

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 HORIZON CONSTRUCTION, INC., an)
5 Oregon corporation, RICH RACETTE,)
6 and WALT RACETTE,)
7)
8 Petitioners,) LUBA No. 92-002
9)
10 vs.) FINAL OPINION
11) AND ORDER
12 CITY OF NEWBERG,)
13)
14 Respondent.)

15
16
17 On remand from the Court of Appeals.

18
19 Wallace W. Lien, Salem, represented petitioner Horizon
20 Construction, Inc.

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22 Michael G. Gunn, Newberg, represented petitioners
23 Racette.

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25 Terrence D. Mahr, Newberg, represented respondent.

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27 SHERTON, Referee; HOLSTUN, Chief Referee; KELLINGTON,
28 Referee, participated in the decision.

29
30 REMANDED 09/04/92

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32 You are entitled to judicial review of this Order.
33 Judicial review is governed by the provisions of ORS
34 197.850.

1 Opinion by Sherton.

2 Petitioners appealed a Newberg City Council decision
3 denying their application for a conditional use permit for
4 an apartment complex. On April 21, 1992, we issued a final
5 opinion and order affirming the city's decision. The Court
6 of Appeals reversed and remanded our final opinion and
7 order, with instructions to remand the challenged decision
8 to the city. Horizon Construction, Inc. v. City of Newberg,
9 114 Or App 249, ___ P2d ___ (1992).

10 For the reasons expressed in the Court of Appeals'
11 decision, the city's decision is remanded.