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

ARTURO BORREGO,	)	
	)	
Petitioner,	)	LUBA No. 94-225
	)	
vs.	)	FINAL OPINION
	)	AND ORDER
CITY OF SHERIDAN,	)	
	)	
Respondent.	)	

Appeal from City of Sheridan.

Arturo Borrego, Sheridan, filed the petition for review and argued on his own behalf.

Walter R. Gowell, McMinnville, filed the response brief and argued on behalf of respondent. With him on the brief was Haugeberg, Rueter, Stone, Gowell & Fredricks, P.C.

HANNA, Referee; LIVINGSTON, Chief Referee, participated in the decision.

AFFIRMED 10/03/95

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 from a city council preliminary plat  
4 approval for a subdivision.

5 **FACTS**

6 In April 1994, the city approved a preliminary plat for  
7 a 10-acre subdivision. Petitioner challenges the storm  
8 runoff and drainage system approved by the city.

9 The challenged decision requires that existing areas of  
10 runoff be identified and incorporated into a subdivision  
11 drainage system. The subdivision drainage system will drain  
12 into the existing city drainage system. A portion of the  
13 existing city drainage system is an open ditch that crosses  
14 the rear of the properties on the west side of Elm Street.  
15 Petitioner owns property on Elm Street that is bordered by  
16 the drainage ditch.

17 **DECISION**

18 LUBA's rules set forth the required contents of a  
19 petition for review:

20 "(3) \* \* \* The petition for review shall:

21 "(a) State the facts that establish  
22 petitioner's standing;

23 "(b) Present a clear and concise statement of  
24 the case, in the following order, with  
25 separate section headings:

26 "(A) The nature of the land use decision  
27 or limited land use decision and the  
28 relief sought by petitioner;

1                   "(B) A summary of the arguments  
2                   appearing under the assignments of  
3                   error in the body of the petition;

4                   "(C) A summary of the material facts.  
5                   The summary shall be in narrative  
6                   form with citations to the pages of  
7                   the record where the facts alleged  
8                   can be found.

9                   "(c) State why the challenged decision is a  
10                  land use decision or a limited land use  
11                  decision subject to the Board's  
12                  jurisdiction;

13                  "(d) Set forth each assignment of error under  
14                  a separate heading. Where several  
15                  assignments of error present essentially  
16                  the same legal questions, the argument  
17                  in support of those assignments of error  
18                  shall be combined;

19                  "(e) Contain a copy of the challenged  
20                  decision, including any adopted findings  
21                  of fact and conclusions of law;

22                  "(f) Contain a copy of any comprehensive plan  
23                  provisions, ordinance or other  
24                  provisions of local law cited in the  
25                  petition unless the provision is quoted  
26                  verbatim in the petition.

27                  (4) The petition for review may include  
28                  appendices containing verbatim transcripts of  
29                  relevant portions of tapes that are part of  
30                  the record." OAR 661-10-030 (Emphasis  
31                  added).

32                  The petition for review in this case contains the  
33                  following items, as listed in the table of contents:

34                  "1. List of Interested Parties

35                  "2. Issue On Appeal to LUBA

36                  "3. Planning Commission Meeting May 9, 1994

1        "4. Planning Commission Meeting June 13, 1994

2        "5. City Council Meeting September 26, 1994

3        "6. Appealing the Planning Commission Meeting  
4                August 8, 1994

5        "7. City Council Meeting September 26, 1994

6        "8. Conclusion"

7        The only parts of the petition for review that relate  
8 to LUBA's requirements for a petition for review are items 2  
9 and 8. In item 2, petitioner describes the issue on appeal  
10 as follows:

11        "The City of Sheridan erred in allowing [the]  
12        developer \* \* \* to use the drainage area  
13        belonging to residents of Elm St. The errors were  
14        both procedural and insubstantial [sic]. \* \* \* The  
15        petitioner seeks the assistance of LUBA in  
16        resolving this matter."

17        In his conclusion, item 8, petitioner asks that "the  
18 ditch on the west side of Elm St. be culverted." In the  
19 alternative he asks that "the subdivision be halted until  
20 the City or [the developer] compensate the residents of Elm  
21 St." Petition for Review 14.

22        Between the issue statements and the concluding  
23 statements are 10 pages of minutes of local government  
24 proceedings. Included in the minutes are four statements,  
25 taken from a letter prepared by petitioner's attorney in the  
26 local government proceeding, that make specific requests of  
27 the city. These four statements are the only indication as  
28 to what petitioner may consider to be assignments of error.

29        Respondent used the four statements to formulate

1 assignments of error and then argued against them. During  
2 oral argument, petitioner agreed that he would adopt  
3 respondent's formulation of the assignments of error as his  
4 own. However, petitioner stated that he did not understand  
5 the legal arguments that had been raised.

6 In his petition for review as well as in oral argument,  
7 petitioner makes no particular reference either to the  
8 statements taken from the attorney's letter or to the  
9 respondent's formulation of petitioner's possible  
10 assignments of error. Petitioner has not articulated legal  
11 arguments either to support the four requests made of the  
12 city or to address respondent's formulation of petitioner's  
13 possible assignments of error.

14 The petition does not comply with even the most basic  
15 elements of our rules. The most significant deficiency is  
16 the lack of assignments of error and any argument or  
17 authority for any assignments of error. Petitioner provides  
18 no basis whatever on which we can reverse or remand the  
19 challenged decision. See Scholes v. Jackson County, 28 Or  
20 LUBA 407 (1994), Camp v. Josephine County, 23 Or LUBA 6  
21 (1992), Deschutes Development v. Deschutes Cty., 5 Or LUBA  
22 218 ((1982)).

23 The city's decision is affirmed.