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BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

FAYE WRIGHT NEIGHBORHOOD)
PLANNING COUNCIL and)
DEAN ORTON,)

Petitioners,)

v.)

THE CITY OF SALEM and RON)
JONES & CO., WILLIAM PETERSON,)
RON JONES,)

Respondent.)

LUBA NO. 82-030

FINAL OPINION
AND ORDER

Appeal from City of Salem.

Richard C. Stein, Salem, filed a petition for review and argued the cause for Petitioners. With him on the brief were Ramsay, Stein, Feibleman & Myers.

Thomas B. Brand, Salem, filed a brief and argued the cause for Respondents Ron Jones & Co., William Peterson and Ron Jones. With him on the brief were Brand, Lee, Ferris & Embick.

Jeannette Launer, Salem, filed a brief and argued the cause for Respondent City of Salem. With her on the brief was William J. Juza, City Attorney.

Affirmed 10/08/82

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).

1 COX, Referee.

2 NATURE OF PROCEEDING

3 Petitioners challenge the City of Salem's March 9, 1982
4 land use decision in which it granted to Respondent Ron Jones &
5 Co. a planned unit development conditional use permit for what
6 is known as the "Woods II." Petitioners seek reversal on the
7 grounds that the city improperly construed the applicable law
8 and its findings are inadequate, conclusional and not supported
9 by substantial evidence.

10 ALLEGATIONS OF ERROR

11 Petitioners assign as error the following:

12 "1. The City of Salem erred in failing to comply
13 with the Urban Growth Management Standards of the
Salem Revised Code.

14 "2. The City of Salem erred in that their
15 findings addressing the requirements of LCDC Goal 11
16 are inadequate, conclusory (sic) and not supported by
substantial evidence.

17 "3. The City of Salem erred in not requiring the
18 developer to obtain a variance for the proposed
street."

19 FACTS

20 The property involved in this case has an extensive
21 procedural history with this Board having been before us on two
22 prior occasions. See Faye Wright Neighborhood Assn. v. City of
23 Salem, 1 Or LUBA 246 (1980) and Faye Wright Neighborhood Assn.
24 v. City of Salem, 3 Or LUBA 17 (1981). The case, as it reaches
25 the Board this third time, concerns approximately seven acres
26 of real property owned by Respondent Ron Jones & Co. in south

1 Salem. Originally the property was considered as Phase II of a
2 two-phase planned unit development (PUD) known as "The Woods,"
3 and was planned to contain 34 attached dwelling units. The
4 outline plan for that project was approved, subject to
5 conditions, by the Salem Planning Commission on April 18,
6 1978. The Salem City Council approved the unified plan
7 including variances on July 10, 1978, providing that the
8 vehicular access to Phase II be restricted to Idylwood Drive,
9 SE.

10 The detailed and final plans for Phase I were given
11 approval by Salem Planning Commission on January, 1979. On
12 August 16, 1979, Respondent Ron Jones & Co. abandoned Phase II
13 of the prior PUD and submitted in its place a new plan for a
14 conventional subdivision. One of the changes in the redesigned
15 Phase II included access through the then developed Phase I by
16 extension of a cul-de-sac. To accomplish this change, new
17 variances were required allowing increased street grades and a
18 cul-de-sac in excess of 800 feet in length.

19 After public hearings, the planning commission approved the
20 subdivision, including the requested variance on December 11,
21 1979. After several de novo public hearings, the city council
22 approved the tentative subdivision plat. Petitioners appealed
23 that decision to this Board. On September 2, 1980, LUBA
24 reversed the City of Salem's order to the extent that it
25 granted a variance for a cul-de-sac longer than city standards.

26 The petitioners herein again brought the matter before this

1 Board after a second approval of the revised plan was granted
2 by the city. On April 29, 1981, LUBA again reversed the grant
3 of the variance. Respondent appealed that decision to the
4 Court of Appeals and that court in Ron Jones & Co. v. Faye
5 Wright Neighborhood Planning Council, 56 Or App 70, 641 P2d 68
6 (1982) affirmed this Board's decision. A petition for review
7 to the Supreme Court was subsequently denied.

8 On September 15, 1981, the developer again revised its plan
9 for the property and applied for the Woods II PUD Outline Plan
10 which is before this Board in this case. Under the Woods II
11 PUD plan, the 7 acre parcel would again become a planned unit
12 development instead of a traditional subdivision. The new PUD
13 proposal differs from the prior case by changes in lot size and
14 the size of the cul-de-sac bulb. On March 29, 1982, after
15 public hearings on the matter, the City of Salem approved the
16 Woods II PUD Outline Plan in Ordinance No. 4482. This appeal
17 followed.

18 ASSIGNMENT OF ERROR NO. 1

19 Petitioners allege:

20 "The City of Salem erred in failing to comply with the
21 Urban Growth Management standards of the Salem Revised
Code."

22
23 The Urban Growth Management Program (UGMP) was adopted by
24 the City of Salem on July 23, 1979. Pointing to the UGMP
25 petitioners argue that the access designed for the subject
26 development fails to meet the standards for street development

1 set forth in the UGMP. Specifically, petitioners claim that
2 the proposed "street" exits onto an existing residential street
3 rather than a collector street. As a result, petitioners
4 argue, the existing residential street is forced to function as
5 a collector street. Petitioners claim this attempt to convert
6 residential streets to collectors streets subverts the UGMP
7 standards.

8 Respondents reply that the UGMP standards are not
9 applicable to the subject development. Respondent Ron Jones &
10 Company argues that the UGMP relied upon by petitioners is not
11 in the record before this Board because it was not part of the
12 record before the governing body. With this defense we
13 disagree. Salem Revised Code 66.100 ("Standards for Street
14 Improvements") refers to the UGMP and requires the city, in
15 appropriate circumstances, to review for compliance with the
16 UGMP's standards. As such, it is part of the organic law of
17 the City of Salem of which a court is empowered to take notice,
18 regardless of whether the full text of the UGMP was included in
19 the record submitted to this Board on review. See Rule 202(7)
20 Oregon Evidence Code (1981). Since this Board is required by
21 Oregon Laws 1979, ch 772, sec (1)(a) to make decisions
22 "consistently (sic) with sound principles governing judicial
23 review," we do not believe it to be beyond our authority to
24 take notice of matters governed by Oregon Evidence Code, Rule
25 202(7)(1981).

26 Next, the respondent takes the position that the UGMP is a

1 guideline and a basis for implementing land use ordinances and
2 does not, by itself set mandatory standards. Pointing to page
3 22 of the UGMP, respondents argue that the design requirements
4 for street standards addressed by petitioners in their
5 arguments "would apply to the Urban Growth Area (UGA)... and
6 the Currently Developed Area (CDA) itself where practical."
7 Respondents argue the use of the word "would" points to the
8 guideline nature of the program, and only after the standards
9 of the program are actually incorporated into mandatory
10 ordinances do they have any legal effect on development of
11 property. The city points out the UGMP street standards have
12 been incorporated into ordinance form for development of land
13 located in the Urban Growth Area, but not for land located in
14 the Currently Developed Area. SRC 66.100 and 63.225(e).¹

15 According to Salem Revised Code 66.020(o) the UGA is that
16 territory between the CDA and Salem's urban growth boundary.
17 It does not include territory within the CDA. At oral
18 argument, all parties agreed that the subject property was
19 located within the CDA and not in the UGA. Consequently, since
20 the street standards identified in Salem Revised Code 66.100
21 apply only to streets located in the UGA and outside the CDA,
22 the subject property is not governed by those street
23 standards.

24 The UGMP does not impose mandatory standards on the subject
25 property. To the extent that UGMP standards are to be applied
26 by the city to CDA property "where practical" the application

1 of those guidelines to this specific property is within the
2 discretion of the city. The city specifically addressed the
3 streets and chose the standards it felt appropriate to impose
4 upon the PUD. The chosen standards did not include those
5 stressed by petitioners. We see no error.

6 ASSIGNMENT OF ERROR NO. 2

7 Petitioners allege:

8 The City of Salem erred in that their [sic] findings
9 addressing the requirements of LCDC Goal 11 are
10 inadequate, conclusory [sic] and not supported by
11 substantial evidence.

12 The threshold question that must be answered by this Board
13 before addressing petitioners' allegation regarding Statewide
14 Goal 11 is whether this Board has any authority or role to play
15 in ruling on such a goal allegation. Our authority is in
16 question because on May 26, 1982, the City of Salem's
17 Comprehensive Plan was acknowledged by LCDC as being in
18 compliance with the statewide goals.

19 Respondents have taken the position that Statewide Goal 11
20 no longer applies to this decision because subsequent to
21 approval of the PUD, the Salem Area Comprehensive Plan was
22 acknowledged by LCDC. They argue that the contested decision
23 was made consistent with the unacknowledged plan that was
24 subsequently acknowledged to be in compliance with the goals.
25 Therefore, they reason, this Board has no role to play in
26 deciding whether the decision is in compliance with the goals.
They argue the decision is to be judged only against the Salem

1 Comprehensive Plan and since the petitioners did not allege
2 that plan had been violated, we should dismiss the issue.
3 While we philosophically agree with respondents, they did not
4 submit to this Board a copy of the Salem Area Comprehensive
5 Plan nor did they point out how the contested decision complies
6 with that plan. The decision at issue was made prior to
7 acknowledgment of the Salem Comprehensive Plan and pursuant to
8 ORS 197.175(2)(c), the city was required to address the
9 statewide goals in rendering the subject decision. Therefore,
10 given the state of the record before this Board, we will apply
11 Statewide Goal 11 to the decision and submit our analysis to
12 LCDC for its review pursuant to 1979 Or Laws, ch 772 as amended
13 by 1981 Or Laws, ch 748.

14 Statewide Goal 11 provides:

15 "GOAL: To plan and develop a timely, orderly and
16 efficient arrangement of public facilities and
17 services to serve as a framework for urban and rural
18 development.

19 "Urban and rural development shall be guided and
20 supported by types and levels of urban and rural
21 public facilities and services appropriate for, but
22 limited to, the needs and requirements of the urban,
23 urbanizable and rural areas to be served. A provision
24 for key facilities shall be included in each plan. To
25 meet current and long-range needs, a provision for
26 solid waste disposal sites, including sites for inert
27 waste, shall be included in each plan.

28 "A Timely, Orderly and Efficient Arrangement -- refers
29 to a system or plan that coordinates the type,
30 location and delivery of public facilities and
31 services in a manner that best supports the existing
32 and proposed land uses."

33 We find the city has adequately addressed Statewide Goal 11

1 and deny petitioners' assignment of error. Petitioners'
2 concern is the present capacity of the sewage system serving
3 the subject property. A review of the record indicates a
4 problem exists with the sewage system. The capacity of the
5 sewers in the area to handle projected increases in use caused
6 by development has been the subject of considerable debate and
7 city study. The record contains numerous references to plans
8 and studies as well as newspaper articles concerning the
9 problem with sewers in the area. The problem apparently is
10 that during periods of high storm runoff the sewer system has
11 exceeded its capacity. The city is aware of those problems and
12 took measures to assure that the proposed development will not
13 compound them. The city, in approving the development, adopted
14 as its findings of fact, the findings of the planning
15 commission which state, in pertinent part:

16 "8. The owner shall submit a storm drainage plan to
17 the Public Works Department for their review and
18 approval. This plan shall include, but not be
19 limited to, the following:

20 "a. Storm drain detention facilities shall be
21 included so as to limit the discharge storm
22 rate to no more than what existed in the
23 natural state during a five-year storm
24 frequency.

25 "* * *

26 "d. All public storm drainage facilities must be
in accordance with standards of the Public
Works Department and a dedicated easement
width of 10 feet minimum. Maintenance
easements for creeks and water courses shall
extend 15 feet in each direction from the
waterway centerline or ten feet from the top
of recognizable banks, whichever is greater.

1 "e. A 15' easement shall be provided by the
2 owner along the common property line between
3 Lots 8 and 9 for the purposes of access to
4 the creek for maintenance."

5 We believe that the foregoing is sufficient to satisfy the
6 requirements of Statewide Goal 11 in the fact situation
7 presented this Board. The goal is to plan and develop a
8 timely, orderly and efficient arrangement of public services to
9 serve as a framework for urban and rural development. The city
10 knows the limits of its present system. The city has the
11 skeleton of its sewage system existing in the area and the
12 record shows it is implementing plans to expand the sewers'
13 capacity. With those limitations in mind, the city approved
14 the development and imposed measures to assure that any
15 problems presently existing with the sewage system would not be
16 compounded. We do not believe that Statewide Goal 11 commands
17 more from a local government. See generally Friends of Benton
18 County v. Benton County, 4 Or LUBA 112 (1981).

19 Based on the foregoing, we find the city has sufficiently
20 applied Statewide Goal 11 provisions and deny petitioners'
21 second assignment of error.

22 ASSIGNMENT OF ERROR NO. 3

23 Petitioners allege:

24 "the City of Salem erred in not requiring the
25 developer to obtain a variance for the proposed
26 street."

The central issue in this assignment of error is whether

1 the terms of Salem Revised Code (SRC) Chapter 63, "Community
2 Development Standards: Subdivisions," or the terms of SRC
3 Chapter 121, "Planned Unit Development," control the size and
4 shape of the main accessway to the proposed development.
5 Petitioners claim Chapter 63 controls and a variance was
6 required, but not taken. Respondents claim no variance was
7 required since accessways, such as the one proposed by the
8 developer, are governed by standards contained in SRC Chapter
9 121 and the proposal meets those standards. We agree with
10 respondents.

11 The petitioners' point is that the City of Salem failed to
12 require a variance prior to approval of the developer's
13 proposed accessway as required by Salem Revised Code
14 63.330(a). They claim the Salem City Council has attempted to
15 avoid the obvious designation of this roadway as a "cul-de-sac"
16 by "resorting to a tortured analysis of SRC 63.030(ee)(5)."²
17 Petitioners argue that regardless of what the city calls the
18 proposed accessway, it is still a street controlled by SRC
19 63.030(ee). They assert the Salem Planning Commission and,
20 therefore, the City Council, attempted to define away the
21 street designation by declaring the proposed cul-de-sac to be a
22 "20 foot wide accessway." Petitioners continue that even if
23 the City of Salem designates the "street" a "private
24 accessway," SRC Chapter 63 still requires that it be publically
25 dedicated with a paved width of 22 feet. As such, petitioners
26 conclude that street is either subject to the design standards

1 of SRC 63.225, which it does not meet, or that a variance must
2 be taken.

3 Respondents reply this case involves an application for a
4 Planned Unit Development.³ In a PUD, "any vehicular way
5 through the planned development or any vehicular way to the
6 property in the planned development" is called a
7 "thoroughfare." SRC 121.140(e). Respondents point out that
8 the standards for thoroughfare development are set out in SRC
9 121.570 and in that provision a minor thoroughfare serving 20
10 or fewer units having a two way travelling portion need only be
11 paved to a width of 18 feet. They reason that since the
12 proposed private way in this subdivision (PUD) is 20 feet and
13 serves only 16 units it meets the minimum improvement widths.

14 In part the city found:

15 "e. Definition of proposed accessway

16 "There has been lengthy discussion and research
17 concerning the definition of the vehicular accessway
18 proposed in this PUD design. Several code citations
19 must be described in the effort to explain the
20 rationale for the classification of this accessway.
21 First of all, the definition of street is outlined in
22 SRC 63.030 (ee). An excerpt of that definition is:

23 "...A public right-of-way or access easement 20
24 feet or less in width shall not constitute a
25 street, nor shall a private way of travel 25 feet
26 or less in width providing access to no more than
four lots or parcels.'

23 "Since the current proposal is for a 20 foot wide
24 accessway, it appears that the classification of a
25 'street' would not apply. Based on SRC 121.140 (e)
26 and 121.570, in the P.U.D. standard, the accessway
would be classified as a minor thoroughfare. The
table located in SRC 121.570 requires that a minor
thoroughfare, serving 20 or less (sic) dwelling units,

1 with two-way traveling portion have a minimum
2 improvement width of 18 feet. If right-of-way is
3 dedicated for such a thoroughfare, it must be a
4 minimum of 22 feet. One of the footnotes identified
5 in this table (#3), states that if lots, located on a
6 minor thoroughfare, are to be sold then the
7 right-of-way must be dedicated. Footnote #3 is not
8 used as a reference to a minor thoroughfare serving 20
9 or less dwelling units. Therefore, it appears that
10 right-of-way would not have to be dedicated and this
11 proposal would comply with the 'letter of the law.'"

12 Petitioners throughout this proceeding have argued that the
13 proper designation for this accessway is a "cul-de-sac."

14 However, by the terms of SRC 121.140(e)(1) a "cul-de-sac"
15 designation does not support petitioners' argument that the
16 accessway is governed by SRC Chapter 63. A cul-de-sac when
17 associated with a PUD is termed a minor thoroughfare.⁴

18 Further, SRC 121.570 entitled "Planned Development
19 Thoroughfares" states:

20 "The improvements and rights-of-way of the
21 thoroughfare shall be of the following widths unless
22 special circumstances such as terrain, anticipated
23 frequency of traffic and other activities causes a
24 need to increase the capacity of the route:"

25 There then appears a table which outlines the improvement
26 widths, the curb lines and the right-of-way widths (when
27 required) for various types of thoroughfares. By terms of the
28 ordinance a minor thoroughfare "serving 20 or less [sic]
29 dwelling units" with a two-way "travelling portion" is required
30 to contain only an 18 foot improvement width and does not
31 designate a maximum length.

32 Petitioners claim that even under SRC 121.570 the

1 thoroughfare must be at least 22 feet wide. They base this
2 contention on a footnote (footnote *3) to the table contained
3 in SRC 121.570. That footnote states:

4 "The dedication of rights of way for minor
5 thoroughfares is optional, however, if lots are to be
6 sold such rights of way must be dedicated as provided
7 in ORS 92.090. If dedicated, such rights of way shall
8 be that width necessary to accommodate all
9 improvements and utility areas located in the
10 thoroughfare, plus one foot for each side of said
11 improvement."

12 The city addressed this argument in its findings (see
13 quoted findings supra) and concluded that footnote "*3" did not
14 apply to thoroughfares serving 20 or fewer dwelling units.
15 Viewed in a light most favorable to petitioners, the ordinance
16 provision is ambiguous. The city interpreted the footnote to
17 not apply in this fact situation and we do not find that
18 interpretation to be unreasonable. We cannot say the
19 interpretation is clearly contrary to the express language and
20 intent of the city's charter, Fifth Avenue Corporation v.
21 Washington County, 282 Or 591, 600, 581 P2d 60 (1978).
22 Therefore, we do not agree with petitioners concerning their
23 footnote *3 argument.

24 In reference to petitioners' other arguments in this
25 assignment of error, we agree with the city finding that the
26 provisions of SRC 121.570 control and there is no requirement
that SRC 63.030 be followed. Consequently, we find no
requirement that a variance be taken when the terms of the PUD
ordinance are being followed.⁵ Petitioners' third assignment

1 of error is denied.

2 ASSIGNMENT OF ERROR NO. 4

3 Petitioners here argue that the "the City of Salem erred in
4 not having sufficient standards for review of PUD's."

5 Petitioners claim, citing Sun Ray Dairy, Inc. v OLCC, 16 Or App
6 63 (1973), "there were no standards and no objective criteria
7 or basis (sic) to adequately review the appropriateness of the
8 PUD's design." They base their argument on the fact that
9 standards previously contained in SRC 121.580 had been repealed
10 and were not reintroduced into the ordinance. Specifically,
11 petitioners point to SRC 121.580 which states:

12 "Applicable sections of the subdivision ordinance:
13 The following sections of the subdivision ordinance,
14 Chapter 63, shall apply to planned developments:
15 63.130, 63.140, 63.160, 63.170, 63.180, 63.190,
63.220, 63.260, 63.280, and 63.300."

16 Petitioners claim that since those provisions have been
17 repealed by the City of Salem insufficient standards exist upon
18 which to judge a PUD design.

19 We can not agree with petitioners because the deletion of
20 one ordinance section does not ipso facto mean insufficient
21 standards exist upon which the city can make its decision.
22 Petitioners' concerns center on alleged problems with street
23 access and sewer capacity. The provisions remaining in SRC
24 Chapter 121, even after repeal of 121.580, address
25 "Expressways, Arterial and Collector Routes" (121.560,
26 121.510), "Storm Drainage" (121.610) as well as require Outline

1 and Detail plans covering all concerns petitioners have
2 expressed. These provisions establish standards which control
3 development and, therefore, the ordinance is not without
4 standards as petitioners contend. (SRC 121.150 et seq.)

5 Petitioners neither identify how these remaining SRC
6 Chapter 121 provisions are insufficient nor do they allege that
7 other zoning ordinance provisions fail to address their
8 concerns. Without more specificity, we decline to agree with
9 petitioners' assertion. Petitioners' fourth assignment of
10 error is denied.

11 Based on the foregoing, the March 9, 1982 decision
12 approving the PUD for "The Woods II" is affirmed.

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FOOTNOTES

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SRC 66.100 states:

"STANDARDS FOR STREET IMPROVEMENTS. The Development Review Committee shall require that the proposed development be linked to the CDA by the construction and improvement of major and residential streets which either connect to major streets at the CDA boundary, or connect to already improved sections of major streets extended beyond the CDA boundary. Specific location and classification of such streets will be determined with reference to the UGA Major Street Plan or appropriate sector plan as applicable. Construction and material standards (subgrade, base rock, asphalt, Portland Cement Concrete, etc.) shall be as specified by the director of public works for all public streets in the city. Design standards shall be as specified by the director of public works consistent with Figures 2, 3, and 4, Appendix C of the Urban Growth Management Program. Within and abutting the boundaries of the property on which development is to occur, all streets shall be fully improved; outside those boundaries and abutting streets, required streets need only be constructed from curb to curb, including the curbs and excavation to final subgrade for the remainder of improvements in the right of way. (Or No. 129-79)."

SRC 63.225(e) states:

"STREET STANDARDS, GENERALLY. All streets except as provided in subsection (g) of this section shall be dedicated to the public and shall be improved as follows:

"* * * *

"(e) Urban growth area streets. Where a subdivision or major partition lies within the Urban Growth Area, the street improvements and dedications shall meet the requirements of SRC 66.010 to 66.190."

2

SRC 63.030 states, in part,

"DEFINITIONS. As used in this chapter, except where the context otherwise clearly requires:

"* * * *

1 "(ee) 'Street' means a public or private way that is
2 created to provide ingress or egress to one or more lots,
3 parcels, areas, or tracts of land, excluding a private way
4 that is created to provide ingress or egress to such land
5 in conjunction with the use of the land for forestry,
6 mining, or agricultural purposes. The term 'street' shall
7 include such designations as 'highway,' 'thoroughfare,'
8 'parkway,' 'throughway,' 'road,' 'avenue,' 'boulevard,'
9 'lane,' 'court,' 'place,' 'loop,' 'drive,' 'circle,' and
10 other such terms. A public right-of-way or access easement
11 20 feet or less in width shall not constitute a street, nor
12 shall a private way of travel 25 feet or less in width
13 providing access to no more than four lots or parcels.

14 "* * * *

15 "(5) 'Cul-de-sac' means a dead-end street having a
16 turnaround area at the dead end. Cul-de-sac length shall
17 be measured from the nearest right-of-way line of the
18 nearest intersecting street to the throat or point of
19 beginning of the turnaround area."

20

3

21 SRC 121.010 states the purpose for PUD zoning as:
22 "It is the purpose of this section to provide the
23 means whereby larger parcels of ground may be
24 developed with more latitude as regards site
25 development, common areas and open space than is
26 possible through traditional controls with residential
27 densities similar to the zone in which it is located;
28 to establish standards and controls necessary to
29 assure the community of a well related harmonious
30 development; and to provide within existing zones the
31 development of residential uses with increased
32 amenities."

33

4

34 SRC 121.140 defines thoroughfare as:

35 "(e) A thoroughfare is any vehicular way through a
36 planned development or any vehicular way to
37 property in the planned development.

38 "(1) Minor thoroughfares are to serve specific
39 property only, not the general traffic
40 circulation, and need to be constructed only
41 wide enough to adequately perform this
42 function. Minor thoroughfares include
43 'Turn-arounds,' cul-de-sac, circles, loops

1 and those 'L' shaped streets not functioning
2 as a through thoroughfare."

3 5

4 Both respondents also argue in the alternative that SRC
5 63.030 (ee) is not controlling because the proposed access is
6 not a street. They point out that the ordinance excludes from
7 its sweeping scope "a public right-of-way or access easement 20
8 feet or less in width..." They argue that in this instance the
9 proposed private vehicular access easement is 20 feet in width
10 and therefore should not be considered a street. They reason
11 that since it is not a street it cannot be a cul-de-sac and
12 thus is not subject to SRC Chapter 63 (Specifically 63.225).
13 We find it unnecessary to address this argument given our
14 holding.
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CERTIFICATE OF MAILING

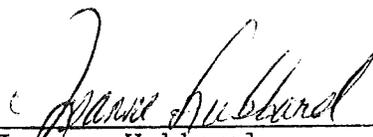
I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 82-030, on October 8, 1982, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 8th day of October, 1982.



Jeanne Hubbard
Secretary to the Board