1	BEFORE THE LAND USE BOARD OF APPEALS
2	OF THE STATE OF OREGON
3 4	THOMAS DEAN, TRUSTEE OF
5 6	THE JAMES A. PAULSON TRUST, Petitioner,
7	1 entirely
8 9	VS.
10	CITY OF SPRINGFIELD,
11	Respondent.
12 13	LUBA No. 2002-137
14	ODDED ON MOTION TO CLICDEND
15 16	ORDER ON MOTION TO SUSPEND THE TIME FOR FILING THE RECORD
10	THE TIME FOR FIELDO THE RECORD
17	On October 15, 2002, petitioner filed his notice of intent to appeal. Pursuant to OAR
18	661-010-0025(2), the city's record was due on November 5, 2002. On November 6, 2002, the
19	city filed a motion to suspend the time for filing the record and a motion to dismiss. The
20	city's request to suspend the time for filing the record is based on the city's arguments in its
21	motion to dismiss that LUBA does not have jurisdiction to review the challenged decision.
22	Petitioner objects to the motion to suspend the time for filing the record. According to
23	petitioner, the city filed its motion after the time for filing the record had passed and,
24	therefore, OAR 661-010-0067(4) prohibits the granting of motions to suspend a deadline that
25	are filed after the deadline has passed. In addition, petitioner contends that the city's motion
26	for an extension of time is without precedent and should not be allowed.
27	The city's filing of the request that we suspend the deadline for filing the record one

day after the deadline for filing the record is a technical violation of our rules and resulted in

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¹ OAR 661-010-0067(4) provides:

[&]quot;A motion for extension of time shall state the reasons for granting the extension and must be filed with the Board within the time required for performance of the act for which an extension of time is requested."

1	p prejudice to petitioner. OAR 661-010-0005. The one-day delay in filing provides n	10
2	dependent basis for denying the city's motion.	

On the merits, the city should be required to file the record in this matter if we need that record to determine whether we have jurisdiction to proceed with this appeal. In a case with similarities to this one we explained:

"The motion to dismiss appears to be based solely on the legal nature of the challenged resolution. Petitioner does not explain why the record of the local proceeding * * * would provide any assistance in determining the legal nature of the challenged decision. Petitioner merely suggests the record and transcript might provide some unspecified assistance to petitioner, this Board and the appellate courts on review. Absent some argument from petitioner explaining why it believes the record * * * may have some bearing on the jurisdictional issue presented in the motion to dismiss, we allow the city's motion to extend the time for filing the record * * *. Goose Hollow Foothills Assoc. v. City of Portland, 21 Or LUBA 555, 556 (1991).

However, unlike *Goose Hollow Foothills Assoc.*, we conclude in this case that the record may include documents that have some bearing on whether the challenged decision is a land use decision or limited land use decision subject to our review. Accordingly, the city's motion to extend the time for filing the record is denied. The record is due 14 days from the date of this order. In addition, except for the deadline for filing record objections, all other deadlines are suspended pending our resolution of the motion to dismiss.

Dated this 27th day of November, 2002.

29 Anne Corcoran Briggs

30 Board Member