

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

4 JAMES F. SQUIRES,)
5)
6 Petitioner,)
7)
8 vs.) LUBA No. 96-197
9)
10 CITY OF PORTLAND,) FINAL OPINION
11) AND ORDER
12 Respondent,)
13) (MEMORANDUM OPINION)
14 and) ORS 197.835(16)
15)
16 JOANNE STARR,)
17)
18 Intervenor-Respondent.)

21 Appeal from City of Portland.

23 James F. Squires, Lake Oswego, filed the petition for
24 review and argued on his own behalf.

26 Ruth Spetter, Senior Deputy City Attorney, filed a
27 response brief and argued on behalf of respondent.

29 Jack L. Orchard and Linly Ferris Rees, Portland, filed
30 a response brief. With them on the brief was Ball Janik.
31 Jack L. Orchard argued on behalf of intervenor-respondent.

33 LIVINGSTON, Referee, participated in the decision.

35 AFFIRMED 01/23/97

37 You are entitled to judicial review of this Order.
38 Judicial review is governed by the provisions of ORS
39 197.850.

1 Opinion by Livingston.

2 We affirm the city's decision with a note of
3 explanation. The challenged decision follows our remand in
4 Squires v. City of Portland, ___ Or LUBA ___ (LUBA No. 95-
5 187, July 1, 1996) (Squires I), and describes the
6 applicant's proposal as follows:

7 "Applicant proposes to create a 20-lot Planned
8 [Unit] Development on a 5.71 acre parcel and
9 requests adjustments to increase building coverage
10 on all lots and to reduce the amount of open area
11 in common ownership." (Emphasis added.) Record
12 7.

13 The decision then states that the city council "affirmed its
14 prior approval of the applicant's proposal." Id.

15 The applicant's proposal as approved prior to Squires I
16 did not include an adjustment to reduce the amount of open
17 area in common ownership.¹ The findings adopted in response
18 to our remand do not address an adjustment to reduce the
19 amount of open area in common ownership. Intervenor-
20 respondent Joanne Starr describes the inclusion of the
21 emphasized language as a clerical error. Brief of
22 Intervenor-Respondent 12. The city joins in that assessment
23 in its brief. The city confirmed at oral argument that the
24 challenged decision does not grant an adjustment to reduce

¹In Squires I we found that only one adjustment, the lot coverage adjustment, had been requested. For that reason, we concluded PCC 33.805.040(C), which addresses applications where more than one adjustment is requested, did not apply. Squires I, ___ Or LUBA ___ (LUBA No. 95-187, July 1, 1996), slip op 10-11.

1 the amount of open area in common ownership.