

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

3
4 SANE ORDERLY DEVELOPMENT,
5 *Petitioner,*

6
7 vs.

8
9 CITY OF ROSEBURG,
10 *Respondent.*

11
12 LUBA No. 2024-055

13
14 ORDER

15 The challenged decision is a city council decision amending the city’s
16 comprehensive plan to add approximately 220 acres to the city’s urban growth
17 boundary (UGB) and to remove approximately 290 acres from the UGB. ORS
18 197.626(1)(b) provides that a local government

19 “shall submit for review and the Land Conservation and
20 Development Commission shall review * * * [a]n amendment of an
21 urban growth boundary by a city with a population of 2,500 or more
22 within its urban growth boundary that adds more than 50 acres to
23 the area within the urban growth boundary[.]”

24 ORS 197.825(2)(c)(A), in turn, provides that LUBA’s jurisdiction “[d]oes not
25 include a local government decision that is * * * [s]ubmitted to [DLCD] for
26 acknowledgment under ORS * * * 197.626[.]”

27 Although no party questions our jurisdiction in this matter, we raise the
28 issue of our jurisdiction on our own motion. *Adams v. City of Ashland*, 33 Or
29 LUBA 552, 554 (1997). It is not clear from the Notice of Intent to Appeal (NITA)

1 or from the appealed decision attached to the NITA as Exhibit A whether the city
2 has submitted the appealed decision to the Land Conservation and Development
3 Commission for review. *See Swalley Irrigation District v. City of Bend*, 59 Or
4 LUBA 52 (2009) (dismissing for lack of jurisdiction under ORS
5 197.825(2)(c)(A) an appeal of an ordinance amending the city’s UGB to add
6 more than 50 acres because the ordinance had been submitted to DLCD for
7 review pursuant to ORS 197.626).

8 As the appealing party, petitioner bears the burden of establishing that
9 LUBA has jurisdiction to review the challenged decision. *Billington v. Polk*
10 *County*, 299 Or 471, 475, 703 P2d 232 (1985). Petitioner shall have 14 days from
11 the date of this order to file a memorandum not to exceed 4,000 words explaining
12 why LUBA has jurisdiction over the appeal. The city shall have 14 days from the
13 date petitioner submits its memorandum to file a response not to exceed 4,000
14 words.

15 All deadlines in the appeal, including the deadline for the city to transmit
16 the record, are suspended until such time as the Board issues an order reactivating
17 the appeal.

18 Dated this 18th day of September 2024.

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Melissa M. Ryan
Board Member