

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

1
2
3
4 HENRY KANE,)
5)
6 Petitioner,)
7)
8 vs.)
9)
10 WASHINGTON COUNTY,)
11) LUBA No. 95-236
12 Respondent,)
13) FINAL OPINION
14 and) AND ORDER
15)
16 TRI-COUNTY METROPOLITAN) (MEMORANDUM OPINION)
17 TRANSPORTATION DISTRICT, OREGON) (ORS 197.835(16))
18 DEPARTMENT OF TRANSPORTATION,)
19 J. PETERKORT AND CO., ALBERT)
20 PETERKORT, and MARY PETERKORT,)
21)
22 Intervenors-Respondent.)

23
24
25 Appeal from Washington County.

26
27 Henry Kane, Beaverton, filed the petition for review
28 and argued on his own behalf.
29

30 David C. Noren, Assistant County Counsel, Hillsboro,
31 filed a response brief and argued on behalf of respondent.
32

33 Gregory S. Hathaway, Portland, filed a response brief
34 and argued on behalf of intervenor-respondent, Tri-County
35 Metropolitan Transportation District. With him on the brief
36 were Timothy R. Volpert, Christopher C. Brand, and Davis
37 Wright Tremaine.
38

39 Lucinda D. Moyano, Assistant Attorney General, Salem,
40 filed a response brief and argued on behalf of intervenor-
41 respondent Oregon Department of Transportation. With her on
42 the brief was Theodore R. Kulongoski, Attorney General.
43

44 Timothy V. Ramis and G. Frank Hammond, Portland, filed
45 a response brief on behalf of intervenors-respondent, J.

1 Peterkort & Co., Albert Peterkort and Mary Peterkort. With
2 them on the brief was O'Donnell Ramis Crew Corrigan &
3 Bachrach.

4

5 GUSTAFSON, Referee; HANNA, Referee, participated in the
6 decision.

7

8

AFFIRMED

05/31/96

9

10 You are entitled to judicial review of this Order.
11 Judicial review is governed by the provisions of ORS
12 197.850.

1 Opinion by Gustafson.

2 **NATURE OF THE DECISION**

3 Petitioner appeals one condition of the county's
4 approval of a development review application for a component
5 of the Westside Light Rail Project.

6 **MOTIONS TO INTERVENE**

7 Tri-County Metropolitan Transportation District (Tri-
8 Met), the Oregon Department of Transportation (ODOT) and J.
9 Peterkort and Co. and Albert and Mary Peterkort, each move
10 to intervene on the side of respondent. There is no
11 opposition to the motions, and they are allowed.

12 **DISCUSSION**

13 Petitioner appeals a single condition of the county's
14 approval of Tri-Met's and ODOT's development review
15 application.¹ That condition states:

16 "By the year 2005 the applicants shall reconstruct
17 the Barnes Road on-ramp; provided, if the [Land
18 Use Final Order] LUFO is amended to delete or
19 modify its requirement that the Barnes Road on-
20 ramp be replaced, then the applicant may apply to
21 the planning director to amend this condition of
22 approval to be consistent with the amended LUFO,
23 subject to at least a Type II review." Record 48.

24 As we understand petitioner's arguments, petitioner
25 wants the Barnes Road on-ramp restored immediately, and he
26 disagrees with the implication that the LUFO may be subject

¹ODOT is a co-applicant with Tri-Met on the development review application because ODOT owns a portion of the property under review.

1 to future amendment. To the extent any of petitioner's
2 seven assignments of error assert any legally cognizable
3 error, none of them establishes any legal basis upon which
4 the challenged condition is subject to remand or reversal.

5 The county's decision is affirmed.