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January 17, 2017

Land Conservation and Development Commission  
635 Capitol Street NE, Suite 150  
Salem, OR 97301

Re: HB 4079: Rulemaking  
Agenda Item, January 26-27, 2017 LCDC meeting

Dear Chair Macpherson and Commission Members:

On behalf of 1000 Friends of Oregon, I participated in the Rules Advisory Committee (RAC) on HB 4079, which drafted the proposal before you. We appreciate the participation of Commissioners McArthur, Eberwein, and Macpherson in this rulemaking and the expertise of your staff. The research by the University of Oregon team was invaluable to informing our work.

1000 Friends of Oregon opposed HB 4079 as it was going through the legislature, for reasons described below. However, once it became law, the goal of the rulemaking is to see if the concept embedded in HB 4079 could result in the construction of housing restricted to those of defined lower incomes for a specified period of time.

We support the RAC's recommendation before you. It is an accurate implementation of the bill's provisions and, except for one issue, it represents a consensus of RAC members.

#### I. Background – Why 1000 Friends Opposed HB 4079

HB 4079 allows two “pilot project” cities, one large and one small, to expand their urban growth boundaries by up to 50 acres each for residential use, including some percentage of affordable housing, without complying with Oregon's land use laws, in particular:

- A city may expand its UGB without regard to the traditional “priority” scheme of expanding into partly developed and less valuable lands first, and productive farm and forest lands last. Instead, under HB 4079, the UGB expansion can go immediately to non-high value farm and forest lands.
- A city using HB 4079 does not need to demonstrate that it actually needs more land for housing. Oregon's land use laws provide that cities should have a 20-year supply of land for all urban uses, including residential. Under HB 4079, a city could have a huge vacant land supply and yet still expand its UGB on to productive farm and forest lands.

1000 Friends and others opposed HB 4079 because it lets cities off the Goal 10 hook to ensure their existing residential zoning meets the housing needs of all – doing so requires steps that might be

more politically difficult, and yet would be more cost effective and provide more housing where it is needed. And once again, under HB 4079 the agricultural industry will bear the brunt of urban needs.

If a city has a 20-year land supply, and yet has an affordable housing need, that indicates **the city has not zoned residential land for the densities and types people need, and in the locations, that housing is needed.** The city has not stepped up to appropriately zone its residential land supply to meet the needs of all its residents – including enough apartments, duplexes, and attached single family housing. Rezoning for these housing types provides the opportunity for moderate and lower income workers, the elderly, single-headed households, and others to live closer-in to jobs, schools, and retail, and to age in their own neighborhoods.

HB 4079 side-steps the reality of the expense required to provide the full set of infrastructure to raw land, the length of time it takes to build-out pipes and roads, and the impact paying for those costs has on housing affordability across the community. We are concerned that HB 4079 *appears* to offer a solution to affordable housing needs, but due to the expense and impracticality, might not result in any affordable housing being built.

However, HB 4079 has passed. As stated by proponents of the bill, and some legislators willing to go along with it to see how it played out, it is a “proof of concept”: if all other things are held relatively equal, but expanding the UGB on to farm and forest lands without even showing a need to do so is made possible, can sufficient long term affordable housing that meets the needs of its residents be built, and what can we learn from it for the land use program.

## II. The RAC Recommendation

1000 Friends approached being on the RAC with this in mind: HB 4079 is a proof of concept, and therefore not only should the rule accurately reflect the words and spirit of the bill, but if no city makes use of it, that is *not* a failure of the rules. It might, instead, indicate that other factors are more significant to fulfilling the objective of providing more affordable housing – for example, infrastructure costs, distance to employment centers, availability of transit, housing markets in general in that community, etc.... Therefore, it is critical that the Department, cities, and advocates ensure that the HB 4079 process provides feedback information to learn from.

This proof of concept approach also means that given the extraordinary degree to which HB 4079 allows a city to disregard its Goal 10 and 14 obligations – and those are *public* obligations that impact a much wider population – the public should ensure that the housing is made available to those truly in need. This informs our position on the two points of most discussion and some disagreement in the rules

The percentage of total dwelling units in a pilot project that are reserved for affordable housing, in OAR 660-039-0070. The RAC came to a consensus at 30%. 1000 Friends, and other RAC members, advocated for a higher percentage. We ask that you not decrease this from the 30% level.

Income limits for qualifying households; OAR 660-039-0010(1). 1000 Friends, and the majority of the RAC, agree with your staff recommendation, that the qualifying income should be set at 80% or below of area median income. HB 4079 allows an extraordinary waiver of the land use system for this (no need, on to farm land, etc.), so something this unique should be reserved for those who are harder to house.

Research conducted by the University of Oregon for this project, and described at pages 4-5 of the staff report, shows that the highest need for affordable housing in the eligible communities is overwhelmingly amongst renters. That data is aggregated; below is data from 3 counties<sup>1</sup> that have been mentioned as having cities that might make use of HB 4079:

**Lane County:**

41% renters  
55% of renters are cost burdened  
29% of homeowners are cost burdened  
23% of the total population are cost burdened renters

**Jackson County:**

38% renters  
50% of renters are cost burdened  
37% of homeowners are cost burdened

**Josephine County:**

34% renters  
55% of renters are cost burdened  
31% of homeowners are cost burdened

We urge you to set the qualifying income level at 80% or below of AMI.

Thank you for consideration of our comments.

Sincerely,



Mary Kyle McCurdy  
Deputy Director

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<sup>1</sup> American Community Survey, <https://factfinder.census.gov/>