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April 27, 2023

To: House Committee on Rules
From: Mary Kyle McCurdy, Deputy Director
Re: HB 3197– clear & objective standards on rural lands

Thank you for the opportunity to testify today in support of HB 3197, including the – 3 amendment. 1000 Friends of Oregon is a nonprofit, membership organization that works with Oregonians to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choice.

We continue to prefer the introduced version of House Bill 3197, but we are also supportive of the -3 amendment.

The bill corrects an error made by the Land Use Board of Appeals (LUBA) in a case, *Community Participation Organization 4M and Jill Warren vs. Washington County* (LUBA No. 2020-110) concerning the interpretation of ORS 197.307, known as the “clear and objective” statute. ORS 197.307 requires local governments to apply “clear and objective” standards, conditions, and procedures regulating residential development.

As someone who has practiced law in this area for decades, I can attest that the clear and objective statute was intended to apply, and has applied, only inside urban growth boundaries (UGBs) until this LUBA decision. Applying clear and objective standards for housing development inside UGBs makes sense; that is where we have focused housing development – near the things we all need to access regularly, like schools, stores, and services, and where we have invested in roads and pipes to serve the development.

It does not make sense outside UGBs, where the land is zoned mostly for farming, forestry, and natural resources – the places where we grow food and fiber, and protect and enjoy nature. Farm land, forest lands, and natural areas are *not* residential zones. Instead, these are areas where housing is minimized, so as to support, and not conflict with, farming and forestry and not interfere with streams, habitat, wetlands, and other natural areas. In these areas, statutes and rules have properly given local governments discretion to weigh factors and consider conditions in deciding whether a residential use will adversely interfere with farming and forestry practices and local resource-based economies, and to take those into consideration in determining how to site individual houses. Local governments also need that same discretion in protecting water quality, wildlife habitat, and other natural resources.

The -3 amendment would ensure that the clear and objective standards do not apply to these working lands and natural resource areas that are *not zoned for housing*. The amendment does apply these standards to lands outside UGBs that are zoned for rural residential levels of development – unincorporated communities and rural residential areas – and nonresource lands, with an operative date for these areas of July 1, 2025. This provides time for counties to make the necessary changes to their codes, and allows a more thorough assessment of the impacts this nondiscretionary path might mean for siting housing on rural lands with septic systems, wells, and other property-specific characteristics that should be taken into account in siting decisions.

HB 3197, including the -3 amendment, does not impact housing processes or production inside UGBs. We urge you to support HB 3197. Thank you for consideration of our comments.