



1 REYNOLDS, Chief Referee.

2 INTRODUCTION

3 Petitioners appeal the City of Sublimity's denial of their  
4 request for subdivision approval of a ten acre tract of land in  
5 northeast Sublimity. Petitioners ask that we reverse the  
6 decision of the City of Sublimity and approve the subdivision  
7 request on the basis of petitioners' proposed findings.

8 Petitioners contend that the city's findings are not supported  
9 by evidence in the record; that the city erred in concluding  
10 that the proposed subdivision did not comply with the city's  
11 acknowledged comprehensive plan policies controlling  
12 residential and rural land; and that the city's denial of the  
13 subdivision request has the effect of keeping petitioners' ten  
14 acres in agricultural use. Such agricultural use is "totally  
15 inconsistent" with an acknowledged comprehensive plan which  
16 designates such land residential.

17 The city takes the position that it was entitled to deny  
18 this subdivision request because the facts and evidence in the  
19 record did not demonstrate to the city's satisfaction that the  
20 city needed, was able to service or could accommodate the  
21 adverse effects caused by this subdivision. The city argues  
22 that just because the property is located within the urban  
23 growth boundary and is, therefore, urbanizable, does not mean  
24 that the property is immediately developable. The question of  
25 when to convert that land from urbanizable to urban is one  
26 which should be considered by the city.

1 OPINION

2 Petitioners' request was to subdivide their ten acre parcel  
3 into 34 lots. Their land is located within the city's  
4 acknowledged urban growth boundary and is designated  
5 residential on both the comprehensive plan and zoning maps.

6 In denying petitioners' request for subdivision approval,  
7 the city found:

8 "1. The comprehensive plan calls for the  
9 encouragement of residential development on vacant  
10 parcels of bypassed land in order to achieve a more  
11 compact community and avoid 'leap-frog' development  
12 (P. 34). This policy is designed to create a  
13 community of ordered growth and prevent the premature  
14 taking of productive agricultural land out. Public  
15 testimony indicated that this subdivision is located  
16 at the far northeast end of the City; that 134  
17 subdivided lots are currently available for  
18 development closer to the core of the City; that other  
19 buildable lots were being bypassed; that the current  
20 approved subdivisions are creating random 'island'  
21 residential development throughout the City; that the  
22 land in question has been actively farmed for 25 years  
23 with the last crop being harvested last August.  
24 Therefore, the application does not comply with the  
25 aforementioned policy of the Comprehensive Plan.

26 "2. The Comprehensive Plan also directs that  
consumption of prime agricultural land shall be  
minimized to maintain the community's rural character  
(p. 34) [sic] As noted above, the land is good farm  
land and has been actively farmed for years. This  
combined with the fact that there is currently a  
sufficient inventory of available lots indicates that  
this land is not needed and its premature development  
would be contrary to the stated policies of the City.

"3. Testimony of the school district  
superintendent indicated that the school currently has  
an enrollment of 190 students in grades 1-8 and that  
the school has space for 240 children. However,  
maximum capacity may only be maintained with 10  
classroom teachers. The school only has eight  
teachers currently and is at capacity. Budgetary  
limitations prohibit further hiring. Any type of

1 rapid development within the next year would place the  
2 schools [sic] over capacity. The Council concludes  
3 that with the present inventory of lots available that  
the school is without sufficient resources to provide  
proper facilities for educating the young people.

4 "4. It is a goal of the City to 'provide a  
5 circulation system which is safe and efficient for  
6 both vehicle users and pedestrians.' The proposed  
7 subdivision calls for four to six driveways on 135th  
8 Avenue (Also known as Berry Street). Testimony  
9 indicated that the street has a 20 foot paved width  
10 and is heavily used by residential, commercial and  
11 industrial vehicles. The hilly terrain and sharp  
12 curves of the road make safety a problem unless the  
13 road could be widened and properly maintained. As  
14 noted in the Comprehensive Plan, Berry Street is a  
15 county owned and maintained road (P. 69). The road  
16 experiences moderate levels of truck traffic and needs  
17 to be designed and improved to accomodate [sic] this  
18 mode of traffic (P. 69). The street commissioner  
19 noted that the county has no plans for widening or  
20 maintaining the road because of monetary restraints.  
21 The City also does not have the financial capability  
22 to improve the street. The applicants [sic] planning  
23 report traffic count is inaccurate since it was taken  
24 at a nothern [sic] point and not within the main flow  
25 of traffic. Despite the engineering data submitted by  
26 applicants, Council finds that as a practical matter  
the current condition, location, maintenance, terrain,  
and traffic patterns of 135th Avenue make it a traffic  
hazard and make it neither efficient nor safe.

"5. Although mere public remonstrance is not  
sufficient to base a land use decision on, it should  
be noted that all public testimony was in opposition  
to the application. The public voiced many factual  
reasons such as:

- "1. School overcrowding;
- "2. Street safety;
- "3. Water service problems;
- "4. 'Leap-frog' development;
- "5. Growth impact on the City; and
- "6. Noise problems with adjacent farming  
operation.

"6. The Comprehensive plan calls for encouraging  
development with [sic] the gravity flow areas of the  
City for more efficient sewage disposal. This area  
would require the use of a pump station for

1 sewage purposes.

2 "7. Section 6.01 of the City Subdivision  
3 Ordinance provides that if the application is not  
4 consistent with the provisions and intent of the  
5 Comprehensive Plan or if it is not necessary and  
6 proper for the orderly growth of the City the  
7 application may be denied. As mentioned above several  
8 elements conflict with the intent of the Comprehensive  
9 Plan in prematurely taking farmland out of  
10 development, evidencing leap-frog development, and in  
11 not providing safe streets. Therefore the application  
12 fails to meet Section 6.01 of the Subdivision  
13 Ordinance."

14 1. First Assignment of Error

15 Petitioners' first assignment of error challenges the  
16 city's findings as inadequate to support a denial based upon  
17 non-compliance with the city's comprehensive plan.

18 Petitioners' complaint, liberally construed, is that the  
19 findings made by the city are (1) not supported by substantial  
20 evidence in the record and (2) fail to explain why the city  
21 reached the conclusions which it did.

22 In Advance Health Systems v Washington County, \_\_\_ Or  
23 LUBA \_\_\_ (LUBA No. 81-048, 1981), we said that findings of fact  
24 to support a denial must state not only what evidence the  
25 governing body believed, but why it chose to believe certain  
26 evidence over other conflicting evidence on a given issue.  
When findings fail to contain this discussion "the findings are  
impermissably conclusory and inadequate to support the  
denial." Advance Health Systems v Washington County, supra,  
Slip Op at 6. See also Sane Orderly Development v Douglas  
County Board of Commissioners, 2 Or LUBA 196 (1981).

1 We conclude after reviewing the city's findings as a whole  
2 that they fail to contain the essential explanation of why the  
3 city believed the evidence which it apparently chose to believe  
4 and why that evidence (or those facts) led the city to conclude  
5 that relevant comprehensive plan policies had not been met by  
6 the proposed subdivision. We will address these findings  
7 individually.

8 Findings 1 and 2 address the policy of the comprehensive  
9 plan to preserve existing agricultural land until needed for  
10 urban development. The relevant plan policies appear on pp. 11  
11 and 34 of the comprehensive plan; the latter page was cited in  
12 the city's finding. These policies are as follows:

13 "Agriculture is of major importance to the  
14 Sublimity area. The lands surrounding the City are  
15 currently in agricultural use as pastures and for  
16 grains and grass seeds, and are classified as either  
17 Class II or III soils. The City recognizes this  
18 resource and seeks to preserve this land in its  
19 natural open state as a means of maintaining the rural  
20 atmosphere for which the town was named. Land which  
21 is inside the City limits and the urban growth  
22 boundary that is in agricultural use shall remain in  
23 agricultural use until it is needed for urbanization  
24 and can be provided with urban facilities." Sublimity  
25 Comprehensive Plan, p. 11. (Emphasis added).

20 "The most striking aspect of Sublimity's  
21 residential land is the open feeling one derives from  
22 the rural character of the community. The citizens of  
23 Sublimity are well aware of the rural character of the  
24 City, and do not desire future development to alter it.

23 "[Policy:] Encourage the location of  
24 housing to minimize the consumption of prime  
25 agricultural land and other areas of natural  
26 resource that contribute to the community's rural  
27 character." Id, p. 34. (Emphasis in original).

26 The city concluded that because "134 subdivided lots are

1 currently available for development closer to the core of the  
2 City" (Finding 1), that there is "currently a sufficient  
3 inventory of available lots" and that "this land is not needed  
4 and its premature development would be contrary to the stated  
5 policies of the city." (Finding 2). The city does not,  
6 however, say why 134 lots is an adequate supply or on what  
7 basis it makes this conclusion. Petitioners asserted in their  
8 "Planning Report" that the subdivision should be approved to  
9 enable the city to have a sufficient supply of lots to the  
10 years 1985-1990. The city does not, however, address this  
11 assertion in its findings. It does not say whether "need" as  
12 used in the comprehensive plan means present, short-term,  
13 long-term or year 2000 need. The city also does not say in its  
14 findings what a reasonable supply of lots would be given  
15 whatever definition of need it has adopted.

16 The fact of 134 available lots does not necessarily, in the  
17 context of the city's other findings, lead to the conclusion  
18 there exists a sufficient supply of lots to meet the need for  
19 lots as intended by the city's plan. In such instances, we  
20 believe the city has a duty to explain why the facts found lead  
21 to the conclusion reached. The city has not, in Findings 1 and  
22 2, fulfilled this requirement.

23 Findings 1 and 2 also state that this property "has been  
24 actively farmed for 25 years with the last crop being harvested  
25 last August," (Finding 1) and that "the land is good farm land  
26 and has been actively farmed for years." (Finding 2). These

1 findings led the city to conclude, apparently, that policies of  
2 the comprehensive plan "designed to...prevent the premature  
3 taking of productive agricultural land out" would be violated.

4 The applicants addressed, in their planning report, the  
5 policies of the comprehensive plan pertaining to minimizing the  
6 consumption of prime agricultural land as follows:

7 "Overlook Subdivision lies in an area of  
8 agricultural soil. However, that is the case  
9 throughout the entire City of Sublimity. Therefore,  
10 the exclusive use of soils in determining future  
11 residential development patterns cannot be seriously  
12 considered. One needs to also examine current  
13 agricultural use and the potential of the property.

14 "The subject property has not been utilized for  
15 agricultural purposes at any time in the recent past.  
16 This is due to a variety of factors, but most  
17 especially due to its proximity to existing urban  
18 development. As the existing land use map of the  
19 Sublimity Comprehensive Plan demonstrates, the  
20 property [sic] is surrounded on the north, west and  
21 south by existing residential development.  
22 Agricultural use of the property in any manner that  
23 can possibly involve the creation of dust, use of  
24 pesticides, the possibility of field burning, the  
25 possibility of using noisy machinery, and the  
26 possibility of work within the area during all hours  
of the day render agricultural use very unlikely and  
unfeasible for this area.

19 "There are a large number of properties in  
20 Sublimity for which this policy may be applicable.  
21 For example, the area south of the subject property is  
22 in active agricultural use and is of sufficient size  
23 to maintain that use for some time into the future.  
24 Other area in the southern and western portions of the  
25 City are basically [sic] in the same situation. This  
26 contrasts with the Overlook Subdivision parcel which  
is not in agriculture and has little potential for  
such a use."

27 The city did not address the applicants' contention that  
28 their property could no longer be considered to be prime

1 agricultural land by reason of surrounding development. We  
2 know the city apparently rejected the applicants' contentions,  
3 but we do not know why.

4 The city's third finding is that the school is presently at  
5 capacity and without budgeted funds to hire two additional  
6 teachers which would enable the school to accommodate an  
7 additional 50 students. Development of the petitioners'  
8 subdivision coupled with demand placed on schools by  
9 development on lots already approved for development would,  
10 according to the city's finding, exceed the city's "resources  
11 to provide proper facilities for educating the young people."

12 Petitioners' planning report estimated the impact of an  
13 additional 34 lots on the school to be an additional 8.5  
14 students. This figure was based upon the existing ratio in the  
15 city of one student for every four households. These estimates  
16 and the petitioners' ratio were not found by the city to be  
17 inaccurate. Using the petitioners' ratio for the proposed  
18 subdivision (34 lots) and the existing 134 lots, assuming all  
19 were developed, the impact on Sublimity's school would be an  
20 additional 42 students. This number of students is within the  
21 physical capacity of the school, but apparently not within its  
22 present budgetary capacity.

23 While availability of schools is, under the city's  
24 comprehensive plan, a proper matter to consider, the city's  
25 finding on schools and particularly school capacity is not  
26 supported in the record. As we read the city's findings, the

1 city gave a clear picture of a school that is not able to  
2 handle the projected increase in student enrollment from the  
3 proposed subdivision. No such conclusion was presented by  
4 school officials, and we believe the facts that were presented  
5 by school officials do not at all suggest that the school would  
6 have any difficulty absorbing the students. In testimony  
7 before the planning commission, Mr. Denson, principal of the  
8 local elementary school, related that in 1975 the school had  
9 235 students. He also stated that as of this year, the school  
10 has 188 students. He wanted to point out, however, that in  
11 1979 there were ten classroom teachers, and not there are only  
12 eight. He stated "we do have classroom space." He also made  
13 the following comment which we take to mean that the budget has  
14 been somewhat reduced:

15 "However, we do not have the two teachers that we  
16 had before, extra, and the biggest cost of the school  
17 budget this year, counting from 60 to 75 percent of  
18 the budget, and should be noted by the planning  
19 commission."

18 It is our view that this testimony simply relates  
19 facts that may have a bearing on school capacity but  
20 certainly do not suggest that the school can not handle  
21 the increased load. Indeed, nowhere does an official of  
22 the school district even suggest that the school believes  
23 that the students from the proposed subdivision could not  
24 be accommodated.

25 Before the city may conclude that the schools cannot  
26 accommodate the projected student load, it must have facts

1 that include not only current enrollments, but also school  
2 capacities. In other words, the picture of school  
3 enrollment must be completed to include all factors that  
4 have a bearing on the ability of the school to handle an  
5 increased student load. Even then, if an applicant is  
6 able to demonstrate that a need for the residential  
7 development exists, the city is under an obligation to  
8 explore with the school alternative means of providing the  
9 needed space and faculty for students. See \_\_\_ Op Atty  
10 Gen \_\_\_ (Opinion No. 7607, April 19, 1978); Holmstrom v  
11 Marion County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 80-170, 1981);  
12 Home Builders Association of Metropolitan Portland, et al  
13 v Portland Metropolitan Area Local Government Boundary  
14 Commission, \_\_\_ Or LUBA \_\_\_ (LUBA No. 81-052, 1981).

15 In addition, we do not believe the city may deny what  
16 may be needed housing on the sole basis that the school's  
17 present budget has no room to hire up to two additional  
18 teachers. Petitioners submitted estimates of the increase  
19 in property taxes which development of their subdivision  
20 would cause. These taxes, a substantial portion of which  
21 would, according to the petitioners' report, go to support  
22 the school, would be available to help defray any  
23 increased costs to the school to accommodate the needs  
24 posed by this subdivision.<sup>1</sup> Given the evidence in the  
25 record of beneficial tax consequences to the city from  
26 development of the proposed subdivision, the city had a

1 responsibility in its findings to explain why it could not  
2 accommodate the 8.5 school children which this  
3 subdivision, once developed, would add to the school.

4 Moreover, the present budget's inability to allow the  
5 school to hire two additional teachers appears to be only  
6 marginally material. It is the school's ability to  
7 accommodate the needs posed by this subdivision when  
8 developed, two or more years down the road, which should  
9 be focused on by the city, and not present budgetary  
10 limitations. This timing consideration is particularly  
11 important when the present budget does not, as previously  
12 mentioned, take into account the increased revenues which  
13 might be available to the school district once the  
14 subdivision were developed.

15 The city's fourth finding concerns traffic safety.  
16 This finding is to the effect that (1) Berry Street, onto  
17 which would flow all traffic from the proposed  
18 subdivision, is not safe unless widened and properly  
19 maintained, and (2) no plans exist at either the county or  
20 city level to widen or maintain the road due to monetary  
21 constraints. The city first concludes that "hilly terrain  
22 and sharp curves make safety a problem unless the road  
23 could be widened and properly maintained." The city does  
24 not, however, say why the hilly condition of the road or  
25 the sharp curves make safety such a problem that the  
26 additional traffic which the proposed subdivision would

1 generate could not be safely absorbed. Petitioners did  
2 address before the city council the matter of sight  
3 distance for stopping purposes. Their testimony was,  
4 essentially, that sight distance for stopping purposes was  
5 not a problem. Petitioners also referenced a traffic  
6 report which stated present traffic on Berry Street was  
7 below accepted limits. Petitioners also agreed to widen  
8 Berry Street where it abuts their property to a width of  
9 34 feet and install curbs. The city's findings only  
10 addressed the petitioners' traffic count report and do so  
11 by simply stating it was "inaccurate since it was taken at  
12 a northern point and not within the main flow of traffic."

13 What the city's finding does concerning traffic is to  
14 leave unanswered the questions of what it is exactly about  
15 Berry Street that makes it "unsafe." Did the city simply  
16 reject out of hand the petitioners' testimony that  
17 adequate visibility existed to enable traffic to stop  
18 should a pedestrian or other obstruction appear suddenly  
19 in the roadway? Was the city concerned about pedestrian  
20 use adjacent to the roadway? The findings do not contain  
21 basic information such as the speed limit on Berry Street  
22 or the traffic volume with or without the subdivision. In  
23 short, the city's findings do not answer the question,  
24 "Why is Berry Street unsafe such that allowing this  
25 subdivision would violate the plan provision pertaining to  
26 a safe and efficient transportation system?" The city's

1 first conclusion, i.e., that safety of traffic on Berry  
2 Street is a problem, is simply not adequately supported in  
3 the findings.

4 The city's conclusion that without widening or  
5 maintaining Berry Street, the unsafe condition will  
6 persist is also not supported. There is no finding as to  
7 the present condition of the street except that it is 20  
8 feet in width. There is also no finding explaining how  
9 widening the street or how much will make the street  
10 safe. The applicants agreed to widen the street in front  
11 of their property, but the city does not address how or  
12 why this widening would not help solve the safety  
13 problem. We simply do not know from the city's finding  
14 why traffic is a problem. The city's finding on this  
15 issue is not adequate.

16 The city's fifth finding is not a finding of fact, but  
17 merely a statement of the topics on which public  
18 discussion focused. It does nothing to support the city's  
19 denial.

20 The city's sixth finding is that a pump station for  
21 sewage purposes would be required which is contrary to the  
22 plan policy of encouraging development within the gravity  
23 flow areas of the city. Not only does the finding not  
24 address what impact the existence of a pump station  
25 already in the area may have on this comprehensive plan  
26 policy, it does not say why a plan policy which merely

1 "encourages" gravity flow should be used as a basis for  
2 denying the proposed subdivision. The finding is  
3 impermissibly conclusional and does not address relevant  
4 evidence in the record pertaining to the existence of a  
5 pump station presently serving houses in the area.

6 The city's seventh "finding" is not a finding of fact,  
7 but merely a statement that the previous findings of the  
8 city all show approval of the proposed subdivision would  
9 not be consistent with the city's subdivision ordinance.  
10 Because the city's first six findings are inadequate they  
11 could not be relied upon as a basis for concluding the  
12 subdivision ordinance would be violated by approval of the  
13 subdivision. Petitioners' first assignment of error is  
14 sustained.

15 2. Second Assignment of Error

16 Petitioners' second assignment of error is that the  
17 effect of the city's denial of the subdivision is to  
18 require petitioners' land to stay in agricultural use.  
19 This use inside a UGB which is part of an acknowledged  
20 comprehensive plan is not permitted, according to  
21 petitioners, where the land is designated "residential" in  
22 the plan. Petitioners cite Willamette University v LCDC,,  
23 45 Or App 355, 372 (1980) as holding

24 "that when a city has its comprehensive plan  
25 acknowledged, including what it believes to be a  
26 proper urban growth boundary, the city has committed  
that land to no [sic] farm use."

1 Petitioners state that the property is "presently fully served  
2 with municipal services" and that:

3 "Thus the denial of the Overlook subdivision on a  
4 theory of retaining prime farm land within the city is  
5 totally inconsistent with the over all fact of an  
6 acknowledged plan."

7 Petitioners argue the proper approach for the city to take if  
8 it desires to retain land within the UGB in farm status is to  
9 designate that land for farm use on both the plan and zone map  
10 "so as to advise the public, after notice and hearing, of where  
11 such special areas are and of the criteria used in selecting  
12 such land for this special treatment."

13 We construe petitioners' argument here as two-fold. First,  
14 requiring land within a UGB to be retained for farm use is  
15 inconsistent with the concept of an acknowledged plan. Second,  
16 if agricultural land may be retained within a UGB for farm use,  
17 then it is erroneous not to give the land a farm use  
18 designation so as to properly advise the owner and the public  
19 generally of its permitted uses.

20 With respect to the first of petitioners' arguments, we  
21 know of no absolute prohibition on a city's ability to require  
22 that agricultural land in a UGB or in city limits be retained  
23 for farm use until needed for urban use. In fact, that is, as  
24 we understand it, precisely the kind of use to which resource  
25 land in an "urbanizable" status is to be put. It is true, as  
26 petitioners note, that all land within cities is, by LCDC's  
recent amendment to the goals, either urbanizable or urban.

1 However, prior to acknowledgment of a local plan, urbanizable  
2 land may only be developed (i.e., converted from urbanizable to  
3 urban) upon compliance with the following requirements in Goal  
4 14:

5 "(1) Orderly, economic provision for public  
6 facilities and services;

7 "(2) Availability of sufficient land for the  
8 various uses to insure choices in the market place;

9 "(3) LCDC goals; and,

10 "(4) Encouragement of development within urban  
11 areas before conversion of urbanizable areas."

12 After acknowledgment, as in the present case, urbanizable  
13 land may only be developed when done in accordance with the  
14 acknowledged comprehensive plan and local ordinances. To be  
15 acknowledged, as in compliance with Goal 14, that plan must  
16 incorporate "conversion" standards for converting urbanizable  
17 land to urban which meet the above stated requirements of Goal  
18 14. Thus, land which is not "urban" (1) may exist within a UGB  
19 and even within cities and (2) is required to remain in an  
20 urbanizable status until it can be shown to satisfy either the  
21 conversion criteria in Goal 14 (prior to acknowledgment of the  
22 comprehensive plan) or the conversion criteria in the plan  
23 itself (after acknowledgment of the comprehensive plan). It is  
24 permissible to limit the use of agricultural land located  
25 within an urban growth boundary for resource purposes until  
26 conversion to an urban status can be justified.

Concerning petitioners' second argument, we agree it would

1 be inconsistent for a city to designate land for residential  
2 use but require that the land remain in agricultural use if, in  
3 designating the land "residential," the determination was made  
4 that each parcel so designated was ready for development. But,  
5 as addressed previously, that apparently is not what the City  
6 of Sublimity has done. The comprehensive plan, while giving an  
7 urban-like land use designation to all land within the UGB,<sup>2</sup>  
8 states that vacant land in agricultural use is to remain in  
9 agricultural use until needed for urban development and urban  
10 services are available. The subdivision and zoning ordinances  
11 incorporate these policies by requiring that subdivision  
12 applications and other land use decisions comply with these and  
13 other relevant plan policies. Thus, the zoning of petitioners'  
14 land as single family residential under Sublimity's scheme  
15 apparently did not constitute a decision to allow development  
16 on petitioners' property without a further determination that  
17 such development was appropriate at this time.<sup>3</sup> We conclude,  
18 therefore, that the designation of petitioners' property single  
19 family in the comprehensive plan and zoning ordinance did not  
20 preclude the city from disallowing development of petitioners'  
21 property at this time. Petitioners' second assignment of error  
22 is denied.

23 Sublimity's order denying petitioners' subdivision request  
24 is remanded for further proceedings not inconsistent with this  
25 opinion.

FOOTNOTES

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1 The city's zoning ordinance also requires that "[a]ll land use decisions shall be consistent with the policies of the comprehensive plan." While both the comprehensive plan and zoning maps designate this property as residential, the city apparently relies on its comprehensive plan policies to determine when the property is to be developed for residential purposes. See Green v Hayward, 275 Or 693, 552 P2d 815 (1976).

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2 The urban-like designations are the following: single family, multi-family, commercial, industrial and public-semi-public.

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3 Petitioners do not argue that the plan policies are inadequate as standards for determining when development is appropriate on petitioners' property.

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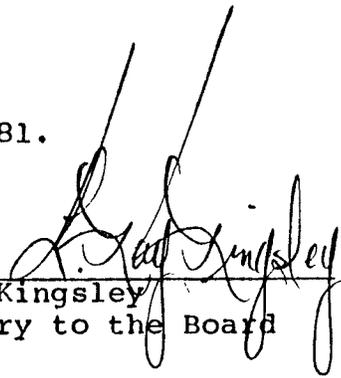
CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 81-078, on December 2, 1981, 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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