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

3	CITY OF EUGENE,)	
)	
4	Petitioner,)	LUBA NO. 80-050
)	
5	vs.)	FINAL OPINION
)	AND ORDER
6	LANE COUNTY, CITY OF)	
	JUNCTION CITY, JUNCTION)	
7	CITY SCHOOL DISTRICT NO.)	
	69, and L. L. STEWART, et al)	
8)	
	Respondents.)	

9
10 Appeal from Lane County.

11 Stanton F. Long and Timothy J. Sercombe, Eugene, filed a
12 brief and argued the cause for Petitioner. With them on the
13 brief were Johnson, Harrang Swanson & Long.

14 Michael E. Farthing, Eugene, filed a brief and argued the
15 cause for Respondent L. L. Stewart, et al. With him on the
16 brief were Butler, Husk & Gleaves.

17 Richard E. Miller, filed a brief and argued the cause for
18 Respondent City of Junction City. With him on the brief were
19 Hershner, Hunter, Miller, Moulton & Andrews.

20 William Van Vactor, Eugene, filed a brief and argued the
21 cause for Respondent Lane County.

22 Cox, Referee; Reynolds, Chief Referee; Bagg, Referee;
23 participated in the decision.

24 Remanded 3/02/81

25 You are entitled to judicial review of this Order.
26 Judicial review is governed by the provisions of Oregon Laws
1979, ch 772, sec 6(a).

1 COX, Referee.

2 NATURE OF DECISION

3 Petitioner contests Respondent Lane County's Industrial
4 Triangle amendment (Ordinance No. 763) to its Willamette-Long
5 Tom Subarea Plan. The Willamette-Long Tom Subarea Plan is a
6 component of Lane County's general plan. The April 2, 1980
7 amendment changes from Agriculture and Agriculture/Industrial
8 to "Special Industrial" designation approximately 1800 acres of
9 land along US Highway 99 between Eugene and Junction City.

10 STANDING

11 Respondents contest petitioner's standing to bring this
12 action, asserting that petitioner has failed to establish
13 standing pursuant to the requirements of Oregon Laws 1979, ch
14 772, sec 4(1)(2) and (3). Respondents assert that petitioner's
15 standing is governed by standing in a legislative proceeding
16 and that petitioner's assertion of adverse effect or
17 aggrievement is insufficient. Petitioner City of Eugene
18 appeared in the proceedings below and alleges the decision
19 impacts industrial property within its jurisdiction, affects
20 property adjacent to its borders, has long term effects on
21 comprehensive planning for the Eugene urban area and will
22 impact demand for urban services provided by the City of Eugene
23 (police and fire protection) and its chartered utility, Eugene
24 Water and Electric Board (water and electricity). We find such
25 allegations sufficient in light of the court's holding in Ruegg
26 v. Clackamas County, 32 Or App 77, 573 P2d 740 (1978); see also

1 Duddles v. City Council of West Linn, 21 Or App 310, 535 P2d
2 583 (1975); 1000 Friends v. Douglas County, 1 Or LUBA 42 (1980).

3 ALLEGATIONS OF ERROR

4 Petitioner's allegations of error can in summary be placed
5 into two classifications. The first classification includes
6 those assertions which question the location of industry
7 outside the metropolitan urban growth boundary and the second
8 includes petitioner's concerns regarding inconsistency in and
9 coordination of comprehensive planning documents allegedly
10 governing Lane County's action.

11 FACTS

12 The "Industrial Triangle" (Triangle) is an area of land
13 located northwest of the city limits of Eugene and is bordered
14 by the Main Branch of the Southern Pacific Rail Lines on the
15 east, the Oregon Electric Rail Lines (operated by Burlington
16 Northern) on the west, Aubrey Lane on the south and northern
17 lines of Section 8, Township 16 South, Range 4 West W.M. on the
18 north. The Triangle includes approximately 1800 acres, is
19 comprised of numerous ownerships and contains parcels ranging
20 in size from one acre to 720 acres. The present use of the
21 site is predominantly agricultural, although there are
22 scattered residential and industrial uses. In 1966, as part of
23 an overall zoning effort, the above described lands were zoned
24 for industrial purposes. In 1976, the Willamette-Long Tom
25 Subarea Plan was adopted by the Lane County Board of
26 Commissioners. The Plan designated the entire area as

1 agriculture but recognized the industrial potential of the
2 northern most and southern most segments of the Triangle by
3 designating them agriculture/industrial.

4 On March 14, 1978, the Lane Planning Commission held a
5 public hearing on a proposal to rezone the Triangle area and
6 recommended that the area be rezoned to exclusive farm use to
7 comply with the planned land use designation of the area. The
8 matter then went to the Board of Commissioners which on April
9 26, 1978 continued the proposed rezoning and directed the
10 Planning Commission to initiate a plan amendment for the entire
11 Triangle area, to redesignate it as "Industrial." On June 12,
12 1979, the Lane County Planning Commission held a special public
13 hearing to consider the requested amendment. On August 21,
14 1979, the Planning Commission approved preliminary findings of
15 fact and conclusions of law in support of its recommendation
16 that an amendment be adopted.

17 The Planning Commission's recommendations and supporting
18 documents were forwarded to the Lane County Board of
19 Commissioners, which held a public hearing in Junction City on
20 December 13, 1979 to consider the amendment proposal. On
21 January 15, 1980, the Board tentatively approved the plan
22 amendment and directed its Planning Staff and Legal Counsel to
23 draft a plan amendment ordinance, supporting findings of fact
24 and conclusions of law, an exception to Goal 3 and an
25 industrial zoning ordinance that would encourage retention of
26 large parcels within the Triangle and permit interim farming

1 and special light manufacturing uses. On April 2, 1980, the
2 contested ordinance was passed.

3 Under the terms of the special industrial district
4 established by the ordinance, development is not allowed until
5 zoning provisions governing the use are implemented. Under the
6 zoning provisions, each development proposal will be evaluated
7 on its own merits and must meet specific standards before a
8 permit will be issued. Until that time the property is to
9 remain in its current designation, Agriculture or
10 Agricultural/Industrial Reserve and may only be put to the uses
11 allowed under an EFU-20 designation. The industrial
12 designation allows for uses similar to those presently allowed
13 in zoning districts M-1, M-2 and M-3 (light to heavy industry
14 designations).

15 It appears that if fully developed under the special
16 industrial designation the 1800 acre Triangle area could
17 provide employment for between 18,000 and 45,000 workers. No
18 specific companies are slated for immediate use of the
19 property, but indications are that high technology, low
20 polluting type industries are what Lane County desires to have
21 locate within the Triangle.

22 The Triangle contains a variety of Class I-IV soils but
23 according to the findings of Respondent Lane County, the
24 predominant soil types are Class IIw and Class IVw. Both
25 classes are wet soils and experience varying degrees of
26 drainage problems. The agricultural uses on the land within

1 the Triangle are primarily grass seed production and winter
2 pasture for sheep. Most land in the Triangle is presently
3 harvested nine out of every ten years.

4 The Triangle is served by many forms of transportation. It
5 is in the area of Mahlon Sweet Airport, is bordered on two
6 sides by railroad tracks and is served by U.S. Highway 99 which
7 is in the process of being expanded to four lanes from just
8 north of the Eugene city limits to Junction City.

9 DECISION

10 The key issue in this case and the only one this Board
11 addresses is whether Lane County properly applied the standards
12 necessary to justify its decision to locate industrial activity
13 in the rural area which makes up the Triangle site.

14 LCDC POLICY

15 It is LCDC's basic policy that urban growth boundaries
16 should be large enough to make adequate land available for
17 industrial uses. When an UGB has inadequate land available for
18 such uses, an amendment of the UGB should be considered, not a
19 rural industrial location. By definition rural lands are:

20 "Those which are outside the urban growth
21 boundary and are (a) non-urban agricultural, forest or
22 open space lands or, (b) Other land suitable for
23 sparse settlement, small farms or acreage homesites
24 with no or hardly any public services, and which are
not suitable, necessary or intended for urban use."
(Statewide Goals - Definitions)

25 Certain industrial activity is best located within urban
26 areas. Examples include those which:

1 "Have a large number of employes with technical
2 skills, are dependent on other urban services
3 (transportation, sewer, fire protection, quick mail
4 delivery, police protection, traffic control,
5 restaurant for employes, etc.)"¹

4 Rural Industrial Siting

5 At its June 6, 1980 meeting, apparently in recognition of
6 the need for some clarification of its policies governing rural
7 industrial siting, the Land Conservation and Development
8 Commission adopted the following statement on siting industrial
9 uses outside of an urban growth boundary:

10 "Industrial uses may be sited outside of an urban
11 growth boundary (UGB) subject to the following
12 procedure:

12 "1. Identify the Statewide Planning Goals that
13 apply to the proposed industrial use of the rural
14 site;

14 "2. Determine whether the proposed industrial
15 use complies with the applicable goals;

15 "3. If the use is not allowed by the applicable
16 goals, a Goal 2 exception must be taken to allow
17 the use; and

17 "4. Make findings on compliance with all other
18 applicable goals." LCDC Policy on Industrial
19 Development Outside of an UGB, June 6, 1980.

20 As regards item 3 above, the LCDC stated in its policy
21 paper on the exceptions process dated March 10, 1978, as
22 amended May 3, 1979:

23 "The exception process applies to those statewide
24 goals which restrict certain uses of land. Goal 3
25 Agricultural Lands, Goal 4 Forest Lands, Goal 16
26 Estuary and Resources, Goal 17 Coastal Shorelands and
27 Goal 18 Beaches and Dunes. In establishing an urban
28 growth boundary, an exception to the Agricultural
29 Lands Goal is not necessary if adequate findings under

1 Goal 14 Urbanization have been made Prior to
2 an acknowledged plan, the exceptions process can be
3 applied to specific land use decisions that are
4 inconsistent with Goals 3, 4, 16, 17 and 18."

4 Combining LCDC's exceptions process policy with its June 6,
5 1980 policy on siting industrial uses outside the urban growth
6 boundary requires that all applicable goals not subject to an
7 exception must be complied with in their entirety.

8 The four points set forth in the June 6, 1980 policy apply
9 to the designation of land for industrial use during plan
10 development as well as to actions taken prior to an
11 acknowledged plan. Lane County does not have an acknowledged
12 plan at this point.

13 GOAL 2 EXCEPTION

14 With the foregoing standards in mind and in order to more
15 logically and concisely analyze Lane County's action in this
16 matter, we first address item 3 in LCDC's four part test. Lane
17 County realized the use it proposed for the Triangle area was
18 not allowed by statewide goal no. 3, and it therefore took an
19 exception to that goal. In order for Lane County to
20 demonstrate that the decision to take the exception was a
21 reasonable one, it is required to set forth facts and findings
22 which will compel a reasonable person to conclude that the
23 decision was correct. 1000 Friends v. Clackamas County, ___ Or
24 LUBA ___ (1980), (LUBA No. 80-060); Wright v. Marion County, 1

25 / /

26 / /

1 Or LUBA 164 (1980). At a minimum the County's decision must
2 include findings which explain:

3 (a) Why the planned uses should be provided for;
4 [need]

5 (b) What alternative locations in the area could be
used; [alternatives]

6 (c) The long term environmental, economic, social and
7 energy consequences; and [consequences]

8 (d) That the proposed uses will be compatible with
adjacent uses. [compatibility] Still v. Marion County, 42
9 Or App 115, 122, 600 P2d 433 (1979); Abrego v. Yamhill
County, ____ Or LUBA ____ (1980); (80-074).

10 Need

11 The need findings are of primary importance in determining
12 whether an exception is justified. The finding of need for a
13 rural industrial use must set forth why the use necessarily
14 requires a rural location, i.e. outside of the UGB. At a
15 minimum there must be a showing that the industrial activity
16 proposed is significantly dependent upon a unique site specific
17 resource located in the subject area.²

18 Site Specific Resource

19 The county's decision must show, supported by compelling
20 reasons and facts, that there is a site specific resource
21 located in the Triangle area which the industrial use
22 requires. Respondents identify the site specific resource as
23 the Triangle's unique location in relation to several major
24 transportation modes. Respondents indicate this resource to be
25 a significant comparative advantage which can be capitalized on
26 by use of rural industrial zoning to the benefit of the county

1 economy with only minimal loss of productive agricultural or
2 forest lands. Specifically, the county points to rail lines on
3 two sides of the Industrial Triangle, Highway 99 running
4 through the center of the site and the Industrial Triangle's
5 proximity to Mahlon Sweet Airport. Lane County concludes that
6 by designating these 1800 acres for rural industrial use it
7 will be able to economically capitalize on the significant
8 comparative advantage resulting from the confluence of the many
9 transportation modes.

10 We find, however, the county's reliance upon such
11 characteristics would not compel a reasonable person to
12 conclude that unspecified industrial activity is dependent upon
13 the Triangle site.

14 The type of "rural resource" relied on by respondent to
15 justify its decision, i.e. confluence of rail facilities, a
16 highway and an airport, makes a mockery of the site specific
17 resource concept and results in a diminution in agriculture
18 land protections provided by urban growth boundaries. Much of
19 the agricultural land in Oregon is criss-crossed by highways
20 and rail lines. To accept respondent's reasoning that those
21 factors should be enough to justify the conversion of
22 agricultural land to industrial use would, in effect, open
23 Pandora's box to the furtherance of urban sprawl throughout
24 Oregon's agricultural lands.

25 In addition, there are absolutely no findings indicating
26 why Lane County needs 1800 acres of rural industrial land for

1 industrial use. There is no specific use request being
2 considered and no indication from the record as to any required
3 size for potential uses. The site appears to derive its
4 borders and, therefore, its size from the location of railroad
5 tracks not from any need for a specific amount of land. There
6 is much evidence and related findings in the record indicating
7 that Lane County and the applicant feel there are insufficient
8 acceptable sites within the Metropolitan Urban Growth Boundary
9 to accommodate future industrial growth. None of these
10 discussions, however, address the basic question of "why 1800
11 acres."

12 Therefore, based on the foregoing, this Board finds that:
13 (1) the "Triangle" is not a rural site specific resource, (2)
14 even if it were to be considered a site specific resource, no
15 specific use for the area has been proposed which requires the
16 resource, and (3) there is absolutely no support in either the
17 findings or record to indicate that 1800 acres of agriculture
18 land is needed for industrial use.

19 The portions of the Goal 2 exception test other than need,
20 i.e. alternatives, consequences and compatibility are briefly
21 addressed infra. Our discussion of these three items includes
22 addressing some of the specific goal violations asserted by
23 petitioner. Their appearance under the headings chosen is for
24 convenience of this Board only. Our discussion of the
25 statewide goal 2 exception items is not to be viewed as
26 exhaustive of all the concerns we have with the action taken by

1 Lane County. However, due to the nature and complexity of the
2 issues raised by this appeal, we are unable to exhaustively
3 deal with each subject. Kerns v. Pendleton, 1 Or LUBA 1 (1980)
4 (footnote 6).

5 Alternatives

6 The major alternative to locating industrial use on rural
7 land is to amend the urban growth boundary. No findings
8 regarding this alternative appear in the record before this
9 Board. Industrial sites existing inside the urban growth
10 boundary were discussed and denigrated to varying degrees.
11 However, since no specific industrial use was being considered,
12 it is difficult to analyze Lane County's actions as regards any
13 or all the identified alternative sites. The stated criticisms
14 of the six alternative sites discussed in Lane County's
15 findings include: subject of a lawsuit, not presently
16 available, poor access (two lane road), no rail frontage,
17 insufficient access to freeway or airport, multiple ownerships,
18 limited facilities and services, located next to residential or
19 commercial development, drainage problems, diverse and
20 incompatible surrounding development and poor appearance of the
21 areas. According to the record, most of the above concerns are
22 also to some extent true of the Triangle area. The clear
23 difference between the Triangle and the other sites comes down
24 primarily to the confluence of several transportation modes.

25 Particularly noteworthy is finding number 19 which states:

26 "None of the 6 special sites are as suitable as

1 the Industrial Triangle property as a location for
2 future, light-industrial sites. In order to correct
3 the existing deficiencies in the 6 special sites,
4 local governments would be required to expend
substantial amounts of money to make those sites
immediately available for industrial use." (Emphasis
added).

5 Since no specific industrial use for the Triangle area has
6 been proposed and Lane County identifies the industrial need
7 for the Triangle as "future," the concern for immediate
8 availability is curious if not irrelevant.

9 Consequences

10 Petitioner asserts that the proposed plan change ultimately
11 will result in continuous urban development from Eugene's city
12 limits to the Junction City urban growth boundary. It is
13 concerned that the resulting strip development along Highway 99
14 is in violation of Statewide Goal 5.

15 Statewide Goal No. 5 has as its purpose "to conserve open
16 space and to protect natural and scenic resource." The goal
17 states in pertinent part

18 "Programs shall be provided that will:

19 "1. Insure open space,

20 "2. Protect scenic and historic areas and natural
21 resources for future generations; and

22 "3. Promote healthy and visually attractive
23 environments in harmony with the natural
24 landscape character. The location, quality and
25 quantity of the following resources shall be
26 inventoried:

"a. Land needed or desirable for open space;

"* * * *

1 Statewide Goal No. 5 then goes on to define what open space
2 means. Open space, under Statewide Goal 5:

3
4 "Consists of lands used for agricultural or
5 forest uses and any land area that would, if preserved
6 and continued in its present use:

7 "* * * *

8 "(f) Promote orderly, urban development."
9 (Emphasis added)

10 Respondents argue that a Goal 2 exception to Goal No. 3
11 adequately addresses Goal No. 5 requirements by identifying the
12 "consequences" of conflicting uses. There is no required form
13 for findings as long it is clear that the local government has
14 identified the problems and given them consideration.

15 Sunnyside Neighborhood v. Clackamas Co. Comm., 280 Or 3, 569
16 P2d 1063 (1977). The county's findings, while not specifically
17 addressing Goal 5, do discuss to some extent the economic,
18 social, environmental and energy consequences of the
19 conflicting uses as required by a Goal 2 exception.

20 Statewide Goal 5, however, requires that programs be
21 provided to achieve the goal of conserving open space for
22 future generations. Nowhere has the County indicated in its
23 findings any consideration of programs which need to be
24 developed to achieve the goal of open space as that goal
25 relates to the promoting of orderly urban development.
26 Petitioner expresses concern for the effect that placing large

27 //

1 industrial development in the Industrial Triangle will have on
2 the orderly urban development of the City of Eugene, the
3 largest population center in Lane County. The City of Eugene
4 in its November 13, 1979 letter to Lane County expressed
5 concern for the consequences of the plan amendment. At page 8
6 of that letter, the city states:

7 "If the county does provide for an 1800 acre
8 industrial area north of the Eugene-Springfield
9 Metropolitan area, that action will have collateral
10 effects which have not been considered to date but
11 which cannot be ignored. Intensive industrial
12 development in that area will create demand for
13 commercial development to meet the needs of people
14 working in the area. Also, there will be increased
15 pressure for residential development in adjacent areas
16 so that home-work trips may be minimized.
17 Urbanization in that area will also have adverse
18 consequences on the Eugene airport.

19 "There is no evidence that those collateral effects
20 have even been considered, let alone coordinated with
21 the cities that would be most directly effected."

22 We find no efforts by Respondent Lane County to address the
23 consequences an 1800 acre strip development will have on the
24 "orderly, urban development" of the City of Eugene, as required
25 expressly by Goal 5 and impliedly, at least, by Goal 2.

26 Petitioner alleges that Goal 6 is violated by the failure
27 to consider and evaluate evidence showing air and water quality
28 problems with the proposed development. Goal 6 states:

29 "GOAL: To maintain and improve the quality of the
30 air, water and land resources of the state.

31 "All waste and process discharges from future
32 development, when combined with such discharges from
33 existing developments shall not threaten to violate,
34 or violate applicable state or federal environmental
35 quality statutes rules and standards. With respect to

1 the air, water and land resources of the applicable
2 air sheds and river basins described or included in
3 state environmental quality statutes, rules,
4 standards, and implementation plan, such discharges
5 shall not (1) exceed the carrying capacity of such
6 resources, considering long range needs; (2) degrade
7 such resources; or (3) threaten the availability of
8 such resources."

9 Respondent Lane County acknowledges that Goal 6 was not
10 specifically discussed. It argues, however, that the concerns
11 set forth in Goal 6 are certainly addressed in the special
12 industrial combining district criteria which is made a part of
13 the plan amendment ordinance. Respondent argues that the
14 entire thrust of plan amendment 79-186 is to provide an area of
15 Lane County for "'clean,'" non-polluting industries to locate.
16 Respondent argues that specific controls designed to insure
17 that only non-polluting industries locate in the subject area
18 are contained in the stringent requirements of the special
19 industrial development permit system. A review of that permit
20 system criteria indicates that Item 14 in part addresses the
21 concerns of petitioner. Item 14 requires:

22 "That all necessary services and facilities, including
23 but not limited to the sanitary sewer, drainage, water
24 supply, power and communications, are provided for,
25 and that where approvals from local, state or federal
26 agencies are necessary, such approvals have been
27 obtained."

28 Such a clause definitely indicates the county is concerned
29 about the impact on air and water quality of its actions and
30 has taken steps to protect the citizens from impacts of
31 individual development proposals. Such protection, however,

1 absent a distinct finding showing consideration for the overall
2 impact of the decision to allow 1800 acres to be developed into
3 industrial property is not enough. The goal (Goal 6) states,
4 in pertinent part, that:

5 "All waste and process discharges from future
6 development, when combined with such discharges from
7 existing development shall not threaten to violate or
8 violate applicable state or federal environmental
9 quality statutes, rules and standards." (Emphasis
10 added).

11 Such language indicates that this amendment to Lane
12 County's comprehensive plan must include "comprehensive
13 consideration and projections" regarding the effect such a
14 large potential development will have on the existing water
15 quality and sewage treatment facilities. Such a requirement
16 exists regardless of whether development occurs piecemeal or
17 all at once. We find that Respondent Lane County failed to
18 sufficiently address Statewide Goal No. 6 and, therefore, the
19 consequences of its action. See also discussion on Goal 11,
20 infra, as regards facilities and services to be provided in the
21 Industrial Triangle area.

22 Petitioner asserts that Goal 11 is violated by failure of
23 the plan change to provide for a timely, orderly and efficient
24 arrangement of public facilities and services. The City of
25 Eugene asserts that the record below reveals no substantial
26 evidence that all necessary public facilities and services can
be provided by developing industries. Petitioner alleges that
there is no evidence on the availability of fire and police

1 protection for the site. It argues that the property is not
2 presently within the service area of a provider of electricity
3 or water and no findings were made on who will provide those
4 utilities. Petitioner further argues that soil reports and
5 testimony compel a conclusion that the soils will not support
6 extensive use of septic tanks and that the county gave no
7 consideration to the costs of and timing for provision of
8 sanitary and storm sewers. In addition, petitioner asserts
9 that no evidence or consideration was directed to public costs
10 associated with development of frontage roads and access roads
11 to the parcel.

12 Respondents reply that under the terms of PA 79-186 the
13 amendment being contested by petitioner is not implemented
14 until a special zoning district is enacted and implemented.
15 Respondents then cite the Board to the Special Industrial
16 Combining District (Section -30(7)(f)) which requires that
17 before a building permit for non-farm related structures may be
18 issued for areas within the /SI district a "special industrial
19 development permit" must be applied for and granted under the
20 provisions of the /SI district. Under the terms of the /SI
21 district, the application must include copies of drawings
22 clearly showing proposed drainage, water and sanitary systems
23 and facilities.

24 Respondents argue that if the applicant cannot show the
25 required facilities are available, no permit will be issued.
26 They assert that an industrial site, if large enough, can

1 provide its own facilities and does not need a full range of
2 urban services. Respondents argue there is no requirement that
3 facilities or utilities be public and that if a developer
4 cannot deliver the services, there will be no development and
5 the land will continue in agricultural use.

6 Petitioner argues that the goal is not complied with by a
7 conclusion or requirement that all public facilities and
8 services shall be provided by developers. Goal 11 states:

9 "GOAL: To plan and develop a timely, orderly and
10 efficient arrangement of public facilities and services
11 to serve as a framework for urban and rural
12 development.

13 "Urban and rural development shall be guided and
14 supported by types and levels of urban and rural
15 public facilities and services appropriate for, but
16 limited to, the needs and requirements of the urban,
17 urbanizable and rural areas to be served. A provision
18 for key facilities shall be included in each plan. To
19 meet current and long-range needs, a provision for
20 solid waste disposal sites, includes sites for inert
21 waste, shall be included in each plan."

22 In light of the requirements of Goal 11, the issue is not
23 who is to pay for the facilities and services. There is
24 nothing in the goal which requires that the public pay for the
25 provisions of necessary facilities and services. The timely,
26 orderly and efficient arrangement terminology in Goal 11 refers
27 to a system or plan that coordinates the type, location and
28 delivery of public facilities and services in a manner which
29 can best support the existing and proposed land uses. The term
30 public in that context does not refer to who pays the bill for
31 providing these services but rather refers to services and

1 facilities designed to protect the public's health and
2 welfare.

3 Respondent's answer to petitioner's allegation of error
4 goes only to the issue of drainage water and sanitary systems
5 and facilities, however, and does not address the other
6 necessary public facilities and services which will be required
7 by such a large industrial area such as police, fire, water,
8 electricity, etc. ³

9 Respondents fail to cite this Board to a place in the
10 record and the Board can locate no findings which indicate that
11 Lane County considered all necessary facilities and services in
12 light of the potential impact such a large industrial use would
13 have on the surrounding area. Therefore, Lane County has
14 failed to properly address Goal 11.

15 Based on the foregoing discussion of Goals 5, 6 and 11, we
16 also conclude that Lane County has failed to properly consider
17 the consequences of its decision as required by Statewide Goal
18 2.

19 Compatibility

20 A Goal 2 exception requires a showing the proposed use will
21 be compatible with adjacent uses. To do so, the exception
22 findings must describe how the proposed use will not adversely
23 affect adjacent land uses. (Common Questions About Exceptions
24 Process, LCDC Policy Paper, March 10, 1978, page 4).

25 Lane County cites the following as findings addressing
26 compatibility:

1 "Reference has been made repeatedly to the
2 compatibility of industrial development within this
3 area to the existing agricultural and rural uses
4 located east and west of the subject area. Not only
5 do the rail lines provide a good buffer to these other
6 uses but also Highway 99 serves to provide additional
7 buffer on the west side of the area. It was noted in
8 the record that there are some industrial uses
9 presently located within the triangle and there was no
10 evidence to indicate that these uses have not been
11 completely compatible with existing agricultural
12 operations. In fact, the present field burning
13 carried on for those areas within the triangle that
14 grow grass seed surely is more compatible with
15 industrial growth than the neighborhoods of River Road
16 and Bethel-Danebo. Industrial growth within the
17 Triangle property will not only be compatible with
18 surrounding agricultural operations, but it will also
19 be consistent with the expectations of area residents
20 and landowners as to where industrial growth will
21 occur." Exception to Statewide Goal #3, p. 8.

22 "SUPPLEMENTAL FINDINGS FOR INDUSTRIAL TRIANGLE"

23 "* * *

24 "5. "* * * The larger industrial firms often are
25 interested in controlling an area ranging in size
26 from 100 acres to 400 acres. While their
particular needs might be quite smaller, there is
a desire to ensure that surrounding development
is compatible with their plan appearance,
activities and future plans for expansion."

27 "* * *

28 "25(c) "Due to the extensive comment received in
29 response to the designation of the six,
30 special light manufacturing sites in the
31 draft (September 1979) Metro Plan Update,
32 the Metropolitan Area Planning Advisory
33 Committee (MAPAC) reviewed its earlier
34 recommendations for industrial allocations
35 in the Metro Plan Update and issued a
36 lengthy memorandum addressed to the Eugene,
Springfield and Lane County Planning
Commissions dated February 27, 1980. MAPAC
did not take any position in this memorandum
but rather set forth three positions, all of
which have been supported during the Update
review process. In addition, MAPAC

1 evaluated the six, special sites that it had
2 previously recommended in the draft
3 (September 1979) Metro Plan Update plus the
4 memorandum considered 11 additional sites as
5 areas for consideration. The Industrial
6 Triangle was one of the sites considered by
7 that memorandum." Exception to Statewide
8 Goal #3, Appendix "C", Supplemental Findings

9 "11. The majority of the property is presently being
10 farmed although isolated industrial plants and
11 uses are located within the boundaries of the
12 subject property.

13 "16. Public testimony obtained at the June 12, 1979
14 public hearing as well as all prior public
15 hearings held before the Board and Planning
16 Commission from persons who reside, work or own
17 property within the Willamette Long-Tom Subarea
18 Plan has overwhelmingly supported industrial
19 designation for the subject property.

20 "17. The railroad tracks which form the east and west
21 boundary of the Industrial Triangle are an
22 industrial use and constitute an asset which
23 should be fully utilized for the benefit of the
24 entire community." Findings, Record, page 13.

25 The only direct attempt to address how industrial use of
26 the triangle area will not adversely affect adjacent
agriculture use is the reference to railroad tracks acting as a
buffer. Lane County's findings do not meet the compelling
reasons test required by Goal 2. There is no attempt to
address the potential pressure 1800 acres of industrial uses
will have on adjacent farmlands. Considering the number of
people potentially employed in the proposed industrial area,
there will undoubtedly be demand created for such support
services as restaurants, shops, service stations, banks, etc.
There are no findings indicating Lane County's consideration of
these collateral effects. Petitioner pointed out these

1 concerns in its November 13, 1979 letter to Lane County
2 (supra). Therefore, we find lane County failed to properly
3 consider the issue of compatibility as required by Statewide
4 Goal 2.

5 Based on the foregoing, this Board finds that Lane County
6 has failed to properly take a Statewide Goal 2 exception to
7 Statewide Goal No. 3. Specifically, based on the record before
8 us, we find that the "Industrial Triangle" does not contain a
9 site specific resource as that term is used in LCDC's June 6,
10 1980 policy statement on siting industrial uses on rural lands.

11 In light of the foregoing, we find it unnecessary to
12 address petitioner's allegations regarding violations of
13 applicable comprehensive plan provisions and statewide goals
14 requiring coordination of comprehensive planning activities.

15 Remanded.⁴

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1 FOOTNOTES

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4 Department of Economic Development, Economic Development
5 Planning for Rural and Resource Lands Through the Comprehensive
6 Plan and Ordinances, August 25, 1980, page 8.

7
8 This technical assistance paper was reviewed by LCDC and
9 found to be generally consistent with Commission policy.

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2
11 Ibid, page 16.

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13 The analysis of what are the necessary facilities and
14 services in such a situation is difficult in light of the area
15 which respondent intends to incorporate within its industrial
16 designation. By definition, the area which is governed by the
17 respondent's action is rural and under the terms of Goal 11,
18 rural facilities and services:

19 "Refer to facilities and services which the governing
20 body determines to be suitable and appropriate solely
21 for the needs of rural use."

22 It is clear, however, that considering the size and impact
23 industrial use in the Industrial Triangle area would have on
24 the entire Eugene metropolitan area that all the facilities and
25 services which would normally be considered urban facilities
26 and services under the definition of Goal 11 must be
27 considered. Urban facilities and services under the dictates
28 of Goal 11 refers:

29 "To key facilities and to appropriate types in levels
30 of at least the following:

31 "Police protection; fire protection; sanitary
32 facilities; storm drainage facilities; planning,
33 zoning and subdivision controls; health services;
34 recreation facilities and services; energy and
35 communication services; and community governmental
36 services."

The Land Conservation and Development Commission in its February 17, 1981, determination adopted the proposed opinion and order of the Land Use Board of Appeals concerning allegations of Statewide Goal violations with the following modifications:

- "1. Page 6 at lines 25-26 change 'According to LCDC policy' to read 'Certain industrial activity is best located within urban areas. And change 'LCDC cites as' to read 'Examples include those...' (remainder stays the same).
- "2. Page 7 at lines 21-23 'It should be pointed out that' to read 'As regards item 3 above' and change 'a Goal 2 exception can only be taken to site specific goals. As the' to read "LCDC stated in its policy paper on the exceptions process..." (remainder stays the same).
- "3. Page 8 at lines 10-11 change 'It is part of LCDC's above referenced June 6, 1980 policy that' to read 'The four points set forth' and change 'therein' to 'in the June 6, 1980 policy apply to the designation...' (the remainder says the same)."