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

R. JAMES CLAUS,)
)
Petitioner,) LUBA No. 98-083
)
vs.) FINAL OPINION
) AND ORDER
CITY OF SHERWOOD,)
)
Respondent.)

Appeal from City of Sherwood.

R. James Claus, Sherwood, represented himself.

Derryck H. Dittman, Tigard, filed the response brief and argued on behalf of respondent.

HANNA, Board Member; GUSTAFSON, Board Chair, participated in the decision.

AFFIRMED 09/15/98

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

1 Opinion by Hanna.

2 **NATURE OF THE DECISION**

3 Petitioner appeals the city's approval of a change in
4 sequence of phase 8 of the Woodhaven Planned Unit Development
5 (PUD).

6 **SUMMARY OF FACTS**

7 The city planning commission approved the preliminary
8 plat of phase 8 of the Woodhaven PUD on March 17, 1998. The
9 request for plat approval included a request that phase 8 be
10 developed out of sequence. A condition of the original PUD
11 approval requires that all requests for changes in sequence be
12 made to the city council. Thus the planning commission
13 approval was conditioned upon the city council approving the
14 sequence change request.

15 The planning commission plat approval was not appealed to
16 the city council. The city council considered only the
17 sequence change request, which it approved without a hearing
18 as a minor revision to the PUD approval.¹

19 Petitioner appeals that approval.

20 **DISCUSSION**

21 We understand petitioner to make three assignments of
22 error:² (1) the city erred in approving, without public

¹The city council approved the sequence change as a minor revision under Community Development Code (CDC) 2.202.04(B)(2). Only major changes under CDC 2.202.04(B)(1) require a public hearing.

²Our understanding of petitioner's arguments is far from clear. The tenor of petitioner's arguments indicates that petitioner believes that LUBA engages in de novo review of land use decisions and is free to

1 hearing, both the preliminary plat and a change of sequence in
2 development before submission or approval of a preliminary
3 plat regarding development of phase 7; (2) approval of the
4 sequence change cannot be allowed without approved final plans
5 for a community park; and (3) use of the area designated for
6 the community park must be determined prior to planning
7 approval of phase 8 of development.

8 Petitioner offers no legal basis to support any of his
9 assignments of error, and we will not speculate as to what
10 these bases may be. It is petitioner's responsibility to not
11 only allege the facts that support his claim but also to
12 explain the bases upon which we might grant relief. Deschutes
13 Development v. Deschutes Cty., 5 Or LUBA 218, 220 (1982).
14 Where petitioner does not demonstrate that an issue raised in
15 an assignment of error is relevant to compliance with any
16 legal standard applicable to the challenged decision, LUBA
17 will deny the assignment of error. Dorgan v. City of Albany,
18 27 Or LUBA 64 (1994).

19 The only decision before us is the city council's
20 approval of the phase 8 sequence change. To the extent
21 petitioner attempts to challenge the planning commission's
22 preliminary plat approval, which petitioner did not appeal,

substitute its judgment for that of the local government. This is not so.
ORS 197.835(2)(a), (8) and (9). Petitioner does not cite to any legal
authority to support any of his assignments of error. Petitioner attempted
to raise several other assignments of error during oral argument.
Assignments of error must be made in the petition for review. We do not
consider arguments made for the first time at oral argument. OAR 661-10-
040(1).

1 that decision is not before us and we do not address those
2 claims. To the extent petitioner's assignments of error
3 address the challenged sequence change, none of those
4 assignments establishes a basis for remand or reversal of the
5 city's decision, and all are, therefore, denied.

6 The city's decision is affirmed.