

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

3
4 ELIZABETH ROSSKNECHT,
5 *Petitioner,*

6
7 vs.

8
9 HOOD RIVER COUNTY,
10 *Respondent.*

11
12 LUBA No. 2014-071

13
14 FINAL OPINION
15 AND ORDER

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17 Appeal from Hood River County.

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19 Elizabeth Rossknecht, Parkdale, represented herself.

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21 Wilford K. Carey, Hood River, represented respondent.

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23 RYAN, Board Chair; BASSHAM, Board Member; HOLSTUN, Board
24 Member, participated in the decision.

25
26 DISMISSED

10/15/2014

27
28 You are entitled to judicial review of this Order. Judicial review is
29 governed by the provisions of ORS 197.850.

1 Ryan, Board Member.

2 The challenged decision is Hood River County's June 23, 2014 decision
3 approving a permit for a park and ride facility for Mt. Hood Meadows ski
4 resort. Petitioner appealed the permit decision. Thereafter, the applicant
5 withdrew the application and requested that the county rescind the permit, and
6 the county subsequently adopted a new decision on August 8, 2014 that
7 rescinded the previous permit decision. Motion to Dismiss Exhibit B. The
8 county then filed a motion to dismiss this appeal based on its subsequent
9 decision to rescind the permit. Petitioner objects to the motion, arguing that the
10 county's only recourse is to withdraw the initial June 23, 2014 permit decision
11 for reconsideration under ORS 197.830(13)(b).

12 We disagree with petitioner. One option available to a local government
13 that no longer wishes to defend a decision on appeal, based on an applicant's
14 withdrawal of the application, and wishes to terminate an appeal as
15 expeditiously as possible, is to adopt a new decision that revokes or rescinds
16 the challenged decision. *See Heiller v. Josephine County*, 25 Or LUBA 555-56
17 (1993) (where applicant withdraws the application and the land use decision on
18 appeal is rescinded by a separate decision, LUBA will dismiss appeal as moot).
19 After that new decision becomes final and the deadline for filing an appeal of
20 that separate decision to LUBA has expired, the county may then move to
21 dismiss the present appeal as moot. The county's decision to rescind the permit
22 has become final and the deadline for appealing that decision to LUBA has
23 expired without appeal.

24 Accordingly, the appeal is dismissed.