1	BEFORE THE LAND USE BOARD OF APPEALS						
2	OF THE STATE OF OREGON						
3							
4	REXIUS FOREST BY-PRODUCTS, INC.,						
5	Petitioner,						
6							
7	VS.						
8							
9	CITY OF EUGENE,						
10	Respondent.						
11	·						
12	LUBA No. 2001-076						
13							
14	FINAL OPINION						
15	AND ORDER						
16							
17	Appeal from City of Eugene.						
18							
19	James W. Spickerman, Eugene, represented petitioner.						
20							
21	Glenn Klein and Emily N. Jerome, Eugene, represented respondent.						
22							
23	BRIGGS, Board Chair; BASSHAM, Board Member; HOLSTUN, Board Member,						
24	participated in the decision.						
25							
26	REMANDED 11/15/2001						
27							
28	You are entitled to judicial review of this Order. Judicial review is governed by the						
29	provisions of ORS 197.850.						
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ORS 197.860 provides, in relevant part	ORS	197.860	provides, i	in	relevant	part:
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"All parties to an appeal may at any time prior to a final decision by the Court of Appeals under ORS 197.855 stipulate that the appeal proceeding be stayed for any period of time agreeable to the parties and the board or court to allow the parties to enter mediation. Following mediation, the board or the court may, at the request of the parties, dismiss the appeal or remand the decision to the board or the local government with specific instructions for entry of a final decision on remand. \* \* \*"

In this appeal, petitioner challenges a condition of approval contained within a conditional use permit issued to petitioner by the city. The parties to this appeal entered mediation pursuant to ORS 197.860. On November 9, 2001, LUBA received from the parties a stipulated motion requesting that LUBA remand the decision challenged in this appeal with specific instructions that an amendment to the challenged condition of approval be adopted by the city. The amendment to be adopted by the city on remand is attached as "Exhibit A" to the parties' stipulated motion. In addition, the parties stipulate that petitioner's deposit for costs be awarded to the city as the cost of preparing the record.

In accordance with the parties' stipulated motion and ORS 197.860, the decision challenged in this appeal is remanded to the city and the city is instructed to adopt the amendment set out in Exhibit A to the parties' stipulated motion. A copy of that attachment is appended to this final opinion and order. In addition, the city is awarded petitioner's deposit for costs in the amount of \$150.