

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 JAKE MINTZ and NEIGHBORS
5 FOR SMART GROWTH,
6 *Petitioners,*

7
8 vs.

9
10 CITY OF BEAVERTON,
11 *Respondent,*

12
13 and

14
15 J. PETERKORT & COMPANY,
16 *Intervenor-Respondent.*

17
18 LUBA No. 2016-017

19
20 FINAL OPINION
21 AND ORDER

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23 Appeal from City of Beaverton.

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25 Jake Mintz, Portland, represented himself.

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27 Peter Livingston, City Attorney, Beaverton, represented respondent.

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29 Timothy V. Ramis, Lake Oswego, represented intervenor-respondent.

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

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34 DISMISSED 07/25/2016

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

1 Opinion by Holstun.

2 **PETITIONER NEIGHBORS FOR SMART GROWTH**

3 Petitioner Neighbors for Smart Growth is not an individual and therefore
4 must be represented in this appeal by an attorney who is a member of the
5 Oregon State Bar. In a March 2, 2016 Order, petitioner was given seven days to
6 file an amended notice of intent to appeal indicating that petitioner is
7 represented in this matter by an attorney. No amended notice of intent to
8 appeal was filed. Accordingly, petitioner Neighbors for Smart Growth is
9 dismissed from this appeal.

10 **MOTION TO INTERVENE**

11 J. Peterkort & Company, the applicant below, moves to intervene on the
12 side of respondent. No party opposes the motion and it is granted.

13 **DECISION**

14 Pursuant to ORS 197.830(13)(b) and OAR 661-010-0021, respondent
15 withdrew the decision challenged in this appeal for reconsideration on March
16 23, 2016. On June 9, 2016, the Board received respondent's decision on
17 reconsideration. Pursuant to OAR 661-010-0021(5)(1), petitioner had until
18 June 30, 2016 to either refile its original notice of intent to appeal in this
19 matter, or file an amended notice of intent to appeal. The Board has not
20 received a refiled original notice of intent to appeal or an amended notice of
21 intent to appeal in accordance with OAR 661-010-0021(5)(a).

1 OAR 661-010-0021(5)(e) provides “[i]f no amended notice of intent to
2 appeal is filed or no original notice of intent to appeal is refiled, as provided in
3 [OAR 661-010-0021(5)(a)], the appeal will be dismissed.”

4 This appeal is dismissed. *Matrix Development v. City of Tigard*, 25 Or
5 LUBA 557 (1993).