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

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2  
3 RICHARD ALEXANDER, )  
4                   Petitioner, )  
5           and )  
6 JUDY IRWIN THOMAS, CAROL )  
7 ZINSLI, JULIAN and BECKY )  
8 CENIGA, CAROLYN SUE FULLER, )  
9 DON SMETHERS and KENNETH )  
10 GARCHOW, )  
11                   Intervenors-Petitioner, )  
12           vs. )  
13 CLACKAMAS COUNTY, )  
14                   Respondent. )

LUBA No. 88-072

FINAL OPINION  
AND ORDER OF REMAND

13 Appeal from Clackamas County.

14 Mark J. Greenfield  
15 Mitchell, Lang & Smith  
16 2000 One Main Place  
101 SW Main Street  
Portland, OR 97204

Scott H. Parker  
Clackamas County Courthouse  
906 Main Street  
Oregon City, OR 97045

17 Attorney for Petitioner  
and Intervenors-Petitioner

Attorney for Respondent

18 SHERTON, Referee, HOLSTUN, Chief Referee.

19 REMANDED

01/05/89

20 You are entitled to judicial review of this Order.  
21 Judicial review is governed by the provisions of ORS 197.850.

1       Sheraton, Referee.

2       Respondent Clackamas County moves that this appeal be  
3 dismissed on the ground that the challenged conditional use  
4 permit has been withdrawn. Respondent cites an order of the  
5 county Land Use Hearings Officer, dated December 2, 1988, which  
6 states:

7       "Order: It is hereby Ordered that the Findings and  
8 Decision of the Hearings Officer previously filed  
9 herein be withdrawn and the Planning Division staff  
10 cause this matter to be scheduled for rehearing as  
11 soon as is practicable. It is further ordered that  
the notice of such rehearing shall include  
consideration of a Willamette River Greenway permit  
for this application."

12       Respondent argues that the above-quoted decision makes this  
13 appeal moot. Respondent also states that "petitioner is the  
14 prevailing party and is entitled to reimbursement of its filing  
15 fee."

16       In a telephone conference on January 4, 1989, the parties  
17 agreed that the county's motion may be treated as a motion to  
18 remand the appealed decision for further proceedings and that  
19 the decision should be remanded. The parties further agree  
20 that petitioner is the prevailing party in this appeal.

21       Accordingly, the county's decision is remanded. Respondent  
22 county shall reimburse petitioner for his \$50.00 filing fee.  
23 Petitioner's \$150.00 deposit for costs shall be returned to him  
24 by the Board.

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