BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

TWIN ROCKS WATER DISTRICT, TWIN ROCKS SANITARY DISTRICT and TWIN ROCKS SERVICES AREA TASK FORCE, Petitioners, v. CITY OF ROCKAWAY Respondent.	LUBA No. 80-039 FINAL OPINION AND ORDER

Appeal from the City of Rockaway.

Elizabeth S. Merrill, Tillamook, filed the brief and argued the cause for Petitioner Twin Rocks.

Edward J. Sullivan, Portland, filed the brief and argued the cause for Respondent City of Rockway.

REYNOLDS, Chief Referee; COX, Referee; BAGG, Referee; participated in the decision.

REVERSED and REMANDED. 10/31/80

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

REYNOLDS, Chief Referee.

NATURE OF THE PROCEEDING

Petitioners seek invalidation of Ordinance No. 179 which annexed to the City of Rockaway a portion of an unincorporated area known as Twin Rocks.

STANDING

The standing of Twin Rocks Water District was challenged by the city on the basis that there was nothing in the record to show that the Water District appeared, either orally or in writing, before the city in this matter as required by Oregon Laws 1979, ch 772, sec 4 subsection 3 subsection (a). At oral argument the attorney for Twin Rocks Water District conceded that no such appearance had been made for the water district and conceded the district's lack of standing. Accordingly, the city's objection to the standing of the Twin Rocks Water District is sustained.

SUMMARY OF ARGUMENTS

Petitioners set forth no specific assignments of error, but instead set forth a section in their brief entitled "Summary of Arguments" which summarizes the following assignments of error: That the city's findings were improperly adopted; that the city failed to make findings upon all applicable goals and that the findings which it did make are inadequate and not supported by substantial evidence; that the city violated its own comprehensive plan by failing to coordinate its decision with the Twin Rocks Sanitary District; and that the city failed

to give notice to Tillamook County as required by the annexation rule (OAR 660-01-315).[1]

Respondent City contends that, with the exception of petitioners' assertion concerning failure to coordinate and failure to apply all applicable statewide planning goals, the issues raised by petitioners should not be considered by the Board because they were not raised first before the city. The city argues, alternatively, that the nature of this annexation indicates that the only applicable goal was Goal 11 and the city's findings demonstrate compliance with that goal. Respondent contends that adequate opportunities were made for coordination with the effected governmental units, including petitioner Twin Rocks Sanitary District. Finally, the city contends that their findings were properly adopted and supported by substantial evidence in the record.

STATEMENT OF FACTS[2]

On January 8, 1980, a petition was presented to the City of Rockaway requesting annexation to the city of a portion of the unincorporated area known as Twin Rocks. The petition contained the names of 211 persons owning property in the area for which annexation was sought. The city council voted to proceed with formal contact of property owners for their signed approval in accordance with the annexation procedures set forth in ORS 222.120 and 222.170. Consent forms were subsequently mailed to owners of property in the affected area on January 14 and February 4, 1980.

During this period, petitioner Twin Rocks Services Area Task Force sent a letter to property owners in the affected area detailing the effects of the annexation on such property owners. The letter was accompanied by a joint statement of the boards of petitioner Twin Rocks Sanitary District and Twin Rocks Water District. While this letter was not addressed to the City of Rockaway, the letter found its way into the record of this proceeding. During the month of January, Tillamook County considered the annexation proposal at three public hearings as part of its consideration of the proposed Rockaway Urban Growth Boundary. Members of the Sanitary District's board and of the Rockaway city council were present at all three hearings.

On February 12, 1980, the Rockaway city council adopted an ordinance providing for a public hearing on the annexation pursuant to ORS 222.120(1). The hearing was set for March 11, 1980. At a meeting held on February 26, 1980, the city council was presented with a set of proposed findings concerning the annexation. The minutes do not reflect whether the findings were discussed at this meeting or whether any evidence was presented in support of the findings. The minutes reflect only that the findings were read to and adopted by the city council.[3] The proposed set of findings appears in appendix "A" to this opinion.

On March 11, 1980, Rockaway conducted its public hearing on the proposed annexation. Prior to this meeting, the city

posted notice of the intended public meeting in four public places and set forth a notice of the public hearing in two local newspapers.

Petitioners Twin Rocks Sanitary District and Twin Rocks Services Area Task Force participated in writing at the March 11, 1980 public hearing. The letter from Twin Rocks Sanitary District advised the city that the property proposed for annexation was presently included within the boundaries of the Twin Rocks Sanitary District and received sewer service from that district. The letter further advised that, in the opinion of the board of directors for the Sanitary District, the city had:

> "Failed to follow the applicable statewide goals and mandated planning responsibilities ORS ch 197 in proposing to annex this property. No attempt has ever been made by you to consult the board of directors of the Sanitary District on this, nor have you made any attempt to coordinate your land use plans with those of the District. This area is already developed in terms of urban facilities and no need has been shown from the standpoint of supplying such facilities."

The letter further advised the city that the annexation was in violation of Rockaway's comprehensive plan requiring that Twin Rocks Sanitary District be involved in major land use decisions affecting its areas of influence.

The written appearance of the Twin Rocks Services Area Task Force consisted of a certification that 22 property owners in Twin Rocks had withdrawn their consent to annexation "in the event you have them listed as consenting."

Numerous citizens appeared and testified for and against

the proposed annexation. The transcript of the meeting as well as the minutes reflect that testimony centered upon whether people wanted the annexation rather than whether the annexation satisfied any particular land use criteria. No reference was made to the proposed findings of fact which had been adopted at the February 26, 1980 meeting. At the conclusion of the testimony the council voted to adopt Ordinance No. 179 annexing a portion of the Twin Rocks area to the City of Rockaway.

OPINION

We turn first to respondent's assertion that petitioners should be limited on appeal to raising only those issues brought to the attention of the governing body during the course of its proceedings leading up to adoption of Ordinance No. 179. We have previously held that where a party is represented by counsel before a governing body, has the opportunity to raise procedural matters which are capable of being cured by the governing body and the party fails to raise such issues, this Board will not permit such issues to be raised on appeal. See Dobaj v. City of Beaverton, ___OR LUBA ___(LUBA No. 80-002, 1980). In reaching this conclusion we followed the lead set by the Oregon Supreme Court in Sunnyside Neighborhood v. Clackamas County, 280 OR 3, 569 P2d 1063 (1977).

Petitioners ask, however, that we go beyond this limited holding to include a prohibition against raising substantive issues on appeal which were not raised below. The character

and nature of land use proceedings at the local level is such that we are presently unwilling with a broad stroke of the brush to limit an appeal to only those issues which a petitioner put before the governing body.

This issue was recently addressed by the Oregon Supreme Court as it applied to cases arising under the Oregon Administrative Procedures Act. See Marbet v. Portland General Electric, 277, Or 447, 561 P2d 154 (1977). The Court in Marbet noted that the requirement was "one facet of the general doctrine that a party must exhaust his administrative remedies." 277 Or 447 at 456. The Court cited some Oregon cases which have applied the doctrine and also some cases in which the doctrine was not applied. The court concluded by stating:

> "An invariable requirement that judicial review must be limited to objections first made to the agency is foreclosed in any event by the present text of ORS 183.480, quoted above. Until 1971, this section provided judicial review only for parties to the contested case. The 1971 revision of the APA extended judicial review of agency orders also to persons who have never appeared before the agency and obviously have not raised objections in its proceedings. Oregon Laws 1971, ch 734, sec 18. Such an aggrieved person is entitled to the full scope of review stated in ORS 183.480(1), quoted above...It would be incongruous to hold that such a person's standing on judicial review is narrowed by virtue of being admitted as "party" with respect to some issue rather than as "participant," ORS 183.450(3), and nothing in ORS 183.480 supports such a result."

The "present text" of Oregon Laws 1979, ch 772 does not limit review of land use decisions to only those persons identified by the governing body as "parties" to the

proceeding. All one must do in order to appeal is to demonstrate that the person's interests have been adversely affected or that the person has been aggrieved by the decision. In the case of quasi-judicial decisions, there is the additional requirement that the person "appeared" either orally or in writing before the governing body. Nothing in this language suggests that the legislature intended that by "appearance" was meant the person had to raise all substantive issues of concern to that person in order for that person to raise substantive issues on appeal. In our view the appearance requirement was for the purpose of limiting the right to appeal quasi-judicial decisions to those who felt they had a sufficient interest in the outcome to participate in some minimal fashion in the proceeding. It could be as simple as a letter from a person stating he or she objects to the land use request under consideration. To limit such a person's standing to raise issues on appeal to those expressed in his or her written "appearance" would, in our view, be to rewrite the standing requirements in Oregon Laws 1979, ch 772, sec 4. And to grant such a person full opportunity to seek complete review of the final decision, while limiting the right of one who more actively participated to those issues raised by such a person, would produce not only an "incongruous result" as stated by the Supreme Court in Marbet, supra, but would produce administrative nightmares for this Board in trying to decide which of the more than two or three parties normally involved

in a land use appeal can raise what substantive issues for this Board to consider.

There are additional practical reasons why we are unwilling to adopt a rule limiting the issues which may be raised on appeal to those raised before the governing body. Most often the important issues raised on appeal center around the adequacy of the final order adopted by the governing body. These include not only whether there is substantial evidence to support the findings contained in the final order but also whether the order properly interprets and applies all applicable laws, rules and regulations. Whether the final order does this is simply not known until it is adopted by the governing body. Thus, to require people to raise issues before the governing body in order to raise them on appeal would be to require them to speculate as to what the final order will say and point out in advance why such a decision would be in error. Such a process would not only be unfair but would, in our view, be highly impractical as well.

For the foregoing reasons, we decline to adopt respondent's assertion that substantive issues not raised below may not be raised on appeal.[4]

THE FINDINGS

We turn next to petitioners' assignments of error.

1. Propriety of adoption of findings.

Petitioner argues that the city in fact adopted the findings in support of Ordinance No. 179 at its meeting on

February 26, 1980, and not March 11, 1980. If a city may not adopt findings after a final vote on the underlying decision is made (See Heilman v City of Roseburg, 39 Or Ap 71, 591 P2d 390 (1979)), then, argue petitioners, a city should not be able to adopt final findings before it has considered the testimony from interested persons.

While we would agree with petitioners that final findings should not be adopted prior to hearing testimony from interested persons, we do not agree that such occurred in this case. All the record reveals is that the findings which were ultimately adopted by the city on March 11, 1980, were adopted as proposed findings on February 26, 1980. We presume the intent in doing so was to have the findings available in a proposed form so that interested persons would know to what to respond. The fact that no one did respond to the proposed findings at the March 11, 1980 meeting and the city adopted the findings with no changes does not constitute procedural error.

2. Applicable goals and adequacy of findings.

Petitioners contend the findings are insufficient because they fail to address all applicable goals. Petitioners further contend the findings are inadequate because they constitute mere conclusions. Applicable goals in this annexation proceeding, according to petitioners, which were not addressed include Goal 1 (Citizen Involvement), Goal 2 (Land Use Planning), Goal 6 (Air, Water and Land Resources Quality), Goal 7 (Areas Subject to Natural Disasters and Hazzards), Goal 9

(Economy of the State), Goal 10 (Housing), Goal 11 (Public Facilities and Services), Goal 12 (Transportation), Goal 13 (Energy Conservation), and perhaps Goal 4 (Forest Lands), Goal 5 (Open Spaces), Goal 15 (Willamette Greenway) and Goals 16-19 (The "Coastal Goals").

We have stated before that annexation decisions are largely political decisions that relate to which governing body will have jurisdication to make decisions concerning such legislative matters as the appropriate uses of land within the areas to be annexed. See Homebuilders v. Corvallis, ___Or LUBA ___ (LUBA No. 79-002, 1980). But a decision to annex land to a city also has land use significance. Usually annexation is sought for the purpose of providing additional land to absorb the pressures of urban development, see, e.g., Peterson v. Klamath Falls, 279 Or 249, 566 P2d 1193 (1977), and choices must be made among available lands to decide which lands are suited to absorb these pressures. Even when annexation is not for this purpose, the decision has land use significance because the city must determine in advance whether it has the capacity to provide or can arrange for provision of the services necessary for the to be annexed area.

The character of the land sought to be annexed is the critical factor which determines what goals are appropriate and must be addressed. For example, the extent to which Goal 14 (Urbanization) would be applicable, if at all, in a given annexation would depend upon whether or to what extent the

property was already urbanized. If the property is already fully developed for urban uses or is irrevocably committed to urban uses, Goal 14 would not apply because there would be in the annexation no conversion of the property to an urban use nor, most certainly, any conversion of the property from a rural to an urbanizable status. Similarly, for property which is already developed or irrevocably committed, goals which relate to preservation of scenic or natural resources (i.e. Goals 3 and 4) would not apply assuming findings, supported by substantial evidence in the record, were made which clearly reveal the development or committment of the property to development. See, e.g. Common Questions About the Exceptions Process, LCDC Policy Paper, (March 10, 1978).

To know which goals must be applied to a given annexation, therefore, facts must be found which reveal at a minimum the nature and intensity of development of the entire property and the geographical and topographical characteristics of that portion of the property which is not developed or irrevocably committed to development. Without such findings of fact, the governing body cannot decide, nor can this Board on review decide, which goals were the applicable goals that should have been addressed by the governing body.

In the present case, the findings of the city state that Goal 3 "does not apply since the area is already committed to urban uses and urban development." We agree with petitioners that this statement is not a finding of fact, but a

conclusion. There are no "facts" in the findings from which this conclusion is drawn. Respondent argues that there is evidence in the record which supports the conclusion of committment. That evidence is the submittal by the Rockaway City Recorder which shows the number of ownerships within the area to be annexed and the size and assessed value of each tax lot.[5] Respondent states:

> "This statement shows that the annexed land comprised 46.4 acres with 255 parcels and 201 ownerships. The parcels range in size from 0.031 to 1.86 acres, with the average parcel size being only 0.23 acres. Only three parcels are larger than one acre, and only 17 are larger than 1/2 acre. Examination of the assessed value indicates that at least 222 parcels, or 87 percent of the total, are developed. These facts demonstrate that the land is physically developed for urban uses."

While the city may have been justified in making the findings of fact set forth above based upon the submittal by the city recorder, the fact is that the city did not make such findings. Evidence in the record to support a conclusion does not eliminate the city's obligation to make adequate findings of fact. See Sunnyside Neighborhood v. Clackamas County, 280 Or 3, 569 P2d 1063 (1977); Hill v. Union County Court, 42 Or App 883, ___ P2d ___ (1979). Similar conclusions exist in the "findings" concerning the city's treatment of Goal 14. The findings recite that "The lands are physically developed for urban uses;" that "The area is urbanized, it does contain an urban population density," that "Housing is already developed within the area;" that "There are no employment opportunities

in the area to be annexed;" and that "The liveability will be upgraded with additional city services and planning programs." Yet, the city made no findings of fact as to how many houses existed in the area, how many people lived in the area, what the employment situation was like in the area or what facts led to the conclusion that liveability would be upgraded were annexation to occur.[6] When, as in the present case, the city does not address all potentially applicable goals specifically in its findings, the findings which it does make must be sufficient to enable this Board on review to determine that potentially applicable goals other than the ones addressed in the findings were, in fact, not applicable. There are no such findings in this case. As a result, we cannot determine which goals were required to be addressed and, hence, cannot perform our review function.

For the foregoing reasons, we conclude that the city has failed in its findings to demonstrate why goals other than Goal 14 were not applicable to this annexation decision. This constitutes a violation of Goal 2 as well as ORS 197.175(1). The city's attempt to state Goal 3 is not applicable by reason of committment of the land to urban development is deficient because there are no findings of fact to support the conclusion. As findings of fact, the findings concerning Goal 14 are similarly inadequate.[7]

3. Adequacy of finding concerning public facilities and services (Goal 11 or OAR 660-01-315).

For annexations prior to acknowledgement of the city's urban growth boundary the requirements in Goal 14 and Goal 11 concerning public facilities and services have been interpreted in OAR 660-01-315 (The Annexation Rule) to require a finding that "public facilities and services can reasonably be made available." See Polk County v. Marion Polk Boundary Commission, LCDC No. 78-004. With respect to public facilities and services the City of Rockaway made the following finding:

> "The City of Rockaway already provides the area with water service and fire protection. The City also responds to police calls when requested by either the County Sheriff or a resident of the area. Twin Rocks Sanitary District provides sewer service. This would continue until the City is ready to withdraw the area from the Sewer District and serve the area itself. The City of Rockaway is now in the process of upgrading the City Sewer Treatment failitities to accomodate a population of 5,000. This is a $2.2 million project.
>
> "Other services provided at the City Hall are available to the residents of the area and are located much closer than the County Courthouse."

It appears from the above finding that the city would be justified in concluding that adequate public facilities and services "can reasonably be made available." Because all services with the exception of sewers are presently being furnished by the city it is presumed the city will be able to continue these services. While sewer service is presently being provided by the Twin Rocks Sanitary District the district must continue to provide this service unless and until the area is withdrawn from the district pursuant to ORS 222.524. The withdrawal procedures require public hearings. Presumably it

would be at such a hearing that the city would have to demonstrate under Goal 11 that it has the capacity to supply the areas sanitary sewer needs. Accordingly, we believe the city has adequately demonstrated that this annexation would not be inconsistent with Goal 11.

4. Coordination.

Separate from the question of the adequacy of the city's findings, petitioners contend the city erred in failing to adequately coordinate its decision with Twin Rocks Sanitary District in violation of the city's own comprehensive plan. The pertinent comprehensive plan provision provides as follows:

> "The City shall coordinate annexation actions and changes in the urban service area with Tillamook County, and other special districts in the area."

The city argues that the coordination requirement contained in the city's comprehensive plan was met in this case because

> "...the record shows that the Twin Rocks Sanitary District Board was fully aware of the proposed annexation and had several opportunities to make its concerns known to the Rockaway City Council."

The city points out that on three occasions before the county and at the city's March 11th hearing Twin Rocks Sanitary District had the opportunity to comment and did in fact comment upon the proposed annexation decision. That the city mailed no special notice or invitation to Twin Rocks Sanitary District requesting the opportunity to confer with Twin Rocks Sanitary District with respect to its concerns over the annexation would according to the city under the circumstances be to

> "exalt form or over substance and strain the credibility of the coordination requirement beyond meaning."

This Board disagrees. The term "coordination" is not defined in the city's comprehensive plan, at least as far as this Board is aware. We thus look to the definition of the term as used in ORS 197.Ø15 and Goal 2:

> "...a plan is 'coordinated' when the needs of all levels of governments, semi-public and private agencies and the citizens of Oregon have been considered and accommodated as much as possible..." ORS 197.Ø15(4).

Similarly, a land use decision of a city would be coordinated with an affected special district when the needs of that district have been considered and accommodated as much as possible by the city.

When a city is required by its own plan to coordinate its decision making with affected special districts, as in this case, it is not sufficient procedurally or substantively for the city to treat the special district as it would any other person in the area. The comprehensive plan requires that the special district is entitled to special treatment. The city must make a meaningful attempt to find out how the special district will or may be affected, and then it must seek to accommodate the special district "as much as is possible."

In the present case the city made no attempt specifically to contact Twin Rocks Sanitary District, nor did it request the opportunity to meet with the district and discuss its

concerns. While it is true that Twin Rocks Sanitary District knew about the city's plans and apparently did not itself request an opportunity to meet with the city to discuss and possibly work toward alleviating the district's concerns, the city, not the district, bears the burden of initiating the coordination. To construe "coordination" as meaning anything less would be to write it out of the city comprehensive plan so long as the city in some fashion notified the special district of its intent to make a land use decision which may affect the special district.

Moreover, we disagree with respondent that the record reflects that the city achieved the purposes of the coordination requirement because the annexation issue was discussed at three county public hearings and Twin Rocks Sanitary District submitted written comments at the city's public hearing on March 11th. The only place in the record where it appears that the city discussed the annexation vis a vis the special district is the minutes of the February 26, 1980, city council meeting. Yet, as petitioners correctly point out, this consideration:

> "was only from a tax deferral standpoint for the people who would be annexed to Rockaway, but who would still be served by the Twin Rocks Sanitary District. There was no consideration of the impact on the District, immediate or long term;"[8]

This case is thus distinguishable from Harney County v. State Land Board, LCDC No. 77-003, Opinion of August 8, 1978. It was clear from the record in that case that coordination in

substance did take place. The State Land Board and the county did meet and did discuss the impact which designation of Steens Mountain as a Natural Area Preserve would have on Harney County. As a result of these discussions the State Land Board made some concessions to meet the needs expressed by the county. The record thus revealed that the State Land Board did, to the extent it believed it could, accommodate the needs expressed by the county. No such meeting with the Twin Rocks Sanitary District Board or attempt to accommodate the needs of Twin Rocks Sanitary District occurred in this case. Coordination simply did not, in fact, occur.

5. Notice to Tillamook County.

Petitioners' final assignment of error is that the city failed to give notice of the proposed annexation in violation of the annexation rule. However, the record clearly shows that Tillamook County submitted a letter to the city stating it had reviewed the annexation proposal and had no objections. This clearly establishes that the county did receive notice of the proposed annexation and that, accordingly, the annexation rule was complied with.

For the foregoing reasons, the decision of the City of Rockaway is reversed and remanded to the city for further proceedings consistent with this opinion.

FOOTNOTES

1 Petitioners follow the summary of arguments section of their petition with six separately entitled sections as follows: Goal No. 1 - Citizen Involvement; Other Land Use Goals; Goal No. 14 - Urbanization; Adoption of Findings; OAR 660-01-315 and Violation of the Rockaway Comprehensive Plan. Because separate assignments of error pertaining to each of the six sections mentioned above were not made, we do not treat these six sections as individual assignments of error. Rather, we treat these separate sections as argument in support of the four issues identified in the Summary of Arguments section of the Petition for Review.

2 Petitioners did not include in their Petition for Review a statement of facts as required by the Board's Procedural Rules, section 7 subsection (C) subsection (2) subsection (c). The statement of facts contained in this opinion is taken largely from respondent's brief.

3 The minutes for the February 26, 1980, regular meeting of the Rockaway city council concerning annexation of a part of Twin Rocks are as follows:

> "The terms for the annexation of a portion of the Twin Rocks Water District from Alder to Stark approximately plus several parcels contiguous thereto under the tax differential option were discussed, in that the city would not be furnishing sewer service to the area immediately upon annexation. Ann Swain made a motion that the city forgive the annexing area that portion of the city tax levy which is for sewer bonded indebtedness; seconded by Barry Mammano; motion passed unanimously. Discussion was held on the estimate of taxes for the next fiscal year and the increased revenue to the city for liquor tax, cigarette tax, and motor vehicle revenue which are based upon populations; also federal and State Revenue Sharing funds. The tax for 1980-81 is estimated at $5.08 per thousand without the annexing area, and $4.89 per thousand including the annexing area of which an estimated $1.42 would not be assessed to the annexing area.

"The findings on the annexation based on LCDC administrative rule on City Annexations and Applications of Goals Within Cities, Part IV, Annexations of Lands Not Subject to an Acknowledged Comprehensive Plan, were read. (A copy of these findings are attached and made a part of these minutes). Virginia Carrell made a motion that the findings be adopted and approved; seconded by Ann Swain; motion passed unanimously."

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[4] This is not to say, however, that we encourage bad faith "lying in the weeds" tactics in which a party may purposefully not raise an issue before the governing body with knowledge that the issue, if raised on appeal, will likely result in reversal of the decision. Were we presented and were we to agree with such a factual assertion, we may well not allow such an issue to be raised on appeal.

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[5] This submittal, together with a tally of those from the area to be annexed assenting to the annexation, was for the purpose of demonstrating that the requirements for a triple majority consent annexation (ORS ___) had been met.

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[6] Whether one examines the city's findings under the seven factors in Goal 14 for establishment or change of the urban growth boundary, or under the LCDC's Annexation Rule (OAR 660-01-315), the findings as findings of fact are inadequate.

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[7] Because we have determined that the city failed to adequately demonstrate the non-applicability of other goals, and because the findings made are themselves inadequate, we do not reach the petitioners' contention as to sufficency of the evidence in the record to support the findings.

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[8] For the minutes of the February 26, 1980 meeting, see footnote 13.

APPENDIX "A"

TO: Rockaway City Council

FROM: Dick Pearson, CTIC

SUBJECT: Findings on the annexations of a portion of the Twin Rocks Water District

Since the Rockaway Comprehensive Plan has not been acknowledged by LCDC, these findings are based upon the Administrations Rule - City Annexations - and Applications of Goals Within Cities, Part IV Annexations of Lands Not Subject to an Acknowledged Comprehensive Plan.

In response to Section B:

Goal No. 3, Agricultural Lands, does not apply since the area is already committed to urban uses and urban development.

Goal No. 14, the Urbanization Goal, does apply. The lands are physically developed for urban uses. Both the City of Rockaway and Tillamook County agree that the area belongs within an Urban Growth Boundary.

To address each point in Goal 14, the City submits the following:

(1) Demonstrated need to accomodate long-range urban population growth requirements consistant (sic) with LCDC goals.

The area is urbanized, it does contain an urban population density, and the City of Rockaway has included the area within its proposed Urban Growth Boundary.

(2) Need for housing, employment opportunities and livability.

Housing is already developed within the area. Further filling in of vacant lots will create more housing. There are no employment opportunities in the area to be annexed. Residents of the area work in Rockaway or in other nearby towns and cities. Several of the property owners are part time residents using their property for second home, re-creation and vacation property. The livability will be up-graded with additional city services and planning programs.

(3) Orderly and economic provision for public facilities and services.

The City of Rockaway already provides the area with water

service and fire protection. The City also responds to police calls when requested by either the County Sheriff or a resident of the area. Twin Rocks Sanitary District provides sewer service. This would continue until the City is ready to withdraw the area from the Sewer District and serve the area itself. The City is now in the process of upgrading their sanitary sewer facilities to accomodate (sic) a population of 5000. This is a $2.2 million project.

Other services provided at City Hall are available to the residents of the area and are located much closer than the County Courthouse.

(4) Maximum efficiency of land uses within and on the fringes of the existing urban area.

The area is on the fringe of the City's urban area. The entire area is zoned for and used for residential development. Much of the area is developed with mobile homes. The City and County have reached agreement that the zoning, whether in the City or the County, will be residential and a portion of the area will accomodate (sic) mobile homes.

(5) Environmental, energy, economic and social consequences.

Since the area is urbanized and looks to Rockaway for services, these areas will not be affected.

(6) Retention of agriculture land as defined, with Class 1 being the highest priority for retention and Class VI the lowest priority, and

(7) Compatibility of the proposed urban uses with nearby agricultural activities.

The land is not used for agriculture, and there are no nearby agricultural activities, so these do not apply.

RWP/ms
2/21/80

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

Twin Rocks Water District, et al, Petitioner(s), v. City of Rockaway, Respondent.	LUBA 80-039 LCDC Determination

The Land Conservation and Development Commission hereby affirms the recommendations of the Land Use Board of Appeals in LUBA 80-039 with respect to the allegations of goal violations.

The Commission also adopts the following policy statement in reference to the Board's discussion of findings of fact at pages 9 and 10 of its recommendation.

> "For findings to be meaningful, they should be an outgrowth of a public hearing; they should be considered by the governing body in their final form and then adopted."

DATED THIS 17TH DAY OF OCTOBER, 1980.

W. J. Kvarsten, Director
For the Commission

WJK:ER:km
3457A