

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

3
4 MARK KNAPP,
5 *Petitioner,*

6
7 vs.

8
9 CITY OF CORVALLIS,
10 *Respondent,*

11 and

12
13 MATRIX DEVELOPMENT CORPORATION,
14 *Intervenor-Respondent.*

15
16 LUBA No. 2007-131

17
18 ORDER

19 On October 12, 2007, petitioner's attorney filed the petition for review. On October
20 19, 2007, petitioner filed a "Notice of Representation" informing the Board and the parties
21 that as of that date he is no longer represented by the attorney who filed the petition for
22 review on his behalf. According to petitioner's October 19, 2007 notice, he is now
23 representing himself in the appeal. Also on October 19, 2007, petitioner filed a "Motion for
24 Extension of Time" that requests an extension of time "to file a petition for review." That
25 motion states that petitioner intends to file a revised petition for review that includes
26 additional assignments of error.¹

27 Respondent and intervenor-respondent (respondents) object to petitioner's motion.

¹ Specifically, petitioner states:

"The intent of the petitioner is to file a revised Petition for Review that identifies more than one error by the City of Corvallis. The former Attorney for the petitioner filed a Petition for Review that assigned only one error. The petitioner has no intent to change the argument in support of that one assignment of error. Therefore, any work already performed by the Attorneys for the respondent or the Attorney for the Intervenor-Respondent in response to the original Petition for Review would not be lost if the motion were granted." Motion for Extension of Time 1.

1 Respondents note, correctly, that OAR 661-010-0067(2) prohibits extensions of time for
2 filing a petition for review unless all parties consent to the extension, and argue that because
3 respondents do not consent to an extension, the motion must be denied.

4 As noted above, although petitioner’s motion is titled “Motion for Extension of
5 Time,” in reality petitioner is requesting permission to file a revised petition for review. *See*
6 n 1. The petition for review has already been filed. A petitioner may not, after the petition
7 for review has been filed and the deadline for filing the petition for review expires,
8 supplement the arguments presented therein. *Fechtig v. City of Albany*, 27 Or LUBA 480,
9 483, *aff’d* 130 Or App 433, 882 P2d 138 (1994). That is exactly what petitioner’s motion
10 proposes to do. Accordingly, petitioner’s motion is denied.

11 Respondents request that the current briefing schedule remain unaltered by
12 petitioner’s motion. Accordingly, the response briefs are due not later than November 2,
13 2007.

14 Dated this 23rd day of October, 2007.

15
16
17
18
19
20
21
22

Melissa M. Ryan
Board Member