

Opinion by Holstun.

NATURE OF THE DECISION

Petitioners appeal a city decision granting outline plan approval for a five lot residential subdivision.

MOTION TO INTERVENE

Gary Seitz and Diane Seitz move to intervene on the side of respondent. There is no opposition to the motion, and it is allowed.

DECISION

There is no dispute among the parties that the challenged decision approves a subdivision and that the subject property is located within an acknowledged urban growth boundary. The parties do dispute whether the challenged decision violates city standards governing the permissible length of cul-de-sac and dead end streets.

This Board has exclusive jurisdiction to review land use decisions. ORS 197.825(1). ORS 197.015(10)(b) provides that land use decisions do not include a local government decision:

"* * * * *

"(B) Which approves, approves with conditions or denies a subdivision or partition, as described in ORS chapter 92, located within an urban growth boundary where the decision is consistent with land use standards; * * *

"* * * * *."

We have interpreted the above statutory language as providing that we do not have jurisdiction to review

decisions approving or denying subdivisions or partitions, unless plan or land use regulation amendments, variances or other actions are required to modify or amend the standards governing the subdivision or partition decisions. See Bartels v. City of Portland, ___ Or LUBA ___ (LUBA No. 90-111, December 3, 1991); Southwood Homeowners Assoc. v. City of Philomath, ___ Or LUBA ___ (LUBA No. 90-103, November 15, 1990); Hoffman v. City of Lake Oswego, ___ Or LUBA ___ (LUBA No. 90-067, September 26, 1990); Meadowbrook Development v. City of Seaside, ___ Or LUBA ___ (LUBA No. 90-060, September 18, 1990); Parmenter v. Wallowa County, ___ Or LUBA ___ (LUBA No. 90-034, June 11, 1990).

Where, as is the case in this appeal, the governing land use standards are not amended or modified, the circuit court, not LUBA, has jurisdiction to determine whether an urban subdivision or partition decision violates applicable approval standards. Southwood Homeowners Assoc. v. City of Philomath, supra.

Because we lack jurisdiction in this matter, the appeal must either be dismissed or transferred to circuit court.¹ Petitioners in this appeal request that the appeal be transferred to the Jackson County Circuit Court.

¹ORS 19.230 provides this Board may transfer appeals to circuit court, if it determines it lacks jurisdiction. Where respondents challenge our jurisdiction, petitioners may request that we transfer the appeal to circuit court. OAR 661-10-075(10); Southwood Homeowners Assoc. v. City of Philomath, supra; Anderson Bros., Inc. v. City of Portland, ___ Or LUBA ___ (LUBA No. 89-054, November 22, 1989).

This appeal is transferred to Jackson County Circuit Court.