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Senate Committee on Environment
and Natural Resources

Re: HB 4031 - In Support of A-22 for I-5 Parking Lot (aka the Red Barn)

Dear Chair Dembrow and Committee Members

I represent LCD, LLC, the owner of the 18-acre property some call the I-5 Parking Lot and Warehouse, and which those opposing the proposed zone-change to rural industrial have dubbed the Red Barn. The property is located on the westside of I-5, directly off of Exit 282.

As an attorney specializing in land-use for 30 years, I appreciate the opposition's argument that the Legislature should not intervene in local land-use matters. That has been the standard policy position local governments always assert when the Legislature considers such actions.

Our land-use system is primarily a creature of state law, and if it works in practice as it is supposed to in theory, then there would never be a need for the Legislature to step in and address local problems. But the statutes and administrative rules that guide the system are not perfect, and occasionally they produce a result that is unintended, unreasonable and unfair. When that happens, the Legislature has been willing to use its authority, in the face of local opposition, to solve those sorts of problems – as it should do in this case.

More than 10 years ago, the property at issue was legally developed to be an expansive farmer's market. The improvements made at a cost of about \$11 million dollars included:

- 3.5-acre asphalt parking lot.
- 9,600-square foot (SF) warehouse.
- 2,048 SF equipment storage building.
- 3,000 SF storage structure.
- Cell tower and maintenance shed.

The farmers market idea proved financially infeasible, and the property was foreclosed by the bank.

Today, despite the site's extensive infrastructure and its prime location next to an I-5 interchange, the property is practically unusable because of its designations as EFU and rural reserve. Clackamas County does not have the legal authority to address the issue, even if it wanted to.

The owner seeks a legislative re-zone to rural industrial as a common-sense recognition of the property's extensive development. State law makes it almost impossible for a property designated EFU to qualify for a zone change to another rural designation. And, the rural reserve designation goes one step further and outright prohibits any zone changes for 50 years.

Once LCDC issues its pending order regarding round two of the urban-rural reserve fight, my client intends to join other parties in appealing the matter to the Court of Appeals, extending the now eight-year legal battle for another couple of years. LCD will be challenging the rural reserve designation for the Parking Lot. It is the only remaining challenge to Clackamas County's designations.

Such an appeal will not be necessary if the Legislature approves the proposed rural industrial designation.

Thank you for your consideration of this matter.

Very truly yours,

Jeff Bachrach

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