1	BEFORE THE LAND USE BOARD OF APPEALS
2	OF THE STATE OF OREGON
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4	FRIENDS OF THE HOOD RIVER
5	WATERFRONT, CORIE LAHR,
6	and RICHARD DEREK BELL,
7	Petitioners,
8	
9	VS.
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11	CITY OF HOOD RIVER,
12	Respondent,
13	
14	and
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16	NBW HOOD RIVER, LLC,
17	Intervenor-Respondent.
18	
19	LUBA No. 2013-064
20	
21	FINAL OPINION
22	AND ORDER
23	
24	Appeal on remand from the Court of Appeals.
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26	Brent Foster, Hood River, represented petitioners.
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28	Daniel Kearns, Portland, represented respondent.
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30	Stephen L. Naito, Portland, represented intervenor-respondent.
31	HOLCTINI Decad Manakan DACCHAM Decad Manakan neuticinated in
32	HOLSTUN, Board Member; BASSHAM, Board Member, participated in
33	the decision.
34	DVAN Doord Chain did not neutrainate in the decision
35	RYAN, Board Chair, did not participate in the decision.
36	DEMANDED 07/22/2014
37	REMANDED 07/22/2014
38 39	You are entitled to judicial review of this Order. Judicial review is
<b>リフ</b>	Tou are chance to judicial leview of this Order. Judicial leview is

governed by the provisions of ORS 197.850.

## Opinion by Holstun.

We remanded a city decision granting conditional use and preliminary site plan approval for a hotel, office building and related parking. Friends of the Hood River Waterfront v. City of Hood River, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2013-064, December 13, 2013). Our decision was appealed to the Court of Appeals and affirmed in part and reversed in part. Friends of the Hood River Waterfront v. City of Hood River, 263 Or App 80, 326 P3d 1229 (2014). In our decision we concluded that Hood River Comprehensive Plan Goal 7, Policy 4 was both a mandatory requirement to identify the 100-year floodplain on properties that lack detailed 100-year floodplain mapping and a mandatory requirement to prepare a map showing the identified 100-year floodplain: 

"Focusing exclusively on the language of Goal 7, Policy 4, we agree with the city that Goal 7, Policy 4 is not a conditional use permit approval standard that the city was required to apply in this case. But it is an applicable mandatory requirement to identify the location of the 100-year floodplain on the property, because detailed mapping of the 100-year floodplain on the property is not available. Now that the 100-year floodplain elevation on the property is known, it presumably will be a simple matter to map the 100-year floodplain. On remand, the city will need to have the applicant prepare that map." Slip op at 13-14 (footnote omitted).

The Court of Appeal agreed with the first part of our conclusion regarding Goal, 7, Policy 4, but disagreed that Goal 7, Policy 4 requires that the 100-year floodplain, once identified, must also be mapped:

"Although we agree with LUBA that the provision represents a mandatory requirement to identify the 100-year floodplains in connection with a project on a site where the floodplains have not yet been identified, nothing in the text or context of that provision expressly requires that identification to take the form of a map prepared by the applicant. Accordingly, the city's implicit interpretation of Policy 4 to not require NBW to produce a map of

- the 100-year floodplain is a plausible reading of Policy 4, and LUBA erred when it ruled that, "[o]n remand, the city will need to
- have the applicant prepare that map [of the 100-year floodplain]."
- 4 263 Or App at 93.
- 5 The city's decision is remanded in accordance with our December 13,
- 6 2013 decision; except, as explained above, the 100-year floodplain identified
- 7 pursuant to Goal 7, Policy 4 need not be mapped.