

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

3
4 BRIAN ROGERS and MICHELLE ROGERS,
5 *Petitioners,*

6
7 vs.

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9 CITY OF EAGLE POINT,
10 *Respondent,*

11 and

12
13 WINFALL, LLC,
14 *Intervenor-Respondent.*

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16 LUBA No. 2002-030

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18 FINAL OPINION
19 AND ORDER

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21 Appeal from City of Eagle Point.

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23 Debbie V. Minder, Medford, represented petitioner.

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25 Tonia L. Moro, Medford, represented respondent.

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27 John R. Hassen, Medford, represented intervenor-respondent.

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29 BASSHAM, Board Member; HOLSTUN, Board Chair; BRIGGS, Board Member,
30 participated in the decision.

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32 REMANDED

09/05/2002

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34 You are entitled to judicial review of this Order. Judicial review is governed by the
35 provisions of ORS 197.850.
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1 Bassham, Board Member.

2 The city moves for a voluntary remand of the challenged decision. The motion states
3 that the city will “thoroughly and diligently consider Petitioners’ three Assignments of Error
4 raised in their Petition for Review in this matter.” Motion for Voluntary Remand 1.

5 Petitioners respond that they do not object as long as all allegations of error made in
6 the petition for review will be considered and addressed on remand. However, petitioners
7 view the assurances to that effect in the motion for voluntary remand to be ambiguous.
8 Petitioners attach to their response a newspaper clipping that quotes the city administrator as
9 stating that the voluntary remand “is not opening up the whole issue of the subdivision
10 again.” Response to Motion for Voluntary Remand 2. Petitioners argue that addressing each
11 of the assignments of error in the petition for review will entail “opening up the whole issue
12 of the subdivision again.”

13 The city’s motion for voluntary remand unambiguously declares that the city will
14 consider each of the assignments of error in the petition for review. The comment of the city
15 administrator has no bearing on that assurance. Petitioners offer no reason to believe that the
16 proceedings on remand will be insufficient or fail to provide the relief that petitioners could
17 obtain from LUBA. Accordingly, the city’s motion is granted.