
16 requirement in Ordinance 1800 essentially mirrors the
17 consistency requirement of Goal 2, it is proper to interpret the
18 consistency requirement of the ordinance 1800 in the same manner
19 as the Goal 2 consistency requirement. Kellog Lake Friends v.
20 Clackamas County, ___ Or LUBA ___ (LUBA No. 88-061, December 22,
21 1988), slip op 10-11, aff'd 96 Or App 536, rev den 308 Or 197
(1989).

22 In DLCD v. Clatsop County, 14 Or LUBA 358 (1986), the
23 county changed the county plan and zone designations for
24 property covered also by city plan and zone designations. The
25 Board determined that the resulting different plan and zone
26 designations for the property, made the county's plan

1 inconsistent with the city's plan and, therefore, violated the
2 consistency requirement of Goal 2.

3 The facts of this case are similar to DLCD v. Clatsop
4 County, supra, in that the result of the city's plan amendment
5 is that the city's plan designations are different from the
6 county plan designations for the same area. However, there is a
7 significant difference between this case and DLCD v. Clatsop
8 County. In that case, the city and the county had an agreement
9 which specified, notwithstanding that the county had planning
10 authority over the subject area, that "* * * any change in the
11 plan and zone designation [for the property] must be measured
12 against the city's plan and zone change criteria." DLCD v.
13 Clatsop County, 14 Or LUBA at 360. Here, the city asserts no
14 planning authority over the area within the county which the
15 city has conceptually designated to accommodate the proposed
16 arterial.¹¹ Relevant portions of the proposed plan amendments
17 specifically state:

18 "Additional relief from traffic congestion will come
19 with the construction of a major east-west arterial
20 north of Canyon and south of Center Street. This
21 street should have direct access to Highway 217 in the
22 form of a redesigned interchange with Walker and/or
23 Canyon Road. The road will extend west to eventually
connect with Millikan Blvd. west of Murray. The
specific alignment west of Hocken to Murray will have

24 ¹¹We note that in any case, because the disputed portion of Millikan Way
25 is under the county's jurisdiction, the city's designation of a conceptual
26 alignment outside of the city limits can be no more than a recommendation
to the county regarding that alignment. See Multnomah County v. City of
Fairview, ___ Or LUBA ___ (LUBA Nos. 88-035 and 88-076, December 23, 1988),
slip op 14.

1 to be determined based upon the City's ability to
2 utilize Millikan Way, a private street owned by
3 Tektronix. However, if Millikan Way cannot be used
4 for this segment of the street, this segment may have
5 to be constructed south of Millikan Way." (Emphasis
6 added.) Record 112.

7 Additionally, the intergovernmental agreement between the
8 city and the county provides a process which the city and the
9 county are to utilize to assure, among other things, consistency
10 between their respective plans.¹² Policy II E of the
11 city/county intergovernmental agreement provides:

12 "The CITY is responsible for conducting an urban
13 services study within its urban planning area * * *
14 This study will identify the area for long range
15 provision of urban level services and annexation to
16 the CITY. Services to be studied include * * *
17 transportation facilities * * *. The COUNTY will
18 participate in this process as outlined in a
19 memorandum of understanding and will forward the
20 future proposed urban services boundary and policies
21 to the County Planning Commission and Board of
22 Commissioner for consideration as a possible amendment
23 to the COUNTY comprehensive Plan."

24 Accordingly, the intergovernmental agreement sets out a process
25 for maintaining plan consistency under circumstances where the
26 city makes a recommendation regarding transportation systems
affecting both the county and the city.

Additionally, we conclude that inclusion of the proposed
alignment in the Metro RTP demonstrates that the proposed

¹²A certified copy of the intergovernmental agreement is attached to Respondent's Brief as Exhibit F. We take official notice of it. Under ORS 197.805, we are required to exercise our authority consistent with sound principles of judicial review. We have interpreted that authority to include taking official notice of official public documents where appropriate. McCaw Communications v. Marion County, ___ Or LUBA ___ (LUBA No. 88-068, December 12, 1988) slip op 4, rev'd on other grounds, 96 Or App 552 (1989).

1 amendment is consistent with Metro plan provisions.

2 We believe that here, where the city has coordinated its
3 decision with affected jurisdictions and has designated only a
4 conceptual arterial road alignment affecting land over which the
5 city asserts no jurisdiction or other planning control, the
6 plans of the city and the county are not inconsistent within the
7 meaning of Goal 2.¹³

8 This subassignment of error is denied.

9 The first and second assignments of error are denied.

10 THIRD ASSIGNMENT OF ERROR

11 "The reliever arterial alignment utilizing Millikan
12 Way violates Objective 10 of the Circulation and
13 Traffic Facilities section of the City's Comprehensive
14 Plan."

15 Objective 10 of the plan's transportation element states
16 that the city shall:

17 "Develop and maintain appropriate on-site loading,
18 parking and internal circulation standards for private
19 development."

20 Petitioner argues that the city improperly found
21 Objective 10 inapplicable to the plan amendments. Petitioner
22 argues that Objective 10 is applicable to the amendments
23 because:

24 "* * * the use of Millikan Way as a part of a reliever
25 arterial will create the following circulation and
26

27 ¹³It is not argued that the city's plan amendments regarding areas
28 inside the city limits are inconsistent with the county plan. We
29 understand petitioner only to argue that the city plan maps showing a
30 conceptual arterial alignment on land outside of the city limits is
31 inconsistent with the county plan.

1 traffic impacts on Howard Vollum Park (the Tektronix
campus):

2 "-- The loss of 105 parking spaces

3 "-- Potential loss of eight driveways (plus two
4 additional driveways on Eaton Corporation and
5 Fulton Moving & Storage parcels which also front
6 Millikan Way);

7 "-- Loss of circulation between buildings;

8 "-- Restrictions of turning movements from warehouse
9 buildings;

10 "-- Delays in making truck movements to and from
11 various parts of the campus." Petition for
12 Review 20-21.

13 Respondent argues that the plan has a particular definition
14 for "objectives" such as Objective 10. Respondent contends:

15 "'Goals' and 'objectives' are nonmandatory guidelines
16 which direct the formulation of 'policies'.
17 'Policies,' in turn are more specific and may or may
18 not be mandatory depending upon how they are worded."
19 Respondent's Brief 14.

20 Respondent also argues that Objective 10 would not apply in any
21 case because it directs the city to adopt standards and does not
22 by itself provide the standards which must be applied in this
23 case.

24 We agree with respondent that Objective 10 is not an
25 approval standard applicable in this case. Rather, by its
26 terms, Objective 10 directs the city to to adopt approval
standard(s) addressing the concerns specified in the objective.

The third assignment of error is denied.

24 FOURTH ASSIGNMENT OF ERROR

25 "The City's designation of Millikan Way as part of the
26 reliever arterial alignment is contrary to circulation
and Traffic Facilities section Objective 12 of the

1 City's Comprehensive Plan and Ordinance No. 1800, Plan
Amendment Criteria 8 and 2."

2 Plan transportation element Objective 12 states that the
3 city shall:

4 "Maintain the quality of life in the area through
5 proper location and design of transportation
facilities."

6 Plan Circulation and Traffic Facilities Policy 7 states:

7 "Streets and highways shall be designed to respect the
8 characteristics of the surrounding land uses, natural
features and community amenities."

9 Additionally, Ordinance 1800, section 8, criterion 8 requires
10 the city to consider the following:

11 "Effect on the quality of life of those persons
12 directly impacted by the proposed change."

13 Finally, Ordinance 1800, section 8, criterion 2 requires the
14 city to review a plan amendment for:

15 "Impact on surrounding areas, public facilities and
services, the environment and the general economy."

16 We understand petitioner to contend that Howard Vollum
17 Park, which is a part of petitioner's campus, is a "community
18 amenity," that the quality of life for the users of the park
19 will be diminished and that the city did not adequately address
20 these issues in its findings. Specifically, petitioner contends
21 that Howard Vollum Park:

22 "* * * represents a unique example of a
23 self-contained, privately financed and developed
24 industrial/office park campus. The campus was
25 designed to promote internal circulation and regulate
26 non-campus trips from the standpoints of security and
privacy and the creation of a true campus setting,
facilitating a full range of research, development,
manufacturing and administrative operations
exclusively for petitioner's benefit.

1 "The predominant characteristic of the area in
2 question is Howard Vollum Park. While it contains the
3 central operational facilities for Tektronix, * * * it
is also a landscaped campus located in the midst of a
major urban area." Petition for Review 22-23.

4 Respondent argues that Objective 12 is a broadly worded,
5 nonmandatory statement and is not an approval standard.
6 Respondent concedes that Policy 7 is an approval standard for
7 certain decisions. Respondent argues, however, that Policy 7
8 does not apply in this case because by its terms it applies only
9 to street "design" decisions, not to conceptual street alignment
10 decisions. Respondent argues that its designation of an
11 arterial street, as it affects petitioner's campus, is
12 conceptual only.¹⁴

13 We agree with respondent that Objective 12 is not a
14 mandatory approval criterion. The ends of Objective 12 are
15 addressed in Policy 7. We also agree with respondent that
16 Policy 7 governs street and highway design and is not implicated
17 by a plan amendment which simply identifies a conceptual
18 arterial street alignment. We also agree with respondent that
19 Ordinance 1800, section 8, criteria 2 and 8 are not violated by
20 the proposed conceptual arterial alignment. There is no impact
21 on petitioner for the city to evaluate, within the meaning of

22
23
24 ¹⁴Respondent also argues that the city, in any event, need not adopt
25 findings demonstrating compliance with the plan amendment criteria of
26 Ordinance 1800 because its decision is legislative. We reject this
argument. Ordinance 1800 requires findings demonstrating all of the plan
amendment criteria are satisfied, and it makes no distinction in this
requirement between legislative and quasi-judicial decisions.

1 criteria 2 and 8, until an arterial street alignment is chosen
2 which determines that Millikan Way is to be utilized for that
3 purpose. The city specifically stated in the adopted plan
4 amendments that the proposed alignment, west of Hocken including
5 Millikan Way, is not determined and is conceptual only. It is
6 not until a particular alignment is chosen that the requirements
7 of Ordinance 1800, section 8, criteria 2 and 8 must be
8 satisfied.

9 The fourth assignment of error is denied.

10 FIFTH ASSIGNMENT OF ERROR

11 "The City failed to address Industrial Land Uses
12 Policy 7 of the City's Comprehensive Plan which
13 requires community efforts toward preservation of
14 prime industrial lands for industrial purposes."

15 Plan Industrial land Uses Policy 7 (Industrial Policy 7)
16 provides:

17 "Community efforts should be directed toward
18 preserving prime industrial lands for industrial
19 purposes."

20 Petitioner argues that Industrial Policy 7 is a mandatory
21 approval standard applicable to the city's decision. Petitioner
22 contends that because Millikan Way is currently planned and
23 zoned by the county for industrial uses, the city's decision to
24 utilize that land for transportation purposes violates
25 Industrial Policy 7.

26 Respondent contends that Industrial Policy 7 is not a
mandatory approval standard and that it does not, in any event,
apply to this case because Millikan Way is outside of the city's

1 planning authority and jurisdiction.

2 We agree with respondent that nothing in the words or
3 context of this policy is mandatory. Industrial Policy 7
4 addresses only what direction the city's efforts should take, it
5 does not require the city to preserve anything.¹⁵

6 The fifth assignment of error is denied.

7 SIXTH ASSIGNMENT OF ERROR

8 "The City's action in designating Millikan Way as part
9 of the reliever arterial conflicts with the City's
10 Comprehensive Plan Objectives dealing with promotion
of economic development and Statewide Planning Goal 9
and Ordinance No. 1800, Plan Amendment Criteria 2."¹⁶

11 SEVENTH ASSIGNMENT OF ERROR

12 "The City's use of Millikan Way as part of the
13 reliever arterial does not conform with Statewide
14 Planning Goal 12 in that the City's amendment to its
transportation plan does not minimize adverse economic
impacts and costs and does not conform with local and
regional comprehensive land use plans."

15 In these assignments of error, petitioner argues that the
16 city's findings regarding Statewide Planning Goals 9 and 12 and
17 plan Industrial Areas Objectives 1, 2 and 3 are inadequate with
18 respect to the conceptual arterial alignment utilizing Millikan
19 Way.

20 Plan Industrial Areas Objectives 1, 2 and 3 are as follows:

21 _____
22 ¹⁵We note that we also agree with respondent that even if Industrial
23 Policy 7 is applicable, petitioner has not established that the Tektronix
24 campus would no longer be available for industrial use if the county did
adopt the city's recommendation regarding the proposed Millikan Way
alignment.

25 ¹⁶We note that we addressed the applicability of Ordinance 1800, section
26 8, criteria 2 under the fourth assignment of error. Accordingly, no
purpose would be served to address it again here.

1 "The industrial section of the General Plan was
2 prepared in conformance with the following general
policies:

3 "1. Community efforts should be directed toward
4 preserving prime industrial lands for industrial
purposes.

5 "2. Industrial areas should be protected from
6 incompatible commercial and residential uses.

7 "3. Adequate traffic circulation, off-street
8 parking, loading and service areas should be
considered as essential to industrial
development."

9 Respondent contends that these Goals and plan provisions
10 are inapplicable to designation of a conceptual street alignment
11 outside of the city, utilizing Millikan Way.

12 None of the above quoted plan provisions are mandatory
13 approval standards. These plan provisions suggest what the city
14 should do, but do not purport to require the city to do
15 anything.

16 Furthermore, we believe that the duty to address Goal 9 and
17 12 issues that might apply to a plan amendment designating
18 Millikan Way as an arterial street, has not yet been triggered.
19 The duty to address these goals will arise when a decision is
20 actually made to change the plan designation of Millikan Way.
21 Here, the city has not made a decision changing the
22 comprehensive plan designation for Millikan Way. The city has
23 only made a decision, in concept, that Millikan way or some
24 alignment south of it, should be utilized as a part of the
25 east-west arterial street the city needs to relieve traffic
26 congestion on Canyon Road. To the extent that the city has the

1 authority to adopt a decision actually designating Millikan Way
2 as an arterial street, it has not yet purported to do so.¹⁷ We
3 believe that the general city findings cited by petitioner are
4 adequate to satisfy the city's Goal responsibilities with regard
5 to a conceptual arterial street plan designation for land
6 outside of the city limits.

7 The sixth and seventh assignments of error are denied.

8 EIGHTH ASSIGNMENT OF ERROR

9 "The City's form of Findings are inadequate, in
10 violation of Statewide Planning Goal 2."

11 Petitioner contends that the city's findings are inadequate
12 for our review, citing Sunnyside Neighborhood v. Clackamas Co.
13 Comm., 280 Or 3, 569 P2d 1063 (1977).

14 Respondent contends, among other things, that the city's
15 findings are adequate for our review.

16 We agree with respondent, but for different reasons than
17 respondent advances. No particular form of findings are
18 required and no magic words need be employed. Sunnyside
19 Neighborhood v. Clackamas Co. Comm., 280 Or at 20-21. We
20 determined that the city was not required to make all of the
21 findings petitioner contends are necessary, and that where the
22 city was required to make findings, the city either made

23
24 ¹⁷ Petitioner asserts that the city's decision conceptually designating
25 Millikan Way for a street arterial violates Goal 12. Petitioner referenced
26 other arguments in its brief to establish the alleged Goal 12 violation.
Petitioner does not develop its argument regarding how Goal 12 is violated
by the city's decision. We will not make petitioner's argument for it.
Deschutes Development v. Deschutes County, 5 Or LUBA 218, 220 (1982).

1 adequate findings or, where those findings were inadequate,
2 respondent cited to evidence in the record which "clearly
3 supports" the city's decision, pursuant to ORS 197.835(10) (b) .

4 Accordingly, the eighth assignment of error is denied.

5 The city's decision is affirmed.
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