

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

3 FRIENDS OF LINN COUNTY, INC., an       )  
4 Oregon nonprofit corporation, and     )  
5 CHERYL BERKEY,                            )  
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LUBA NO. 79-007  
FINAL  
OPINION AND ORDER

Appeal from City of Lebanon.

Robert A. Taylor of Northwest Legal Advocates argued the cause and filed the petition for review for petitioner.

Glen D. Baisinger, City Attorney, City of Lebanon, argued the cause for Respondent City of Lebanon.

Stephen T. Janik of Davies, Biggs, Strayer, Stoel and Boley argued the cause and filed a brief for Respondent Tektronix, Inc.

Affirmed.\*

3/25/80

\*What follows is the entire text of the Land Use Board of Appeals (LUBA) opinion and recommendation to the Land Conservation and Development Commission (LCDC). Petitioners' third allegation of error did not allege any statewide goal violations. Therefore, LCDC had no authority to review LUBA's unanimous decision dismissing that allegation of error.

As regards petitioners' first two allegations of error, LCDC reviewed the individual opinions and recommendations of each LUBA referee and adopted by a 6 to 1 vote the dissenting and concurring opinion of Referee William C. Cox. Therefore, the Cox opinion should be used as LCDC's position and policy regarding the issues covered and thus the final LUBA opinion in this matter.

1 BAGG, Referee

2 NATURE OF THE DECISION

3 Petitioners seek review of the City of Lebanon Ordinance  
4 1761 (October 17, 1979) which annexed and rezoned an area of  
5 245 acres on the northern edge of the previous city limits on  
6 the application of Tektronix, Inc. The ordinance rezoned  
7 the property from exclusive Farm Use (Linn County) to M-L,  
8 Light Industrial (City of Lebanon). Petitioners pray for an  
9 order declaring the annexation and rezoning to be null and void.

10 STANDING

11 Standing of petitioners has not been challenged, and  
12 allegations in the petition of facts giving rise to standing  
13 are sufficient within Oregon Laws 1979, ch 772, § 4(2).

14 ISSUES WHICH PETITIONERS SEEK TO HAVE REVIEWED

15 Petitioners set forth three assignments of error as  
16 follows:

17 "Assignment of Error #1: The annexation of  
18 the site violates LCDC's Annexation Rule OAR 660-  
19 01-300, et seq., in that findings III. A., B., and  
20 C are inadequate to satisfy the criteria for annexa-  
tion under OAR 660-01-315 (2) (a) and (b) and if read  
in a manner necessary to satisfy the Rule, are not  
supported by substantial evidence."

21 "Assignment of Error #2: Annexation and rezoning  
22 permitting the development of the site will exacerbate  
23 existing transportation problems in the City in  
violation of Goal 12."

24 "Assignment of Error #3. Annexation and  
25 rezoning of the site violates the City's Comprehensive  
26 Plan in that the Applicant submitted neither a speci-  
fic development proposal nor a development time table  
for the proposed development."



1 Record, pp. 421-424.

2 The site is bordered on the southeast by industrial uses,  
3 and on the north, east, west and southwest by agricultural uses.  
4 There are housing developments to the south and to the northeast  
5 on Gore Drive. Record, p. 421. There is an eight inch sewer  
6 line and a ten inch water line, and provision can be made for  
7 the delivery of natural gas through a pipeline of some consider-  
8 able length (8,000 feet). Record, pp. 353.

9 The City of Lebanon has attempted for a number of years to  
10 attract new industry. The Tektronix possibility represents the  
11 second time in 25 years that the city's efforts to attract new  
12 industry have met with success. Record, pp. 98, 164.

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ASSIGNMENT OF ERROR NO. 1

15 The first assignment of error alleges a violation of LCDC's  
16 annexation rule (OAR 660-01-315). It is alleged that the City  
17 of Lebanon's Findings III A, B and C are not adequate to satisfy  
18 the criteria for annexation found in the rule "and, if read in  
19 a manner necessary to satisfy the Rule, are not supported by  
20 substantial evidence." Petition for Review, p. 9. Paragraph III  
21 itself is not adequate to justify the annexation. This opinion

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1 will consider the findings as a whole. The findings are inter-  
2 related and several portions of the findings address matters  
3 raised by the annexation rule. The rule, in part, provides  
4 as follows:

5           "(2) For the annexation of lands not subject  
6 to an acknowledged plan, the requirements of Goal  
7 #3 (Agricultural Lands) and Goal #14 (Urbanization)  
8 OAR 600-15-000, shall be considered satisfied only  
9 if the city or local government boundary commission,  
10 after notice to the county and an opportunity for  
11 it to comment, finds that adequate public facilities  
12 and services can be reasonably made available; and:

13           "(a) The lands are physically developed for  
14 urban uses or are within an area physically  
15 developed for urban uses; or

16           "(b) The lands are clearly and demonstrably  
17 needed for an urban use prior to acknowledgment of  
18 the appropriate plan and circumstances exist which  
19 make it clear that the lands in question will be  
20 within an urban growth boundary when the boundary  
21 is adopted in accordance with the goals. \*\*\*"  
22 OAR 660-01-315(2)(a) and (b).

23           The first part of the rule allows annexation where  
24 public facilities may reasonably be made available and where  
25 the property is itself developed or in an area developed for  
26 urban uses.

          The city recites public facilities and services "can be  
reasonably made available" and that the property is served by  
"an existing street and highway system which is adequate to  
accommodate the initial level of development." Record, p. 42.  
The "initial level of development" proposed by Tektronix calls  
for 500 employes, parking for 450 automobiles, 125,000 square  
feet of building space. The first level of development may

1 swell Lebanon's population by 615 persons. Record, p. 288. The  
2 Tektronix proposal (The Tek Notebook) concludes that the initial  
3 stage will be adequately served by all existing public facilities  
4 and services. They support their conclusion with a volume of  
5 facts and figures. See Record, pp. 288, 291, 321-322, 338-342,  
6 344-346, 347-358. The city echos this conclusion. Record, pp.  
7 35-38, 42.

8 The second level of development includes 3,000 employes,  
9 parking for 2,000 automobiles, building space of 750,000 square  
10 feet and the possibility exists of a population growth of 12,000  
11 persons directly and indirectly attributable to the Tektronix  
12 development. Record, pp. 286-288. It is Tektronix conclusion  
13 and the city's conclusion that the comprehensive plan provides  
14 a program for growth that can meet this challenge. Record,  
15 pp. 42, 288.

16 Testimony made to the city council at its October 10, 1979  
17 meeting shows the applicant estimates two to three years before  
18 initial development begins on the site and another year to sixteen  
19 months before the first phase is completed. Record, p.138. De-  
20 velopment of the second phase is "down the road" and the applicant's  
21 counsel mentions "seven years, twelve years, fifteen years" for  
22 future building. Record, p. 145. The Tektronix Project Notebook  
23 mentions 8 - 12 years when discussing the 3000 people employed  
24 in level two. Tektronix Project Notebook, Record, pp. 281-365,  
25 314. The timing of actual construction on the site is important  
26 in considering whether or not the findings in the record

1 adequately address the existence or availability of public  
2 facilities and services. The timing of the second phase is  
3 only vaguely mentioned in the record, but there is enough  
4 evidence to conclude that the second phase is several years  
5 away. The Project Notebook provided by Tektronix and the city  
6 planning staff report provides enough information from which  
7 the city could find that adequate public facilities and services  
8 are available for phase one. See Record, pp. 42, 35-38, 309-322,  
9 421-424.

10 With respect to phase two, the Tektronix Project Notebook  
11 itself mentions improvements that must be made and cites to  
12 the comprehensive plan as a plan for providing a means to  
13 make needed improvements (especially with respect to transporta-  
14 tion). Record, pp. 288, 322-337. Also, the city relies on  
15 its "systems development" charges to help pay for the required  
16 additional public services. Record, p. 37. Further provision  
17 for phase two needs is made by the city's site review process.  
18 Record, p. 42 and ordinance provisions 3.510, 5.010-5.015,  
19 Record, pp. 626 - 635. It would be unreasonable to demand  
20 at this point that Tektronix and the City of Lebanon have a  
21 precise plan for improvements at precise locations and the  
22 delivery of exact services. What happens to this site and  
23 when it happens will to a degree control what services will  
24 be necessary. It would be unwise and expensive for the  
25 city to embark upon a public facilities and services improve-  
26 ment program where that improvement program may not,

1 in fact, be needed. It should be noted, however, that  
2 the comprehensive plan has little detail as to specific  
3 acts to be taken to meet the unforeseen demands occasioned by  
4 the Tektronix development. This failure does not mean that  
5 one must conclude that public services and facilities cannot  
6 "be reasonably made available." The plan includes policies  
7 that can help guide the improvement needed for phase two.

8 The public facilities and services requirement of the  
9 annexation rule has been met, but barely, in this application.  
10 There is enough evidence in the record to which the city makes  
11 reference in its findings to suggest that whatever facilities  
12 will be needed may be reasonably made available for the second  
13 phase and, of more immediate importance, that the facilities  
14 now exist to serve the first phase of development by  
15 Tektronix. This conclusion is based on the timing of the  
16 second phase. Were the second phase to occur now or in the  
17 immediate future, the public facilities and services require-  
18 ment of the rule would not be met.

19 Paragraph 2(a) of the annexation rule allows development  
20 where lands are themselves physically developed for urban  
21 uses or where the lands are within "an area physically developed  
22 for urban uses." OAR 660-01-315 2(a). Respondent's findings  
23 do not assert that the land is itself developed, but assert  
24 that the property "is surrounded by already existing industrial  
25 activity, railroads, and residential development." Record, p.

26 / /



1 26. As stated in the recitation of the facts of this case, the  
2 property is bordered on the south by a railroad line. There  
3 are three tracts on that line. Record, pp. 421-422. The property  
4 is bordered on the north, east, west and southwest by agri-  
5 cultural uses. Record, pp. 421-422. There is a housing  
6 development to the south and the northwest along Gore Drive,  
7 and there are industries to the southeast. Record, p. 421.  
8 At the hearing, the parties pointed out that the residential  
9 use directly to the east is only a planned residential use,  
10 and the property to the east has not yet been developed.

11 The existence of railroad tracks does not preclude farming  
12 activities. The industrial use cited in the staff report at  
13 page 421 of the record is to the "southeast" and, as shown  
14 on a map marked Exhibit A, appears only to touch the subject  
15 property along a small fraction of its border. A review of  
16 the staff report and the map provided in the record demonstrates  
17 that the city's finding that the Tektronix property is within  
18 an area physically developed for urban uses is not supported  
19 by substantial evidence in the record. The evidence may be  
20 used more persuasively to support the opposite conclusion.

21 If the city cannot meet the test for annexation in paragraph  
22 2 and 2(a) of the annexation rule, it is still possible to annex  
23 property under the provisions of subsection 2(b) of the annexation  
24 rule. That subsection requires that the city show a need for  
25 urban use prior to acknowledgment, and a showing must be made  
26 that the lands will be within an urban growth boundary when that

1 boundary is adopted "in accordance with the goals." The city  
2 has included in its findings a conclusion to just that effect.  
3 Record, p. 43. The conclusion appearing on page 43 is supported in  
4 the remaining findings by a detailed discussion of Goals 3 and  
5 14. Included within those findings is an exception to Goal 3  
6 and discussion on Lebanon's urban growth boundary. Record, pp.  
7 22-31, 40-42 and 448-450. The findings must be measured by  
8 their compliance with the rule. LCDC policy and decisions  
9 on the annexation rule are found in the following  
10 decisions and policy manual materials, and they will guide  
11 this analysis. See Polk County v. Marion-Polk County Local  
12 Government Boundary Commission, LCDC 78-003 (hereinafter  
13 "Polk County I" and Polk County v. Marion-Polk County Local  
14 Government Boundary Commission, LCDC 78-004/Olson v. Marion-  
15 Polk County Local Government Boundary Commission, LCDC 78-005  
16 (1978) (hereinafter "Polk County II"). See also the discussion  
17 on the annexation rule in "City Annexations and Application of  
18 Goal Within Cities", Land Conservation and Development Commission  
19 Policy Manual, Section 2(c)(1) (February 15, 1978).

20 The city's justification under Subsection 2(b) of the  
21 annexation rule includes a discussion of Lebanon's unemployment  
22 problem and the fact that there has been "virtually no new  
23 major industrial activity in Lebanon for more than a decade."  
24 Tektronix was one of over 40 industrial companies invited to  
25 Lebanon, and the only company expressing an interest and  
26 willingness to come to Lebanon. Record, pp. 22-23. The

1 city's findings also address the economic picture generally  
2 in Linn County. Record, p. 34. The city finds that the region  
3 is "characterized by unemployment which is higher than the states  
4 average and is growing increasingly worse." Record, p. 34.  
5 At page 52 of the record, the city concludes that as an unemploy-  
6 ment problem exists, there exists a need for a substantial  
7 number of manufacturing jobs over a long period of time. The  
8 city also finds that "in order to reduce this serious unemploy-  
9 ment and provide economic diversification, manufacturing jobs  
10 must be created in the Lebanon area." Record, p. 23. The  
11 city finds its employment base lacks diversification with  
12 four out of five of its principal employers being wood  
13 products industries. Record, p. 22. The record contains  
14 detailed information to support the city's conclusion regarding  
15 the economic condition of the City of Lebanon and of Linn County.  
16 Record, pp. 294-310. The city also concludes that Lebanon will  
17 have only 29 acres of undeveloped land available for industrial  
18 activity prior to acknowledgment. Record, p. 43.

19 There is sufficient evidence in the record to show that a  
20 need exists for more jobs and industrialization, at least insofar  
21 as it might diversify the economy of the area. But petitioners  
22 urge that the annexation rule speaks to a need of an immediate  
23 nature. That is, the annexation rule speaks to a need for a use  
24 prior to acknowledgment. Petition for Review, p. 15. The "demon-  
25 strably needed" requirement in the rule speaks to an immediate  
26 demand for the annexation. But the land must also be subject to

1 conditions that make its inclusion in an acknowledged urban  
2 growth boundary likely. To meet that expectation, goals 3 and  
3 14 must be considered. The test under goals 3 and 14 cannot be  
4 met without a consideration of long term needs for the land.  
5 Polk County I, p. 9. The annexation rule recognizes that  
6 "development cannot be frozen while planning goes on, and it  
7 allows stop gap urbanization decisions to be made where the  
8 limited information available sufficiently demonstrates a need."  
9 Polk County II, p. 11. It remains to be seen, then, whether  
10 the action of the City of Lebanon is consistent with the need  
11 requirement expressed in the annexation rule.

12 The city has been able to show a need for diversification  
13 of its economy, if not the economy of the community generally,  
14 The immediacy of that need is recited in the findings. The  
15 city council found

16 " . . . it is necessary to designate the entire  
17 Property and annex the entire Property at this  
18 time because a major industrial user will not  
19 commit to come to Lebanon unless it can have a  
20 parcel of a sufficiently large size within which  
21 to expand and sufficient to accommodate its  
22 future growth." Record, p. 24.

23 There was some discussion in the record of Tektronix's  
24 prior history. Tektronix has developed sites which were to  
25 prove to be too small and forced to move. Record, p. 136,  
26 143-144. The comprehensive plan provides that light industrial  
27 sites should be large enough to meet expansion needs. Record,  
28 p. 508. In short, the city feels an urgency to allow the  
29 development because of its own history in trying to attract

1 industry, because Tektronix is apparently willing to come to  
2 Lebanon, (and may not come if land is not made available now)  
3 and because the city wants to diversify and improve its economy.

4 As Lebanon has a need to provide for an industrial user  
5 such as Tektronix, and as there is urgency to meet this need,  
6 the "demonstrably needed" criteria in the annexation rule  
7 has been met at least as to the need to provide land for the  
8 proposed annexation. The question now is whether there is  
9 sufficient evidence to conclude that this large parcel is  
10 itself "demonstrably needed."

11 Tektronix has asked for 245 acres. Their proposal has  
12 two phases. The first phase would require approximately 18  
13 acres. Record, p. 363. The second phase would require  
14 approximately 67 acres. Record, p. 363. As mentioned earlier,  
15 however, initial construction on phase one would not begin  
16 for approximately two to three years. Record, p. 138. The  
17 second phase would come several years later.

18 Tektronix statements regarding its need for the property  
19 shows a need for much less than 245 acres. The claimed land  
20 needs for phase two only amount to 67 acres, according to the  
21 Project Notebook. Record, p. 363. The 67 acres includes  
22 open area and parking along with plant buildings. The city  
23 apparently bases its conclusion of the need for 245 acres on the  
24 need expressed by the company. While the city may properly  
25 find a need for an industrial development, there is not sub-  
26 stantial evidence in the record to support a need to annex

1 all 245 acres to house the development. The conversion of  
2 245 acres under a rule that is described in Polk County I  
3 as a "shortcut" through the goals is unjustified. Polk County I,  
4 p. 9.

5 Given the lack of substantial evidence to show all 245  
6 acres are "demonstrably needed," there is no need to discuss  
7 the next issue under Paragraph 2(b) of the rule, whether or not  
8 the city has shown that the property is likely to be within an  
9 urban growth boundary when one is adopted in accordance with  
10 the goals. OAR 660-01-315(2). However, it would appear that  
11 if the property were all "demonstrably needed" for annexation,  
12 then placement within an acknowledged urban growth boundary is  
13 highly likely. But, there is a question as to whether all the  
14 property will be included in the urban growth boundary,  
15 especially when considering the goal 14 requirement to retain  
16 agricultural land on a priority basis with soil type I being  
17 the highest priority and soil type IV the lowest priority.  
18 The predominant soil types are Class II and III. Other sites  
19 explored by the city had soil types of lower priority. See  
20 Record, pp. 258-266. The first assignment of error is sustained.

21 ASSIGNMENT OF ERROR NO. 2

22 As a second assignment of error, the petitioners allege that  
23 the annexation and rezoning of the subject property will "exacerbate  
24 existing transportation problems in the city in violation of Goal 12."  
25 Goal 12 is the transportation goal, and the annexation rule provides  
26 that "all appropriate goals" are to be applied during annexations.

1 OAR 660-01-315(1). Goal 12 demands that local jurisdictions plan  
2 for "safe, convenient and economic transportation" and transportation  
3 that "among other things" reduces costs and environmental impacts.

4 There is evidence in the record regarding traffic difficulties  
5 within the City of Lebanon. Record, p. 85. The Tektronix plant  
6 will generate employe trips, and 74 percent of those trips will  
7 take place to the southern end of town. Record, pp. 333-335.

8 However, the city finds that the comprehensive plan identifies  
9 traffic improvements which could accommodate the increased  
10 traffic. Record, p. 38-39. The record also shows that 30  
11 to 50 percent of the employes of the Tektronix facility will  
12 live outside of the Lebanon area. Record, pp. 328-329.

13 The city finds the property to be in close proximity to the  
14 regions major street and highway system, including Interstate  
15 5 and Highway 34, and Highway 20. Record, p. 38. If the ini-  
16 tial stage of development is expected to employ approximately  
17 500 persons and half of those persons will be outside of the  
18 City of Lebanon, it does not necessarily follow that the traffic  
19 environment of the City of Lebanon will be taxed beyond the  
20 city's present capacity. There is sufficient evidence in the  
21 record to support the proposition that the transportation  
22 system available in the City of Lebanon will be able to  
23 adequately support at least the first phase of development.

24 With respect to the second phase of development, the  
25 city's comprehensive plan includes at least a means of  
26 addressing traffic problems. Record, p. 530-546. The plan

1 does not detail a specific traffic improvement scheme; however,  
2 and a more specific scheme is needed to accommodate the very  
3 great population and traffic increases contemplated in phase two.  
4 Given the street and highway conditions as understood to exist  
5 now in the City of Lebanon, a violation of Goal 12 would occur  
6 by siting a facility as large as phase two of the Tektronix plant.  
7 Phase two is some years away and as the comprehensive plan pro-  
8 vides for a mechanism to address traffic improvements, there is  
9 not a serious enough violation of Goal 12 to warrant relief.

10 THIRD ASSIGNMENT OF ERROR

11 The third assignment of error alleges a violation of the  
12 city's comprehensive plan "in that the applicant submitted  
13 neither a specific development proposal nor a development time-  
14 table. . . ." Urbanization Policy Nos. 7 and 8 of the city  
15 comprehensive plan provide:

16 "Specific development proposals shall be  
17 required for annexation requests on vacant  
property . . . .

18 "The city shall permit zoning reclassification  
19 requests only on the basis of an approved develop-  
20 ment plan that specifies development time table."  
Record, p. 470.

21 The petitioners urge that the proposal by Tektronix is  
22 not "specific" within the meaning of that section. In particu-  
23 lar, petitioners find the time table is vague. Tektronix's  
24 Project Notebook recites that "Tektronix does not have a specific  
25 development plan for the project site." Record, p. 284. The  
26 Project Notebook examines "hypothetical levels of development"



1 and does not bind Tektronix to any particular development plan.  
2 Record, p. 284.

3 The city believes the proposal to be adequate in terms of  
4 specificity and timing. Record, pp. 44, 45. In interpreting  
5 a local ordinance, deference may be given to the local interpreta-  
6 tion. Miller v. City Council of Grants Pass, 39 Or App 589, 594,  
7 592 P2d 1088 (1979); Heilman v. City of Roseburg, 39 Or App 71,  
8 77, 591 P2d 390 (1979); Bienz v. City of Dayton, 29 Or App 761,  
9 566 P2d 904, reh den 29 Or at 777 (1977). The record shows  
10 that the city's understanding of specificity allows for con-  
11 siderable latitude, and the question generally goes more to  
12 what kind of use is contemplated than to the specifics of the  
13 particular use chosen. Record, pp. 144, 222.

14 There is sufficient information in the record regarding  
15 the location of the proposed facility, the traffic  
16 generated, the employment level, the impact on schools and  
17 the demand for public services and facilities so as to allow  
18 the city to test the proposal against its comprehensive plan  
19 and its ordinances. Under the circumstances of this case, the  
20 city could reasonably conclude that the information was  
21 "specific" and followed a "time table" that would be adequate  
22 for municipal planning requirements. There has been no clear  
23 violation of the city's comprehensive plan.

24 The annexation is declared to be invalid for the reasons  
25 stated above.

26 //

1 REYNOLDS, Chief Referee, concurring in part, dissenting  
2 in part.

3 I concur with that portion of Referee Bagg's opinion  
4 which concludes that the City of Lebanon failed to demonstrate  
5 a need for annexation of more than 67 acres and that, there-  
6 fore, the annexation of 245 acres violated LCDC's annexation  
7 rule. (OAR 660-01-315). I also concur with his conclusion  
8 that Lebanon's comprehensive plan was not violated as contended  
9 in petitioner's third assignment of error.

10 However, I do not, for the reasons stated in this  
11 opinion, concur with that portion of Referee Bagg's opinion  
12 in which he concludes that the city adequately complied with  
13 the annexation rule's requirement that a city find that  
14 public facilities and services can reasonably be made avail-  
15 able, and that portion in which he concludes there has been  
16 no violation of Goal 12 (Transportation).

17 I.

18 Including the area within its proposed urban growth boundary,  
19 Lebanon presently has an estimated 1980 population of 15,350.  
20 Record, pp. 314, 490. Its comprehensive plan is based upon a  
21 projected population of 18,135 by the year 1990 and 23, 135 by the  
22 year 2000. Record, p. 484. Its comprehensive plan identifies  
23 917 acres as available within the urban growth boundary to  
24 accommodate the 6,000 dwelling units which will need to be  
25 added by the year 2000.

26 Population projections, a chosen housing density or mix

1 and a buildable lands inventory serve as the cornerstone for the  
2 city's determination in the comprehensive plan as to the extent  
3 and location of the urban growth boundary. Population projections  
4 and buildable lands inventories also greatly influence, if they  
5 don't determine, such matters as when, where, how and whether  
6 public facilities and services are to be extended and what the  
7 transportation needs are going to be of a community.

8 Unless population projections are reasonable to begin with,  
9 the entire process of developing a plan to provide for orderly  
10 growth and development of our urban areas will be pointless. Either  
11 the comprehensive plan itself must be revised to take into  
12 consideration surges in population when it becomes apparent  
13 that such surges are going to result, or a city must adopt  
14 a plan for coping with increased population as land use  
15 decisions which will significantly alter population projections  
16 are made. Otherwise, the comprehensive plan's utility as a plan-  
17 ning tool will be worth little more than the paper on which it is  
18 printed.

19 In the present case, Tektronix produced evidence which  
20 showed that Lebanon's population will increase by 12,201 people  
21 over the next ten years solely as a result of Tektronix. This  
22 does not take into account the additional people who are  
23 likely to move to Lebanon for reasons wholly unrelated to  
24 Tektronix. (The comprehensive plan projects population  
25 growth at 2.97 percent, although evidence in the record by  
26 Tektronix indicates that the present actual growth rate, which

1 has nothing to do with Tektronix, is closer to 7 percent.) But  
2 even discounting the addition of non-Tektronix related people  
3 who will move to Lebanon, Lebanon's 1990 population will be  
4 over 27,000 people - 50 percent more than the comprehensive plan  
5 projects it to be. With the inclusion of non-Tektronix related  
6 people who will move to Lebanon, this figure will undoubtedly be  
7 higher.

8 By the year 1990 even Tektronix admits that as much as  
9 90 percent of the 917 acres of buildable lands will be consumed  
10 in order to provide housing for persons who will move to  
11 Lebanon solely as a result of Tektronix. This estimate appears  
12 to be on the conservative side, however. The comprehensive  
13 plan identifies 4,400 existing dwelling units and estimates  
14 that in 1990 the average household size will be 2.3 persons.  
15 To accommodate the 27,000 people who will live in Lebanon by  
16 1990 will require 11,740 dwelling units, an increase of more  
17 than 7,000 dwelling units over what presently exists in Lebanon  
18 and 1,000 more dwelling units than there is buildable land  
19 available as identified in the comprehensive plan.

20 All of the foregoing discussion is not for the purpose  
21 of showing that the Tektronix development, as proposed,  
22 violates the city's comprehensive plan in that it will allow  
23 more people to reside in Lebanon than there is planned space.  
24 Petitioners did not allege a violation of the comprehensive  
25 plan in this regard. What the foregoing discussion does  
26 point out is that the Tektronix development will cause rapid

1 growth within Lebanon far in excess of anything contemplated  
2 in the city's comprehensive plan. Those provisions in the  
3 plan relative to public facilities and services and trans-  
4 portation become suspect and must be re-examined to ensure  
5 that they are still adequate to address the increased burden  
6 caused by the additional population. If not re-examined,  
7 the city runs the risk that its plan provisions are not  
8 adequate to comply with the statewide goals.

9       In the present case, the City of Lebanon did not re-  
10 examine its comprehensive plan provisions relative to the  
11 city's ability to provide for the orderly extension of public  
12 facilities and services to accommodate the magnitude of  
13 growth which Tektronix would bring to Lebanon. Nor did the  
14 city re-examine the comprehensive plan provisions relative to  
15 transportation to determine whether it had, in fact, a reasonable  
16 plan to minimize the adverse traffic impacts which 5,900 addi-  
17 tional daily commuter trips to and from the Tektronix site would  
18 create. In short, Lebanon has no plan which is anywhere near  
19 adequate to address the public facilities and services needs  
20 nor the transportation needs of the city as a result of its  
21 approval of the Tektronix development.

22       The omissions in this case are not of a technical nature.  
23 They run to the heart of sound land use planning. Unless  
24 development is planned and orderly, as well as justified, then  
25 we have only achieved half of the purpose of the Statewide  
26 Planning Goals and land use planning in Oregon.



1 can reasonably be made available, and (2) without first assuring  
2 that transportation impacts within the Lebanon area will be mini-  
3 mized to the maximum extent possible.

4 LCDC's Annexation Rule

5 Prior to acknowledgment of a city's comprehensive plan  
6 and urban growth boundary, the city can only annex land if  
7 it complies with LCDC's annexation rule, OAR 660-01-315,  
8 which provides as follows:

9 "(2) For the annexation of lands not subject  
10 to an acknowledged plan, the requirements of Goal  
11 #3 (Agricultural Lands) and Goal #14 (Urbanization)  
12 OAR 600-15-000, shall be considered satisfied only  
13 if the city or local government boundary commission,  
14 after notice to the county and an opportunity for  
15 it to comment, finds that adequate public facilities  
16 and services can be reasonably made available; and:

17 "(a) The lands are physically developed for  
18 urban uses or are within an area physically  
19 developed for urban uses; or

20 "(b) The lands are clearly and demonstrably  
21 needed for an urban use prior to acknowledgment of  
22 the appropriate plan and circumstances exist which  
23 make it clear that the lands in question will be  
24 within an urban growth boundary when the boundary  
25 is adopted in accordance with the goals. \*\*\*"  
26 OAR 660-01-315(2) (a) and (b).

27 There is no question in this case but that the 245 acre  
28 parcel involved in this proceeding is not physically developed  
29 for urban uses or within an area physically developed for urban  
30 uses within the meaning of subsection 2(a) of the annexation  
31 rule. See Opinion of Referee Bagg, pp. 6-8. Aside from the  
32 question of demonstrated need for the entire 245 acre parcel,  
33 which question has been dealt with in the opinion of Referee

1     Bagg, the key issue is whether public facilities and services  
2     can reasonably be made available to service the property.

3             In this case, the City of Lebanon found that in order to  
4     be able to attract to the city an industry of the size of  
5     Tektronix, the city would need to be able to assure the industry  
6     that sufficient land would be available to meet the industry's  
7     long term growth needs. Tektronix stated a need for 245  
8     acres to satisfy its long term growth needs. Because the  
9     representation has been made that Tektronix would not come  
10    to Lebanon unless this amount of land were set aside for  
11    its growth needs, the city annexed and rezoned the entire  
12    parcel, even though the hypothetical proposal which Tektronix  
13    submitted indicated a phased growth policy with an initial  
14    level of employment of 500 employes and a future, level 2  
15    stage of growth of 3000 or more employes.

16            The city determined that, for the most part, adequate  
17    public facilities and services are available or can reasonably  
18    be made available to service level 1 of the proposed develop-  
19    ment. The one exception has to do with public schools. The  
20    city made no finding under Goal 11 as to whether public schools  
21    were or could be made adequate to accommodate the additional  
22    school age population which any level of development would  
23    bring to Lebanon. Yet, there was conflicting evidence in the  
24    record as to whether public schools could accommodate the  
25    increased growth.

26            However, there are no findings in the record with



1 respect to level 2 which show that public facilities and  
2 services can reasonably be made available or that there is  
3 a plan for the orderly and efficient extension of public  
4 facilities and services to serve level 2 of the proposed  
5 development, or any level of development above level 1. The  
6 city's findings conclude that through a systems development  
7 charge and real property tax revenues a portion of the  
8 cost of capital improvements necessary to "help defray the  
9 capital cost of public utilities, within the jurisdiction of  
10 the City of Lebanon, that are necessary for future growth" can  
11 be raised. However, the city made no finding as to what public  
12 facilities and services will be required to service the Tektronix  
13 site above level 1 of development nor whether the city reason-  
14 ably has the capacity to make those services available. Nor  
15 are there any similar findings as to public facilities and services  
16 which will be necessary to serve Lebanon's population as a whole.  
17 Whether those services can be made available, what services  
18 are needed and what the ultimate cost will be, both to Tektronix  
19 and to the rest of the City of Lebanon are questions which need  
20 to be asked and answered as best they can be prior to annexing  
21 and rezoning property for an urban level of development of  
22 this magnitude.

23 Goal 12 (Transportation)

24 As with public facilities and services, the City of  
25 Lebanon has no plan for minimizing the adverse traffic impacts  
26 which will be caused by the development of the Tektronix site

1 at any level of development, nor has it adopted a plan as to how  
2 it is going to capitalize upon the "opportunities" which Tektronix  
3 stated will exist if allowed to develop as proposed.

4 The entire findings of the City of Lebanon relative to  
5 Goal 12 are as follows:

6 "L. Goal 12 Transportation

7 "Goal Twelve provides that local government  
8 should take actions which produce a "safe, con-  
9 venient and economic transportation system." The  
10 Property is in close proximity to the region's  
11 major street and highway system, including  
12 Interstate 5, Highway 34, and Highway 20. The  
13 Property is immediately adjacent to a railroad  
14 and is in close proximity of the Lebanon airport.  
15 Traffic which is generated by the initial levels of  
16 the development can be accommodated by the exist-  
17 ing street and highway system serving Lebanon.  
18 The city's comprehensive plan and traffic engineer-  
19 ing improvement program have identified both  
20 immediate and long range transportation improve-  
21 ments which can accommodate new development such  
22 as the development proposed by the applicant in  
23 its later states.

24 "The concentration of the number of jobs  
25 which applicant's development would bring to this  
26 Property create opportunities for reducing the  
number and length of auto trips. It can be esti-  
mated that at level one of the proposed development,  
there will be 1,500 trips to and from the site and  
at level two there will be approximately 5,900  
trips. The concentration of these numbers of  
trips create the opportunity for, actually,  
reducing these numbers of trips by using car  
pooling and van pooling. The applicant has  
demonstrated a capability of implementing such  
programs at its Beaverton Plant and has indicated  
a willingness to consider such programs at its  
Lebanon facility. In addition, the Property is  
located within one to three miles of major  
residential areas which are planned to be developed  
and can be the site for employees of the applicant's  
facility. The location of residences close to the  
source of jobs, can substantially decrease the

1 length of vehicle trips. Finally, this concentra-  
2 tion of employees can create a transportation focus  
3 which can be the basis for a future bus transit  
4 system."

5 1. Lebanon's Comprehensive Plan

6 The City of Lebanon's comprehensive plan encourages  
7 residential development essentially in the southern portion  
8 of the city. The Tektronix's site is located in the N.W.  
9 corner of the city. The applicant has estimated that 1,500  
10 vehicle trips per day will be generated at level 1 of  
11 development and close to 6,000 vehicle trips will be generated  
12 at level 2 of development. Many of these vehicle trips will  
13 be from the southern end of the city, where the existing  
14 residential areas exist, through downtown Lebanon, via Highway  
15 20, to the Tektronix site. The evidence in the record was  
16 that 30 to 50 percent of Tektronix's employes will commute  
17 to the Tektronix's site from other areas, such as Corvallis,  
18 Albany or Sweet Home. As Tektronix grows to its 3000 employe  
19 level, this figure will be 30 percent.

20 At level 1 of development, the above figures mean that  
21 50 to 70 percent of the 1600 trips generated will be from  
22 within the City of Lebanon. Although Lebanon's comprehensive  
23 plan designates a large portion of property adjacent to the  
24 Tektronix site as future residential property and although the  
25 city found that a large residential area is being developed  
26 within one to three miles of the Tektronix site, one must

1 readily conclude that a great number of the 800 to 1120 trips  
2 which level 1 of the Tektronix development will generate from  
3 within the City of Lebanon will come from the southern end of  
4 Lebanon and go through Lebanon to the Tektronix site. Tektronix  
5 itself admits that a majority of trips will be generated from  
6 the southwest section of the city. Record, p. 333. Neither  
7 Tektronix, however, nor the City of Lebanon conducted any  
8 traffic study or traffic impact analysis of what the additional  
9 traffic generated by level 1 would do to the downtown Lebanon  
10 traffic system. Yet, the comprehensive plan already finds that  
11 with respect to Highway 20,

12 " . . . the primary circulation spine  
13 around which the community is organized . . .  
14 there is considerable conflict . . . between through  
15 traffic [such as will be generated by Tektronix]  
16 and shopping or community traffic. Any further  
development in downtown Lebanon must involve the  
restructuring of Main Street. Its future as a  
vehicular through traffic arterial or as a shopping  
precinct, must be determined." Record, p. 531.

17 The city did not, as part of its approval of Tektronix, adopt  
18 a plan for restructuring Main Street, nor did it determine its  
19 future as a traffic arterial or as a shopping precinct. In  
20 sum, Lebanon has no plan for coping with the increased traffic  
21 which will be generated through downtown Lebanon. In the face  
22 of the statement in the comprehensive plan concerning Highway  
23 20 and without the benefit of a traffic study or other evidence,  
24 the city simply concluded that the existing transportation system  
25 would be adequate to handle level 1 of the development.

26 Level two of the proposed development is expected to

1 generate 5,900 daily commuter trips, of which 70 percent  
2 will be within Lebanon. It is also projected to directly  
3 cause a total of 18,530 daily trips within Lebanon. These  
4 are additional trips above which Lebanon is already experiencing.  
5 Record, p. 325. The majority of these trips will be generated  
6 from the southwest section of the city where 49 percent of the  
7 identified, buildable residential land is located. Record,  
8 p. 318.

9 The absence of a plan for accommodating the additional  
10 daily commuter trips generated by level two of the development  
11 is even more apparent than for level one. The transportation  
12 element of Lebanon's comprehensive plan is set forth in  
13 pages 530-546 of the record. The finding with respect to  
14 Highway 20 has been stated above. Other relevant findings  
15 are as follows:

16 "2. Streets within the 1964 - 1978 annexed area  
17 have been developed in a random pattern with  
18 little relationship to each other or to the  
19 City's existing street system. This random  
20 pattern of streets occurs throughout the  
urban fringe area and has increased the  
difficulty of extending and aligning streets  
in a rational way."

21 "5. Oregon Highway 34 is Lebanon's second major  
22 highway connecting the City with Interstate  
23 Highway I-5 eight miles to the west. After  
24 entering the City, the highway must make two  
25 difficult right angle turns around an  
26 elementary school and the junior high  
school before connecting with U. S. Highway  
20 north of the central business district.  
There is a need to reroute this highway to  
provide safer and more efficient traffic  
circulation and land use."

1 "7. East-west through traffic in the City is handi-  
2 capped by the lack of a major east-west arter-  
3 ial. There is an excellent opportunity to  
4 develop Oak Street as a major east-west  
5 arterial by connecting it with the Grant  
6 Street Bridge. This route could also  
7 connect with Oregon Highway 34 west of  
8 the City and become an extended east-west  
9 highway serving areas east of Lebanon.

10 "8. Increased truck and through traffic is a  
11 major problem in the central area of the  
12 City and will require alternative routing  
13 in the future.

14 "9. Streets that extend outward from the central  
15 area are inadequately tied together and con-  
16 sequently there is a need for a 'loop' or  
17 'belt' route to provide circumferential  
18 movement of traffic."

19 "11. A logical street system for the City has  
20 been handicapped by the lack of an approved  
21 street plan and a consistent policy on street  
22 development which would assure alignments  
23 of future streets."

24 The comprehensive plan summarizes the major changes  
25 recommended in two study reports (which study reports are  
26 not in the record). The first eleven recommendations  
27 contain such general statements as

28 "Future street and highway projects  
29 should contribute to the emergence of a system-  
30 atic circulation network that forms the basic  
31 organizational framework on which the community  
32 can develop,"

33 and

34 "The city should encourage development of a  
35 one-way couplet system for the downtown area that  
36 would relieve Main Street as a through traffic  
37 arterial."

38 With respect to this letter recommendation, the

1 comprehensive plan notes that "the Oregon State Highway Depart-  
2 ment has major responsibility for planning, design and construc-  
3 tion of highways" although changes such as suggested for Main  
4 Street (Highway 20) "will more likely be undertaken as a  
5 result of local initiative than from higher governmental levels."  
6 The plan does not say, however, whether such an initiation has  
7 begun, or whether the feasibility of such a change has even  
8 been discussed with the State Highway Department. Nor does  
9 the plan state what the cost of such a change will be, from  
10 where the funds will or may likely come to effect such a  
11 change or when the change may be implemented. Finally, there  
12 is nothing in the record to indicate what effect such a  
13 change if made would have on relieving the through town  
14 traffic pressure which approximately 2,000 daily commuter  
15 trips from southern Lebanon to the Tektronix facility would  
16 present. Thus, this recommendation amounts only to a possi-  
17 bility for relieving downtown traffic pressure; the feasibility  
18 of its implementation and its effect on relieving the Tektronix  
19 related traffic are unknown.

20 A second recommendation in the comprehensive plan  
21 which would, if implemented, have some effect on relieving  
22 Tektronix related traffic from the southern end of Lebanon  
23 concerns the development of a west side "loop arterial."  
24 The stated "preferred alternative" for development of such a  
25 "loop" would be to construct a "new north-south arterial near  
26 the west Urban Growth Boundary," although this alternative

1 "would be the most expensive."

2       This recommendation is again discussed in the section  
3 of the recommendations concerning a "Bypass Highway." The  
4 plan states that development of a bypass route on the  
5 west side "seems doubtful in the near future," and that the  
6 "west side 'loop' or 'ring' route [is] an alternative to  
7 the proposed bypass." As with suggested changes to Highway  
8 20 through downtown Lebanon, no statement is made as to  
9 when such a bypass route will be or could be developed,  
10 what it would cost, whether funding is or may be available  
11 or what effect it would actually have on relieving the commuter  
12 traffic pressures generated by development such as is proposed  
13 by Tektronix at level two. It is merely a possibility; the  
14 feasibility of its implementation and its effect on relieving  
15 Tektronix related traffic are unknown.

16       Another possibility for minimizing the adverse impacts  
17 generated by Tektronix's development identified in the compre-  
18 hensive plan is public transit. The comprehensive plan states  
19 that there is "a need for an intra-inter city transit system  
20 that would serve the needs of the community and function as  
21 a regional transit between cities and regional recreational  
22 areas." But the comprehensive plan concludes its discussion  
23 of public transit with the not so optimistic forecast that  
24 "implementation is beyond the limited resources of the  
25 community and would have to be developed at a higher govern-  
26 mental level or by private industry."



1 In approving the annexation and rezoning in this case,  
2 however, the city exacted no commitments, financial or  
3 otherwise, from Tektronix to assist the city in developing  
4 a public transit system or at least in expanding its present  
5 "dial-a-bus" system.<sup>1</sup>

6 Finally, the transportation element addresses bicycle  
7 and pedestrian ways, but notes that the city "has no designated  
8 bikeways at this time although it recognized the need for a  
9 future plan."

10 The foregoing transportation elements of Lebanon's  
11 comprehensive plan would appear to be marginally adequate,  
12 if at all, under the Transportation Goal, as a plan to minimize  
13 the adverse traffic impacts which will result from the  
14 comprehensive plan projected population of 23,000 in the  
15 year 2000. But they are wholly inadequate under Goal 12 as a  
16 plan to minimize the adverse traffic impacts which 27,000  
17 people in the year 1990 will bring to the City of Lebanon.  
18 The plan does not, as Goal 12 requires, "provide and encourage  
19 a safe, convenient and economic transportation system" for  
20 the City of Lebanon as impacted by the Tektronix development.

21  
22 2. Opportunities

23 In its findings approving the annexation and rezoning of  
24

25 <sup>1</sup>  
26 The record shows that the dial-a-bus "system" consists of  
one bus which serves 25 handicapped and elderly persons a day.

1 Tektronix, the city did not rely solely upon its comprehensive  
2 plan as the basis for showing compliance with Goal 12's  
3 requirements. The city places great emphasis on the fact  
4 that concentration of an employment center at the Tektronix  
5 site will create "opportunities" for the city to develop a  
6 future bus transit system or expand its current limited dial-  
7 a-bus system which will serve the Lebanon area. Lebanon's  
8 comprehensive plan already indicates a need for development  
9 of such a system. However, it also candidly admits that  
10 such a system is not feasible without the backing of the  
11 state or private industry. Tektronix, however, did not  
12 commit itself in any way to help fund a mass transit system  
13 for the city.

14 In addition, the applicants assert and the city found  
15 that concentration of a large number of the employes in one  
16 site will create "opportunities" for Tektronix to institute  
17 carpooling or vanpooling arrangements as it has in its Beaverton  
18 plant. As with mass transit, however, the city exacted no  
19 commitments from Tektronix as a condition of this annexation  
20 and rezoning that Tektronix will, in fact, institute carpooling  
21 or vanpooling arrangements or otherwise provide incentives to  
22 its employes to leave their cars at home and seek alternative  
23 modes of transportation.

24 While Tektronix's proposal may itself create certain  
25 "opportunities" it is the city's responsibility to insure  
26 that these opportunities become realities. This responsibility

1 takes the form of adopting some plan, prior to approval of a  
2 land use action of this magnitude which demonstrates how those  
3 opportunities will be or can be made into realities. This  
4 responsibility is similar to that required in connection with  
5 schools in approving a subdivision. Prior to approval of a  
6 subdivision, a city or county must have a plan which has  
7 some reasonable basis of being implemented which will be  
8 able to alleviate the adverse impact on schools:

9 "We emphasize we are not saying that Goal  
10 11 prohibits approval of subdivisions simply  
11 because school facilities are crowded. Nor are  
12 we saying that before a subdivision can be approved,  
13 additional school facilities must be in the process  
14 of being built or that the voters must have  
15 actually approved the necessary bond issue. It  
16 is enough, in our view, for the county to satisfy  
17 itself that the school district has provided or  
18 planned for, or reasonably can be expected to  
19 provide facilities for, school needs whether, for  
20 example, by busing, year around school, or the  
21 construction of additional school facilities.  
22 The point is that whatever course of action is  
23 to be taken by the district and county should,  
24 ideally, be planned for in advance of the approval  
25 of a new subdivision. (Emphasis Added)  
26 \_\_\_\_\_ Op Atty Gen \_\_\_\_\_, Opinion No. 7607 (1978).

19 III.

20 Tektronix in this case submitted to the City of Lebanon a  
21 very complete and very detailed analysis of how development of  
22 its site at level one and level two would impact the City of  
23 Lebanon. As such, it provides a resource base from which the  
24 City may be able to develop a functional plan for dealing with  
25 the impact which Tektronix will have on the City. Such a plan  
26 is necessary in order for the city to be able to determine,

1 in advance of development, whether it has the resources necessary  
2 to deal with the impact, and, if such resources are available,  
3 how it will go about it. Its present comprehensive plan, how-  
4 ever, in the areas at least of public facilities and services  
5 and transportation, are inadequate in this regard. The findings  
6 which the city made in this case do not correct the deficiencies  
7 in the comprehensive plan. In the absence of an adequate plan  
8 which shows that adequate public facilities and services can  
9 reasonably be made available to serve the proposed use of the  
10 property and the city as impacted by the proposed use, and in  
11 the absence of a plan which will provide for and encourage a  
12 safe, convenient and economic transportation system and minimize  
13 the adverse traffic impacts which will result from the proposed  
14 use, the city's annexation of the property violated LCDC's  
15 annexation rule (OAR 660-01-315) and Goal 12 (Transportation).  
16 For the above reasons, in addition to the failure of the city  
17 to demonstrate a need for annexation of all 245 acres of the  
18 parcel, I would reverse.

1 COX, Referee

2 I dissent from the majority opinion relating to petitioners'  
3 first assignment of error; concur, with written discussion, with  
4 Referee Bagg's opinion regarding petitioners' second assignment  
5 of error; and concur, without written discussion, with Referee  
6 Bagg's opinion regarding petitioners' third assignment of error.  
7 In summary, I conclude that respondents' action should be affirmed.

8 The issue in this case can be stated in practical terms  
9 as whether 245 acres of prime farmland and the continuation of  
10 a trend toward increased population concentration in the Mid-  
11 Willamette Valley is a reasonable price to pay for economic  
12 diversification and encouragement of population growth away  
13 from the Portland Metropolitan Area.

14 Petitioners' First Assignment of Error.

15 OAR 660-01-315(2) prohibits annexation of an area not  
16 subject to an acknowledged comprehensive plan unless the city  
17 finds that adequate public facilities and services can be  
18 reasonably made available and that:

19 "(a) the lands are physically developed  
20 for urban uses or are within an area physically  
developed for urban uses; or,

21 "(b) the lands are clearly and demonstrably  
22 needed for an urban use prior to acknowledgment  
23 of the appropriate plan and circumstances exist  
24 which make it clear that the lands in question  
will be within an urban growth boundary when the  
boundary is adopted in accordance with the  
goals." (OAR 660-01-315(2)). (Emphasis added).

25

26 Respondents showed that "circumstances exist which make

1 it clear that the lands in question will be within an urban  
2 growth boundary when the boundary is adopted in accordance with  
3 the goals," by evidence that both the City of Lebanon and  
4 Linn County designate this property as within their adopted  
5 urban growth boundaries. There is substantial evidence in  
6 the record that it is unlikely there will be any changes to  
7 either urban growth boundaries regarding this property prior  
8 to their submission to LCDC for acknowledgment. Any change  
9 is unlikely since both Lebanon and Linn County favor Tektronix  
10 locating at the proposed site.

11 The respondents have made a satisfactory showing that  
12 adequate public facilities and services can be reasonably made  
13 available to the site. Such a standard is prospective in nature  
14 and requires evidence that when needed the facilities and ser-  
15 vices will be available. The record indicates the problems were  
16 identified and alternative solutions discussed. As regards  
17 the first half of the section 2(b) test for annexation, the  
18 majority, in essence, holds there has been no showing "that  
19 the lands are clearly and demonstrably needed for an urban  
20 use prior to acknowledgment of the appropriate plan." The  
21 majority's opinion is based on a conclusion that Tektronix  
22 has failed to show why it needs 245 acres. The majority is  
23 misconstruing the annexation rule. It is not Tektronix's need  
24 that is at issue here, it is Lebanon's immediate need for the  
25 property upon which the annexation rule is based.

26 The record reveals that Tektronix will not locate in

1 Lebanon, or anywhere else, unless it can be assured, early  
2 in its planning process, that at least 245 acres are available  
3 to it for its total development. There is evidence in the  
4 record that a consistent pattern exists whereby Tektronix  
5 requires at least 245 acres for its sites. This is true,  
6 according to the record, at its Beaverton, Wilsonville and  
7 Clark County, Washington sites.

8 Lebanon has clearly shown its immediate need to annex this  
9 property in order to attract Tektronix to its borders. The  
10 record indicates that the City of Lebanon has searched far and  
11 wide to attract industry in an attempt to broaden its economic  
12 base thus enabling it to better weather economic fluctuations  
13 resulting from heavy dependence on the forest products industry.  
14 This attempt to broaden its economic base is a recognition of  
15 the realities that are also facing the State of Oregon as a  
16 whole as Oregon attempts to reduce its heavy dependence on a  
17 maximized economic base. (See attached letter from Department  
18 of Economic Development, Appendix C-1.) The City of Lebanon  
19 succeeded in hooking an attractive industrial alternative  
20 when it interested the highly respected Tektronix corporation  
21 in locating in Lebanon. Much to its chagrin, however, Tektronix's  
22 interest became known at a time prior to the acknowledgment of  
23 Lebanon's urban growth boundary by LCDC.

24 Lebanon is on the verge of having acknowledged its  
25 comprehensive plan and urban growth boundary. When this actually  
26 will occur no one is sure. Petitioners argue why not wait

1 just a little longer and ask Tektronix to come back later.  
2 Lebanon, on the other hand, argues it needs to assure that  
3 it can keep Tektronix and to wait even a day longer than is  
4 absolutely necessary increases the risk of losing a coveted  
5 industrial neighbor and frustrating 25 years of effort. Only  
6 Tektronix has expressed the interest and willingness to come  
7 to Lebanon. Lack of manufacturing in this area has been  
8 identified by the Linn-Benton economic data base as the most  
9 acute problem in the area. The city council found an urgent  
10 and compelling need to use the specific property as proposed.

11 It is not as if the city could put the industrial develop-  
12 ment on non-agricultural land somewhere else. Lebanon is  
13 surrounded on three sides by agricultural property and the  
14 record indicates that no matter which direction it chooses  
15 to guide its future growth, agricultural property will be  
16 covered up.

17 There is substantial evidence in the record that Lebanon  
18 has considered the trade off between agricultural and industrial  
19 use of the property and has found that it is a matter of great  
20 importance that Tektronix be given the go ahead immediately so  
21 as to insure that Lebanon's economic base will be protected. It  
22 is short sighted of the petitioners to argue that it is un-  
23 important for Lebanon to protect its economic base in every  
24 way possible. The alternative to Lebanon being able  
25 to provide its citizens jobs is for those citizens to move  
26 to areas where the jobs do exist. If the only place that



1 jobs can be found is in the metropolitan areas, additional  
2 farmland will be covered, resources wasted, and hardships  
3 encountered in an attempt by the large metropolitan areas to  
4 provide the necessary services to support the continued influx  
5 of people to their borders. In the long run, industrial develop-  
6 ment could probably more adequately be dealt with in the non-  
7 farmland expanses of Eastern Oregon than to continue to  
8 destroy the rich farmlands of the Willamette Valley. But such  
9 considerations are beyond the power of this Board or the require-  
10 ments placed upon the local jurisdictions, such as Lebanon. In  
11 light of the facts that have brought the City of Lebanon to this  
12 point, I can foresee no better demonstration of need to move  
13 ahead prior to acknowledgment of a comprehensive plan and  
14 urban growth boundary than is evidenced in this case.

15 Petitioners' Second Assignment of Error

16 The petitioners rely heavily on their second assignment  
17 of error which concerns an alleged violation of LCDC Goal No.  
18 12. The petitioners are taking an extremely myopic view of  
19 that goal when they attempt to apply it solely to the inner  
20 city Lebanon traffic problems. If this state does not geo-  
21 graphically diversify its industrial base out of the metro-  
22 politan area of Portland, the transportation problems  
23 encountered in the Metropolitan-Portland area will far  
24 outweigh any problems which the City of Lebanon would encounter  
25 by locating industry within a mere three miles of its main  
26 residential area.

1           The record is extensive concerning preliminary planning  
2 work directed at dealing with the transportation problems  
3 to be encountered as the proposed Tektronix plan reaches  
4 its planned employment capacity. Petitioners, in effect,  
5 are arguing that regardless of the extensive transportation  
6 planning work that appears in the record, more specificity  
7 is required at this stage in the overall development process.  
8 The record reveals more than 20 pages of evaluation, analysis  
9 and projections regarding the impact of the plan on the Lebanon  
10 area. The record indicates problem identification and pro-  
11 jections of daily site generated trips at development levels  
12 1 and 2, broken down to trips per employe, local and external  
13 trips and Lebanon and non-Lebanon household trips. Included  
14 are proposed means to reduce the number and length of auto  
15 trips, complete with statistical projections. Included also  
16 are analyses of the public transportation available and the  
17 proposed developments impact on it. In addition, there  
18 exists analyses of transit access as facilitated by residential  
19 concentrations, carpooling and vanpooling plans, a proposed  
20 distribution of site generated trips as well as site access  
21 and parking analysis and projections. A consulting firm  
22 concluded after studying the proposed development and  
23 transportation ramifications that:

24           "However, when making a comparison of the  
25 trip lengths that would be generated or attracted  
26 by this facility we found them to be substantially  
shorter than would normally be experienced in  
large metropolitan areas because, in fact, this

1 large residential area that now exists and is  
2 to grow in the future to accommodate more resi-  
3 dences located between one and three miles from  
4 the site, and normally this kind of facility  
5 will attract employes from distances of five to  
6 seven miles, so we are talking about distances  
7 that are substantially shorter than the norm.  
8 It was noted that there was an apparent flaw  
9 in the comments regarding the opportunities to  
10 reduce trip lengths and reduce trip making.  
11 I don't believe there was a flaw, because there  
12 was a misunderstanding of what we were saying,  
13 we were assuming a given number of jobs somewhere.  
14 We were saying typically they generate, they tend  
15 to generate a certain number of trips of a certain  
16 length and because of the central location of  
17 Lebanon in an area of a number of satellite  
18 towns there are unusual opportunities to reduce  
19 the typical trip generation characteristics of  
20 a facility like Tektronix. You would have one  
21 focus and you would have several satellite towns  
22 which can be used to attract patrons for a  
23 transit service and patrons for a carpooling  
24 or vanpooling service and if you can visualize  
25 the difference between that and a large metro-  
26 politan area where you have people coming from  
every degree of 360 degrees, as opposed to  
five or six discreet locations you can appreciate  
how one can develop a more efficient system. The  
one point is that the comprehensive plan in Lebanon,  
we felt has tried very hard to develop a balancing  
of shopping, residential and employment activities  
in a concentrated area and so you have opportunities  
to reduce both trip lengths, vehicle trip lengths,  
and to concentrate trips by consolidating work and  
shopping trips thereby reducing in general the trip  
that would be generated by this facility and other  
places of employment."

21 This case brings before the Board a classic confronta-  
22 tion between LCDC goals 3 and 9 with the potential long range  
23 payoff, the protection of our forest lands (Goal 4). If Oregon  
24 can diversify its economy with relatively nonpolluting industry,  
25 which this development will do, this state becomes less depen-  
26 dent on the forest products industry and the jobs it provides

1 and thus more willing to manage and conserve our forests for  
2 the long term.

3 Respondent City of Lebanon has gone to extreme lengths  
4 to consider issues which LCDC, the courts and planning theorists  
5 indicate are important to proper land use decision making. We  
6 can either agree or not agree with their decision, but if the  
7 record shows the proper elements were considered, and substantial  
8 evidence exists to support the decisions made, there is no legal  
9 justification for our reversing Lebanon's decision.

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*Department of Economic Development*

921 S.W. WASHINGTON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5535



September 19, 1979

Mr. Merle Gilb, Chairman  
Lebanon Planning Commission  
City Hall  
925 Main Street  
Lebanon, Oregon 97355

Dear Mr. Gilb:

It is my understanding that the Lebanon Planning Commission will conduct a public meeting Thursday, September 20, to consider, among other agenda items, the annexation of 253 acres commonly referred to as Tektronix's proposed plant site. It is our desire that this letter be included as part of the hearing record in support of the annexation.

The primary objective of the Economic Development Commission and the Department of Economic Development (DED) is to improve and diversify the economy of Oregon, thereby assuring jobs for the growing work force within the state. This is accomplished in large part by the Industrial Development Division (IDD) assisting communities and firms in the state with industrial development and site identification. The IDD worked closely with the Lebanon Industrial Development Corporation and Tektronix in order to assist in creating a match for the community.

The reason for attracting Tektronix and other diversified industries to Oregon's communities is perhaps obvious:

1. The state's primary industries simply will not be able to create enough jobs to keep pace with the growing labor force in the 1980s. The DED predicts that 34,000 new jobs will be needed annually through 1985. As Oregon's economy moves primarily from an "old growth" (forest products) economy to a second growth economy, there will be static employment, if not a decline in jobs. Agriculture, tourism and fishing, the state's other primary industries, will realize little improvement in job creation.
2. Many communities -- such as Lebanon -- do not have an economically diversified base. With the declining old growth resource, and substantial capital investment required for conversion to accommodate smaller diameter, second growth, employment levels will be affected in a variety of communities and, in some cases, sawmill closures will result on the long term.

Mr. Merle Gilb  
September 19, 1979

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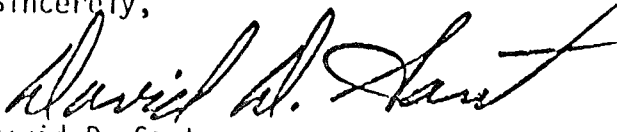
Therefore, the direction seems clear: begin preparing communities now for the 1980s by promoting economic diversification. Key community and political leaders at the local level can accomplish diversification by working together to plan and implement industrial development activities -- resulting in the expansion of economic opportunities and job creation. Such is the case with the Lebanon Industrial Development Corporation that worked hard to attract and locate Tektronix.

Tektronix, which is the state's largest manufacturing employer, represents the type of company the Department of Economic Development is interested in locating in communities desirous of economic diversification. The electronics industry is environmentally clean, labor intensive and uses relatively little energy.

With respect to the site, I should point out that there is a dearth of adequate industrial land in the state, and especially in small and medium-size communities. Lebanon is fortunate to have a site which met Tektronix's requirements. I've travelled the entire state and have found few comparable sites that are suitable for the creation of "campus-like settings", desired by Tektronix and high technology industries.

In our opinion, a favorable decision by the Lebanon Planning Commission with respect to annexation of the Tektronix property will be a bold, progressive step for balanced economic growth and development in your community.

Sincerely,



David D. Sant  
Industrial Development Manager

DJS:kdo

cc: John Humphreys, Planning Director  
Glenn Jackson, Chairman, Economic Development Commission  
John Groupe, Director, Department of Economic Development

*see below testimony  
at Lebanon Planning Commission  
meeting of 20 Sept 79 regarding  
annexation 79-11  
Mr. Merle Gilb*

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