

RESOLUTION NO. 1072

A RESOLUTION AMENDING RESOLUTION NO. 855-R-90 AND SUPPLEMENTING THE FINAL PERIODIC REVIEW ORDER FOR THE CITY OF TROUTDALE COMPREHENSIVE PLAN AND IMPLEMENTING MEASURES.

The City Council of the City of Troutdale finds as follows:

1. The City of Troutdale Comprehensive Plan was acknowledged by the Land Conservation and Development Commission on August 25, 1983. The City began its initial periodic review of the Plan and its implementing measures following receipt of an August 28, 1987 notice from the Department of Land Conservation and Development.
2. The City Council adopted a proposed periodic review order through Resolution No. 722-88, adopted December 13, 1988. A final periodic review order was adopted by Resolution No. 855-R-90, enacted on September 25, 1990.
3. Following submission of the final periodic review order, objections were lodged by: Western Land Use Services (November 26, 1990 letter to DLCD) on behalf of the Oregon Association of Realtors, Oregon Manufactured Housing Association and Oregon Business Planning Council; Michael Lilly (November 26, 1990 letter to DLCD) on behalf of the Tri-County Metropolitan Transportation District; and, Robert Liberty (November 26, 1990 letter to DLCD) on behalf of 1000 Friends of Oregon.
4. Completion of DLCD review of the final periodic review order was postponed on December 21, 1990, pending staff analysis of the objections.
5. Former OAR 660-19-085(4) allows a local government to make revisions of its final periodic review order and findings following its submission to DLCD for review. The City has adopted a number of ordinances responding to the objections raised to its final periodic review order and a revision to Resolution No. 855-R-90 and the final periodic review order and findings will cure the objections previously raised.
6. Advance notice of the hearing on and contents of this resolution was mailed to Richard Benner, Director of the DLCD, Western Land Use Services, Michael Lilly, Robert Liberty and 1000 Friends of Oregon at least twenty days in advance of the hearing on this resolution. Notice of the hearing on this resolution was published in the *Gresham Outlook*.
7. In addition to the testimony and staff report presented at the hearing of this resolution, the City Council relies upon and incorporates into this record the adoption records for City of Troutdale Ordinances Nos. 583-O (plan text and diagram amendments for

Master Plan Mixed Use designations), 584-O (same), 585-O (development code and zoning map amendments for Master Plan Mixed Use district), 586-O (plan inventory changes reflecting changes from Regional Mixed Use to Master Plan Mixed Use for Multnomah County Farm Study Area), 589-O (manufactured dwellings as permitted use in R-5 zoning district) and 591-O (notice procedures for quasi-judicial land use hearings). All of these ordinances have been reviewed by the Planning Commission. Since this resolution only acknowledges the legal effect of these enactments, further review by the Planning Commission is not necessary.

8. This resolution amends Resolution No. 855-R-90. In the event of any inconsistency between this resolution and Resolution No. 855-R-90, the provisions of this resolution control.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT RESOLUTION NO. 855-R-90 AND THE FINAL PERIODIC REVIEW ORDER ARE AMENDED IN THE FOLLOWING PARTICULARS:

Section 1.

The findings set forth above are incorporated within the "Background Information" portion of the Final Periodic Review Order.

Section 2.

The following findings are adopted and incorporated within the findings relating to Factor One, "Substantial Change in Circumstances:"

1. The Comprehensive Land Use Plan Inventory (adopted by Ordinance No. 558-O) was further amended by Ordinance No. 586-O, adopted September 22, 1992. That ordinance details the changes to the inventory of industrial, commercial, residential and other land due to plan and zone changes for the Multnomah County Farm area from Regional Mixed Use to Master Plan Mixed Use designation.
2. Following submission of the final periodic review order an objection was made that the Plan and implementing regulations were not consistent with new or amended statutes. In particular, objections were made that the Troutdale Development Code failed to allow for manufactured homes on individual lots outside of manufactured home subdivisions (as required by ORS 197.303 - 197.307) and failed to provide for notice of quasi-judicial land use hearings consistent with ORS 197.763. These statutory requirements were the product of 1989 legislation.

3. These objections are well taken. On January 26, 1993 the City Council adopted Ordinance No. 589-O. That ordinance amended Chapter 3 of the Troutdale Development Code to allow manufactured dwellings as a permitted use within the R-5 zoning district. The ordinance was based on a needs analysis. As a result of the adoption of this ordinance, the Development Code complies with the requirements of ORS 197.303 - 197.307 in effect at the time of submission of the final periodic review order.
4. On January 26, 1993 the City Council adopted Ordinance No. 591-O. That ordinance amended Chapter 16 of the Troutdale Development Code to provide consistency with ORS 197.763 relating to notification of quasi-judicial land use hearings. Because of the adoption of this ordinance, the Development Code complies with the requirements of ORS 197.763 in effect at the time of submission of the final periodic review order.
5. As a result of these actions, and those set forth in Section 4 of this resolution, objections that the Final Periodic Review Order does not comply with Factor One, Subfactor E (consistency with new or amended statutes) have now been cured. Therefore, the City reaffirms its earlier conclusion that it has considered substantial changes in circumstances which have had an impact on the Plan and its implementing land use regulations. These impacts have been assessed and the Plan and implementing regulations have been amended as necessary to address the changed circumstances.

Section 3.

The following findings are adopted and incorporated within the findings relating to Factor Two, "New or Amended Goals and Rules Adopted Since Acknowledgement:"

1. An objection to the Final Periodic Review Order was raised in the context of the Goal 11 Public Facilities Rule. Western Land Use Services raised a concern that there had been a lack of coordination with special districts in the adoption of the Public Facilities Plan ("PFP"). The Sandy Drainage District is the only service district providing services within the City's planning area. The Sandy Drainage District was actively involved in the portion of the PFP relating to storm drainage. In March, 1990, the City and District jointly developed the North Troutdale Storm Drainage Master Plan. That Master Plan became part of the PFP. Ordinance No. 543-O, adopted April 10, 1990. The Sandy Drainage District does not presently object to the City's Public Facilities Plan. See, November 22, 1993 letter from Tim Hayford. The City and the District have closely coordinated efforts on stormwater drainage in the past few years. The District participates with the City in pre-application review of all proposals affecting its drainage basin. Discussions are occurring on shared revenues. There was no defect in the lack of consultation on the preparation of the Public Facilities Plan. Any arguable defect has now been cured by subsequent consultation and coordination with the Sandy Drainage District.

2. In light of these actions, and those set forth in Section 4 below, objections that the Final Periodic Review Order does not comply with Factor Two, "New or Amended Goals and Rules," have now been cured. The City reaffirms its earlier conclusion that it has considered new and amended goals and rules noted in the PLCD notice, which have had an impact on the Plan and its implementing land use regulations. These impacts have been assessed and the Plan and implementing regulations have been amended as necessary to address the new and amended goals and rules.

Section 4.

The following finding is adopted and incorporated within the findings relating to Factor Three, "New or Amended State Agency Plans or Programs Adopted Since Acknowledgement:"

1. Except as noted below, no objections were made to that part of the Final Periodic Review Order relating to Factor Three. Therefore, based on this and the actions set forth in Section 4 of this resolution, the City reaffirms its earlier conclusion that it has considered new and amended state agency plans or programs raised in the DLCD notice which have had an impact on the Plan and its implementing land use regulations. These impacts have been assessed and the Plan and implementing regulations have been amended as necessary to address the new and amended state agency plans and programs.

Section 5.

The following findings are adopted and incorporated within the findings relating to Factor One, Factor Two, Factor Three and Factor Four and inserted within the findings relating to Factor Four, "Additional Planning Tasks Required at the Time of Acknowledgment:"

1. The 1983 acknowledgment order required an update of the Plan "to determine uses on the County Farm property" The uses for this property were changed in 1986 and 1990. In 1990 much of the commercially designated land for this area was designated "Regional Mixed Use" in the Plan and zoned "General Commercial." Ordinance Nos. 548-O and 549-O.
2. Objections were made to these designations by 1000 Friends of Oregon and Tri-Met, and DLCD raised concerns. Concerns related to the potential allowance of a regional commercial center by the plan designation and zoning for this property. Objectors noted that this would be a substantial change of circumstances requiring significant goal analysis (particularly in transportation impacts), coordination with Tri-Met (particularly in its planned "Project Break-Even"), and modification of the Public Facilities Plan.
3. Subsequent to the submission of the Final Periodic Review Order, the City replanned and rezoned the County Farm property in a manner which precludes regional

commercial uses, thus obviating the objections raised to the regional commercial uses. In particular, the City has adopted the following ordinances:

- a. Ordinance No. 583-O, adopted July 28, 1992, and Ordinance No. 584-O, adopted September 22, 1992, repealed Ordinance No. 548-O and the Plan text relating to Regional Mixed Use, and substituted text adopting a new Master Plan Mixed Use designation and applied that MPMU designation to the Multnomah County Farm Study Area. The designation requires adoption of a Concept Plan prior to development of an area designated MPMU. The ordinance changed the plan diagram designation for the County Farm area in several particulars, including changing the commercial designations from 118 acres to 41 acres;
 - b. Ordinance No. 585-O, adopted September 22, 1992, repealed Ordinance No. 549-O and made corresponding changes in the development code and zoning ordinance and zoning map;
 - c. Ordinance No. 586-O, adopted September 22, 1992, amended the Plan inventory to reflect the changes in the residential, commercial and industrial lands availability because of the changes in designation and potential use for the County Farm property. All parts of the plan inventory should be construed as reflecting these amendments.
4. These actions cured the objections to the regional commercial designation for the County Farm property and fulfilled the City's commitment to determine uses on the County Farm property. Because of these actions the objections to the previous designation of the County Farm property based upon all of the periodic review factors are now moot.
 5. The City reaffirms its earlier conclusion that it has performed its required additional planning tasks and the Plan and implementing regulations have been amended as necessary to conform with these tasks. The requirements of Factor Four are now satisfied.

Section 6.

The City of Troutdale has conducted a thorough review of its Comprehensive Plan and land use regulations in response to: substantial change in circumstances, new or amended goals or rules, new or amended state agency plans or programs, prior obligations of the City to complete planning tasks and nonmandatory state agency recommendations. The findings presented in the Final Periodic Review Order, adopted September 25, 1990, as modified by the findings contained herein, contain the City's response to the Periodic Review Factors. The changes identified therein and here bring the Plan and regulations into compliance with all applicable requirements listed in the DLCD periodic review notice of August 28, 1987. The

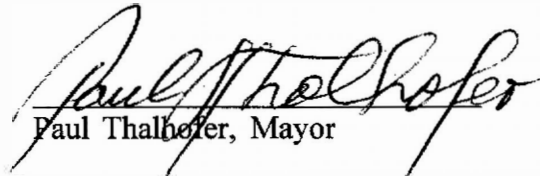
adoption of these changes to the Final Periodic Review Order completes the City's periodic review responsibilities under the previous requirements of ORS 197.640 and OAR 660, division 19.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 14TH DAY OF DECEMBER, 1993.

YEAS 6

NAYS 0

ABSTAINED 0



Paul Thalhofer, Mayor

Date Signed: December 14, 1993

ATTEST:



Valerie J. Raglione, City Recorder