

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

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4 MOLLY JACOBSEN and DANA JACOBSEN,
5 *Petitioners,*

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7 vs.

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9 CITY OF WINSTON,
10 *Respondent,*

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12 and

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14 DON JENKINS and JOELL JENKINS,
15 *Intervenors-Respondents.*

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17 LUBA No. 2006-060

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20 FINAL OPINION
21 AND ORDER

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23 Appeal from City of Winston.

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25 Molly Jacobsen and Dana Jacobsen, Winston, represented themselves.

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27 Zack P. Mittge, Eugene, represented respondent.

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29 Corinne C. Sherton, Salem, represented intervenors-respondents.

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31 RYAN, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member;
32 participated in the decision.

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34 REMANDED

08/12/2010

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36 You are entitled to judicial review of this Order. Judicial review is governed by the
37 provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioners appeal a city decision approving site design review for a 31 vehicle recreational vehicle park on a 3.5-acre property.

MOTION FOR VOLUNTARY REMAND

In a previous order we denied the city’s motion for voluntary remand. *Jacobsen v. City of Winston*, __ Or LUBA __ (LUBA No. 2006-060, July 22, 2010). We explained:

“Generally, LUBA will grant a motion for voluntary remand over a petitioner’s objection where the local government demonstrates that all allegations of error in the petition for review will be addressed on remand. *Angel v. City of Portland*, 20 Or LUBA 541, 543 (1991). In this case, however, the petition for review has not been filed. In *Verizon Wireless, LLC v. City of Elgin*, __ Or LUBA __ (LUBA No. 2009-095, September 30, 2009), we granted a motion for voluntary remand over the petitioner’s objection, where the city stated that the proceedings on remand ‘will address all allegations of error Petitioner intends to submit on appeal.’ We explained in *Verizon* that even if we denied the motion as premature, the likely result would be that petitioner would file the petition for review, the city would file another motion for voluntary remand and agree to address all issues on remand, and LUBA would grant the subsequent motion for voluntary remand.” *Id.* at slip op 1-2.

We allowed the city to refile its motion for voluntary remand in the present appeal, and stated that we would grant the motion and remand the decision if the city agreed in its motion that it would address “* * * all allegations of error regarding the challenged decision that petitioners would have included in the petition for review.” On July 26, 2010, the city moved for voluntary remand of the challenged decision and stated that “[i]f respondent readopts the challenged decision it will address all allegations of error regarding the challenged decision that Petitioners would have included in the petition for review.” Motion for Voluntary Remand 1. Petitioners have not responded to the city’s July 26, 2010 motion.

The city’s motion is granted.

The city’s decision is remanded.