

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

1ST JOHN 2:17 LLC and JONATHAN TALLMAN,
Petitioners,

vs.

CITY OF BOARDMAN,
Respondent.

LUBA No. 2026-009

FINAL OPINION
AND ORDER

Appeal from City of Boardman.

Ty Wyman filed the petition for review and reply brief and argued on behalf of petitioners. Also on the brief was Dunn Carney LLP.

Emily B. Guimont filed the respondent's brief and argued on behalf of respondent. Also on the brief was Joshua P. Soper and Beery, Elsner & Hammond, LLP.

BASSHAM, Board Member; ZAMUDIO, Board Member, participated in the decision.

WILSON, Board Chair, did not participate in the decision.

AFFIRMED 09/11/2026

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

NATURE OF THE DECISION

Petitioners appeal an ordinance legislatively adopting a parks master plan as part of the city comprehensive plan.

FACTS

In 2025, as part of a larger update to its comprehensive plan and land use regulations, the city began a planning process to adopt its first parks master plan, or PMP. Planning staff and consultants, in collaboration with the Boardman Park and Recreation District (District), developed a draft PMP to implement city comprehensive plan policies regarding recreation. The city reviewed the draft PMP under its procedures and standards for a “Type IV” legislative decision at Boardman Development Code (BDC) 4.1.600.

BDC 4.1.600(G) sets out the following three considerations in making a Type IV legislative decision:

“The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

“1. Approval of the request is consistent with the Statewide Planning Goals;

“2. Approval of the request is consistent with the Comprehensive Plan; and

“3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.”

1 The PMP includes descriptions of existing city or District park facilities as
2 well as proposals for new or expanded park facilities. One proposal is to connect
3 two partially developed recreation sites with a linear trail known as the Parque
4 Cultural-Power Trail Park (Trail Park). The city owns most of the proposed
5 alignment, but the PMP proposes to “[s]ecure additional dedications and
6 easements to complete the corridor.” Record 104.

7 Petitioners own property within or adjacent to the Trail Park alignment
8 proposed in the PMP and appeared in opposition to the proposal at the planning
9 commission and city council hearings. On April 7, 2026, the city council adopted
10 the PMP via ordinance, supported by the adoption of a staff report as findings.
11 This appeal followed.

12 **STANDARDS OF REVIEW**

13 No party disputes that the city’s adoption of the PMP is a legislative
14 decision.¹ However, the parties appear to disagree about the standards of review

¹ Oregon laws and case law distinguish between legislative and quasi-judicial land use decisions, and apply different standards and procedural requirements for each. A quasi-judicial decision is generally characterized by (1) a process that is bound to result in a decision, (2) that is bound to apply pre-existing criteria to a concrete set of facts, and (3) that is directed at a closely circumscribed factual situation or a relatively small number of persons. *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-04, 601 P2d 769 (1979). A legislative decision usually involves the opposite characteristics, and tends to concern adoption of broadly applicable policy. There is no question in the present case that adopting a PMP for the city is a legislative decision under the *Strawberry Hill* test.

1 we apply to challenges to a legislative, as opposed to a quasi-judicial, decision.
2 Petitioners argue that the city's findings supporting the decision are inadequate,
3 and we should review and remand for inadequate findings. Differently, the city
4 argues that we review the challenged legislative decision for an adequate factual
5 base, and petitioners' inadequate findings challenge provides no basis for
6 remand. We generally agree with the city.

7 As explained in *Restore Oregon v. City of Portland*, 80 Or LUBA 158, 162
8 (2019), *aff'd*, 301 Or App 769, 458 P3d 703 (2020):

9 "Because the challenged decisions are legislative rather than quasi-
10 judicial, there is no generally applicable requirement that the
11 decisions be supported by findings, although the decisions and
12 record must be sufficient to demonstrate that applicable criteria were
13 applied and 'required considerations were indeed considered.'
14 *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16
15 n 6, 38 P3d 956 (2002). With respect to evidence, Statewide
16 Planning Goal 2 (Land Use Planning) requires that a decision that
17 amends a comprehensive plan or land use regulation be supported
18 by an adequate factual base. An 'adequate factual base' is equivalent
19 to the requirement that a quasi-judicial decision be supported by
20 substantial evidence in the whole record. *1000 Friends of Oregon v.*
21 *City of North Plains*, 27 Or LUBA 372, 378, *aff'd*, 130 Or App 406,
22 882 P2d 1130 (1994). Substantial evidence exists to support a
23 finding of fact when the record, viewed as a whole, would permit a
24 reasonable person to make that finding. *Dodd v. Hood River County*,
25 317 Or 172, 179, 855 P2d 608 (1993); *Younger v. City of Portland*,
26 305 Or 346, 351-52, 752 P2d 262 (1988)."

27 Thus, in defending a legislative decision, a local government can generally rely
28 on adopted findings as well as arguments in its brief and accessible material in
29 the record to establish that applicable legal standards are satisfied. *Home Builders*

1 *Assoc. v. City of Eugene*, 78 Or LUBA 441, 451 (2018); *see also*
2 *Redland/Viola/Fischer's Mill CPO v. Clackamas County*, 27 Or LUBA 560, 563-
3 64 (1994) (citing *Von Lubken v. Hood River County*, 22 Or LUBA 307, 314
4 (1991) (explaining that a respondent may “provide in their briefs argument and
5 citations to facts in the record adequate to demonstrate that the challenged
6 legislative decision complies with applicable legal standards”)).

7 Finally, the parties agree that our standard of review for challenges based
8 on misconstruction of law is governed by ORS 197.835(9)(a)(D) (LUBA shall
9 reverse or remand a land use decision if the Board finds that the local government
10 “[i]mproperly construed the applicable law[]”). Our review of any interpretations
11 made by the city council is governed by ORS 197.829(1).² However, if the

² ORS 197.829 provides:

“(1) [LUBA] shall affirm a local government’s interpretation of its comprehensive plan and land use regulations, unless the [B]oard determines that the local government’s interpretation:

“(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;

“(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;

“(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or

1 challenged decision fails to include a necessary interpretation of a local provision,
2 or the interpretation is inadequate for review, we may make our own
3 determination of whether the local government decision is correct. ORS
4 197.829(2).

5 **ASSIGNMENT OF ERROR**

6 Petitioners' single assignment of error argues, across three subassignments
7 of error, that the decision and record fail to establish consistency with BDC
8 4.1.600(G)(3).

9 BDC 4.1.600(G)(3) includes two alternative considerations to support a
10 legislative action: either that (1) "[t]he property and affected area is presently
11 provided with adequate public facilities, services and transportation networks to
12 support the use," or (2) "such facilities, services and transportation networks are
13 planned to be provided concurrently with the development of the property." The
14 city council addressed both considerations in a single finding adopted from the
15 staff report:

"(d) Is contrary to a state statute, land use goal or rule that
the comprehensive plan provision or land use
regulation implements.

"(2) If a local government fails to interpret a provision of its
comprehensive plan or land use regulations, or if such
interpretation is inadequate for review, the [B]oard may make
its own determination of whether the local government
decision is correct."

1 “The proposed [PMP] does specify park and recreation areas within
2 the City of Boardman that are owned by either the City or the
3 District. These properties are currently or can be served by adequate
4 public facilities, service or transportation networks to support the
5 park and recreation uses at those locations. As new park or
6 recreation facilities are planned, by either the City or District, proper
7 planning review processes will ensure that continues for new or
8 improved facilities.

9 “For these reasons, the criterion is met.” Record 5.

10 In the first subassignment, petitioners argue that in this finding the city
11 council misconstrued BDC 4.1.600(G)(3). In the second and third
12 subassignments, petitioners argue that the finding is inadequate to demonstrate
13 that either alternative consideration is met, and further that the finding is not
14 supported by an adequate factual base.

15 **A. Misconstruction of Law**

16 In the second sentence of the above-quoted finding, referring to existing
17 park and recreation lands already owned either by the city or the District, the city
18 council found that those lands are “currently or *can be served* by adequate public
19 facilities, service or transportation networks to support the park and recreation
20 uses at those locations.” Record 5 (emphasis added). Petitioners argue that the
21 phrase “can be served” represents a misinterpretation of BDC 4.1.600(G)(3),
22 which requires either that public facilities are “presently provided” or “planned”
23 to be provided concurrent with development of the property. Further, petitioners
24 fault the city for failing to address whether non-park properties affected by future
25 development of parks such as the Trail Park are “affected areas” that must also

1 be planned for the provision of adequate public facilities. We address each
2 argument in turn.

3 **1. Can be Served**

4 Petitioners first argue that the finding that existing park areas “can be
5 served” by adequate facilities is neither responsive to the first alternative, which
6 is focused on whether the property and the area affected by the proposal under
7 consideration is “presently provided” with adequate public facilities, nor with the
8 second alternative, which focuses on whether public facilities are “planned to be
9 provided concurrently with the development of the property.” BDC
10 4.1.600(G)(3). Petitioners argue that “can be served” speaks only to physical
11 possibility, not whether facilities are *presently* provided or *planned* to be
12 provided with public facilities.

13 The city’s brief does not include a specific response to petitioners’ “can be
14 served” argument. We agree with petitioners that “can be served” seems to
15 concern physical possibility, and that that phrase does not address the question of
16 whether existing parks and affected areas are “presently provided” with public
17 facilities, which is the inquiry under the first alternative. Nor does it address the
18 question of whether undeveloped park lands are “planned” to be provided with
19 public facilities, concurrent with their development.

20 The subject of that phrase “can be served” is apparently the subset of
21 existing city or District-owned park lands that are undeveloped and not yet served
22 with public facilities. We understand the city to argue that any existing

1 undeveloped city or District-owned park lands that the PMP plans for future
2 development are addressed under the second alternative. In other words, the city
3 argues that for future development of existing undeveloped park lands, as well as
4 for future development of yet-to-be-acquired park lands, the city's decision relies
5 upon the second alternative, and the finding that "proper planning review
6 processes will ensure that" public facilities are "provided concurrently with
7 development of" such undeveloped park lands. Record 5; BDC 4.1.600(G)(3).

8 Although the above-quoted finding is not a model of clarity on this point,
9 we agree with the city that the city council apparently chose to address under the
10 first alternative city or District-owned park lands that are developed and presently
11 served with public facilities, and address all other existing and future park lands
12 under the second alternative. Under the second alternative, undeveloped and
13 unserved park lands, whether already owned or to-be-acquired in the future, must
14 be "planned" for public facilities concurrently with their development with park
15 facilities. We address below petitioners' arguments under the second alternative
16 that the city failed to establish that such existing or future undeveloped park lands
17 are "planned" for adequate public facilities. For present purposes, while we agree
18 with petitioners that the finding that some undeveloped park lands "can be
19 served" with public facilities is nonresponsive to the first alternative
20 consideration under BDC 4.1.600(G)(3), that language appears to be surplusage,
21 because the city subsumed consideration of all undeveloped and unserved park
22 lands under the second alternative. Accordingly, petitioners' arguments

1 regarding the “can be served” language does not provide a basis for reversal or
2 remand.

3 **2. Affected Area**

4 Petitioners next argue that under BDC 4.1.600(G)(3) the geographic focus
5 is on both the “property” under consideration and the “affected area.” Petitioners
6 argue that the city’s finding does not describe or address the “affected area.” To
7 the extent the city construed BDC 4.1.600(G)(3) to collapse “property” and the
8 “affected area” together, or to exclude “affected area” from the analysis,
9 petitioners argue, the city misconstrued BDC 4.1.600(G)(3), which plainly
10 requires consideration of both the “property” and the “affected area.” Petitioners
11 argue that the “affected area” presumably includes undeveloped privately owned
12 properties in or near the proposed Trail Park alignment, which will be affected
13 by future acquisition and development of the Trail Park.

14 Again, BDC 4.1.600(G)(3) requires that in adopting a legislative action the
15 city consider whether:

16 “The property and affected area is presently provided with adequate
17 public facilities, services and transportation networks to support the
18 use, or such facilities, services and transportation networks are
19 planned to be provided concurrently with the development of the
20 property.”

21 The city argues that, as shown in its single finding addressing BDC
22 4.1.600(G)(3), the city council understood “property” to include all existing park
23 lands owned by the city or District, as well as proposed future park lands

1 discussed in the PMP. Petitioners also seem to share that understanding of
2 “property.” While the city’s finding did not mention or address the phrase
3 “affected area,” the city argues that in the context of a legislative decision
4 adopting a parks master plan that concerns parks facilities over the entire city, the
5 “affected area” can be understood to constitute the entire city. The city points to
6 PMP provisions that detail how the park system is designed to serve the
7 recreational needs of the entire city. We understand the city to argue that in this
8 context it would be meaningless, and infeasible, to evaluate whether every
9 property in the entire city is presently provided with public facilities, or will be
10 provided with public facilities concurrently with development of future park
11 facilities.

12 In contrast, we understand petitioners to argue that BDC 4.1.600(G)(3) at
13 least requires the city to evaluate whether land near proposed future park
14 development, such as petitioners’ property near the proposed Trail Park
15 alignment, is “planned” to be provided with public facilities, concurrent with
16 development of that park.

17 The city responds by noting that, textually, only the first alternative under
18 BDC 4.1.600(G)(3) requires consideration of whether adequate public facilities
19 are presently provided in the “affected area.” The city argues that the scope of
20 the second alternative is limited to the planned provision of public facilities to
21 the “property,” and does not explicitly reference planned facilities for the
22 “affected area.”

1 The city is correct that, whatever the geographic scope of “affected area,”
2 that term is an explicit consideration only under the first alternative, addressing
3 whether the property and affected area are “presently provided” with adequate
4 public facilities. As BDC 4.1.600(G)(3) is written, the second alternative is
5 concerned only with the “property,” and does not require consideration of
6 whether public facilities are planned to be provided to an “affected area.” The
7 second clause of BDC 4.1.600(G)(3), describing the second alternative, mentions
8 only the “property,” not the affected area. This understanding of the second
9 alternative is also consistent with the city council’s findings regarding the second
10 alternative, which do not mention or address the “affected area.” The relevant
11 finding addresses only park lands to be developed in the future. As explained
12 above, we understand the city council to address under the first alternative only
13 those city or District-owned park lands that are developed as park facilities and
14 currently served by public facilities. Concurrency with respect to the
15 development of all other existing and future undeveloped park lands was
16 addressed under the second alternative. The city council’s implicit understanding
17 of the second clause of BDC 4.1.600(G)(3) is consistent with the text of that code
18 provision, and we affirm it. ORS 197.829(1)(a).

19 Because the “affected area” is only a consideration under the first
20 alternative—which we understand the city to have applied in the present case
21 only to those developed park lands that are currently provided with public
22 facilities—petitioners’ arguments that non-park lands near undeveloped or

1 unacquired park facilities to be developed in the future, such as the Trail Park, do
2 not relate to required considerations under the second alternative. Accordingly,
3 those arguments provide no basis for reversal or remand.

4 With respect to the first alternative, petitioners fault the city for failing to
5 adopt findings identifying the public facilities that presently serve the “affected
6 area.” However, given the narrow scope of the city council’s consideration under
7 the first alternative, petitioners fail to explain what purpose would be served in
8 the present case by findings identifying the public facilities that presently serve
9 the “affected area.” As explained, we understand the city council to consider
10 under the first alternative only those existing park lands that are already
11 developed and presently provided public facilities. Because the PMP proposes no
12 development with respect to these already developed park lands, there is no
13 proposed “use” with respect to those lands. The first alternative is explicitly
14 concerned with whether the property and affected lands are presently provided
15 with public facilities necessary to “to support the use.” The PMP proposes no
16 new use with respect to these already developed park lands that might warrant an
17 inquiry into whether public facilities are present to support the use.

18 A concurrency provision such as BDC 4.1.600(G)(3) generally functions
19 to ensure that development of land does not precede the provision of adequate
20 public facilities for that development. That function has little meaningful
21 application to a decision adopting a master park plan that, in relevant part,
22 describes *already developed* park lands that are currently served by public

1 facilities, and for which no new use is proposed. It makes even less sense for the
2 city to consider, under the first alternative in BDC 4.1.600(G)(3), whether non-
3 park areas affected by the city's developed parks are presently provided with
4 public facilities.

5 Absent some argument from petitioners as to what purpose would be
6 served by the additional consideration of whether nearby areas "affected" by
7 already developed park lands are also served by public facilities, petitioners'
8 arguments regarding the first alternative do not provide a basis for remand.

9 We turn then to petitioners' challenges to the city's findings regarding the
10 second alternative.

11 **3. Planned to be provided concurrently with the**
12 **development of the property**

13 Again, the city's finding addressing the second alternative states:

14 "As new park or recreation facilities are planned, by either the City
15 or District, proper planning review processes will ensure that
16 continues for new or improved facilities.

17 "For these reasons, the criterion is met." Record 5.

18 We understand the city council to take the position in this finding that as new
19 park development is proposed, the planning review processes in the city's
20 comprehensive plan and land use regulations will assure that such development
21 will not be approved unless adequate supporting public facilities are available or
22 concurrently provided.

1 Petitioners cite *Kine v. City of Bend*, 72 Or LUBA 423 (2015), to argue
2 that a concurrency provision such as the second alternative in BDC 4.1.600(G)(3)
3 cannot be satisfied by reliance on future land use reviews. In *Kine*, we addressed
4 a similarly worded concurrency provision, applied to a quasi-judicial
5 comprehensive plan amendment and zone change to allow intensive residential
6 development of a vacant 5.36-acre parcel. The concurrency provision at issue in
7 *Kine* mandated a demonstration that public facilities are “planned to be provided
8 concurrently with development of the property.” 72 Or LUBA at 438. Any
9 development of the property under the new designation and zone would require,
10 for safety reasons, a second access point, using an unplanned and unfunded street
11 extension. However, the city adopted no findings that the required secondary
12 access would be provided concurrently with development and imposed no
13 conditions to that effect. Instead, the city adopted findings that future subdivision
14 or site plan approvals, under subdivision and site plan review standards that
15 require a finding that public facilities have “adequate capacity,” would ensure
16 compliance with the concurrency standard. We held that that finding was
17 insufficient, because it was not clear to us whether the cited subdivision and site
18 plan review standards would govern all potential development of the property,
19 and further whether those “adequate capacity” standards would necessarily
20 address the issue of secondary access, which was driven by safety concerns, not
21 capacity. We remanded the decision to the city to adopt more adequate findings
22 and any conditions necessary to ensure that the required secondary access is

1 “planned to be provided concurrently with development of the property.” *Kine*,
2 72 Or LUBA at 483-39.

3 *Kine* does not assist petitioners. *Kine* did not hold, as petitioners suggest,
4 that a city cannot rely on future land use reviews to ensure compliance with a
5 concurrency requirement such as BDC 4.1.600(G)(3), only that such reliance in
6 a quasi-judicial decision approving development must be supported by adequate
7 findings and conditions as necessary to ensure that public facilities are provided
8 concurrently with development of the property. Such findings and conditions
9 were essential in that case, which involved a quasi-judicial rezoning of a specific
10 property, in factual circumstances where a particular public facility required for
11 development was unavailable, unplanned and unfunded, under a mandatory
12 approval criterion that required a demonstration of concurrency. In contrast, the
13 present case involves a legislative decision adopting a high-level master park plan
14 for the entire city, to be included as part of the city’s comprehensive plan, under
15 a legislative criterion that, unlike the provision at issue in *Kine*, simply requires
16 the city to “consider” concurrency. *Kine* does not support a conclusion in the
17 present case that the city cannot cite and rely on future planning and land use
18 approval processes to ensure that future park development will be supported by
19 concurrent public facilities.

20 More importantly, the city argues, and we agree, that the above-quoted
21 finding embodies an interpretation of BDC 4.1.600(G)(3), to the effect that the
22 city may indeed rely on future planning and land use approval processes to ensure

1 that future park development will be supported by concurrent public facilities,
2 under the second alternative. That interpretation is adequate for review, and
3 entitled to the deferential standard of review set out under ORS 197.829(1)(a)
4 through (c).

5 Petitioners argue that the city's interpretation is inconsistent with the
6 express language of BDC 4.1.600(G)(3), because it relies on future land use
7 processes to ensure concurrency rather than on capital planning or similar
8 mechanisms. Petitioners contend that in order to demonstrate that public facilities
9 are "planned to be provided concurrently with the development of the property"
10 the city must identify adopted facility plans, capital commitments, construction
11 schedules, and similar mechanisms that mandate that required public facilities
12 will be available when future park development occurs. Petition for Review 9.
13 The city council, however, clearly did not understand "planned" to be limited to
14 public facility plans and similar infrastructure planning documents. The city's
15 finding refers instead to "proper planning review processes." That phrase
16 presumably includes whatever master planning and land use reviews required for
17 development of park facilities planned in the PMP. Petitioners have not
18 established that the city council's interpretation on this point is implausible or
19 otherwise inconsistent with the express language, purpose or policy underlying
20 BDC 4.1.600(G)(3). ORS 197.829(1); *see Siporen v. City of Medford*, 349 Or
21 247, 259, 243 P3d 776 (2010) (LUBA must defer to a governing body's plausible
22 interpretations of local plans and codes).

1 Petitioners also fault the city for failing to specify exactly which planning
2 processes or regulations applied in future land use reviews will ensure
3 concurrency. However, petitioners do not explain why such specification is
4 necessary in the context of a legislative decision adopting a high-level planning
5 document such as a park master plan. The city notes that the PMP itself describes
6 a number of infrastructure projects that are planned to support certain proposed
7 future park improvements. Respondent's Brief 16-17. In addition, although the
8 city does not cite it, we note that parks and recreational facilities are categorized
9 as conditional uses in city zones that allow them (see BDC Table 2.1.110(A),
10 applicable to residential zones), and that conditional use permit standards require
11 a showing that "[a]ll required public facilities have adequate capacity to serve the
12 proposal." BDC 4.4.400(A)(3). Presumably such BDC approval processes and
13 standards are part of what the city council referred to in concluding that "proper
14 planning review processes will ensure that [concurrency] continues for new or
15 improved facilities." Record 5. Petitioners have not established that under the
16 present circumstances greater specificity than a reference to "proper planning
17 processes" is required to satisfy BDC 4.1.600(G)(3).

18 The first subassignment of error is denied.

19 **B. Adequate Findings**

20 Under the second subassignment of error, petitioners argue that the city's
21 single finding addressing BDC 4.1.600(G)(3) is inadequate, citing cases that set
22 out standards of review for quasi-judicial decisions. However, as explained

1 above, no statute or other authority obligates local governments to adopt findings
2 supporting a legislative decision, or sets out any minimum standards for adequacy
3 of such findings that are adopted. Instead, we review the decision and record as
4 necessary to determine whether applicable criteria were applied and “required
5 considerations were indeed considered.” *Citizens Against Irresponsible Growth*,
6 179 Or App at 16 n 6.

7 Petitioners’ arguments regarding the adequacy of the city’s finding repeat
8 and are premised on petitioners’ misconstruction of law arguments under the first
9 subassignment of error, which we have rejected. As discussed above, the city
10 clearly applied the considerations required by BDC 4.1.600(G)(3), evaluating
11 developed park lands under the first alternative, and future park development
12 under the second alternative, concluding that all existing and future park lands
13 are either presently provided with adequate public facilities or that such facilities
14 are planned to be provided concurrently with the development of park lands, as
15 the city council interpreted that latter consideration. Petitioners have not
16 demonstrated that BDC 4.1.600(G)(3) requires more.

17 The second subassignment of error is denied.

18 **C. Adequate Factual Base**

19 Petitioners argue that the record does not include substantial evidence that
20 future development of the Trail Park as contemplated by the PMP, which
21 petitioners argue will likely require land acquisitions affecting petitioners, is

1 either presently provided with public facilities, or that such public facilities are
2 planned to be provided concurrently with development of the Trail Park.

3 Again, petitioners' evidentiary challenges are largely premised on
4 misconstruction of law arguments previously rejected. Petitioners acknowledge
5 that the PMP identifies certain capital projects regarding future development of
6 the Trail Park. However, petitioners argue that the PMP and record fail to
7 establish that all necessary public facilities for the Trail Park are planned to be
8 provided concurrently with its development, particularly given the uncertainty
9 regarding exactly where the trail alignment will be located, which properties will
10 be acquired, construction timelines, and what compensation or mitigation will be
11 available. As explained above, the city council relied upon future planning
12 processes to ensure that needed public facilities will be concurrently provided
13 with development of all undeveloped parks or future parks, including the Trail
14 Park. Petitioners have not demonstrated that such reliance is insufficient to satisfy
15 the second alternative under BDC 4.1.600(G)(3). As to the uncertainty over the
16 where the trail alignment will be located, which properties will be acquired, etc.,
17 petitioners have not established that evidence on these points is essential to the
18 city's determination of compliance with BDC 4.1.600(G)(3), in the context of the
19 legislative adoption of the parks master plan. As the city explains, adoption of
20 the PMP is only the city's initial step in planning for future park facilities.
21 Respondent's Brief 15-16. The PMP contemplates that future park development
22 will be implemented by specific planning efforts for individual parks that will

1 include determination of matters such as the exact alignment of the trail, followed
2 by necessary land use reviews. Petitioners have not demonstrated that, in this
3 legislative adoption of the PMP, BDC 4.1.600(G)(3) requires the city to plan for
4 or resolve details of specific park designs and facilities.

5 The third subassignment of error is denied.

6 The assignment of error is denied.

7 The city's decision is affirmed.

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2026-009 on September 11, 2026, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 11th day of September, 2026.



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