Joint Committee on Ways and Means
Subcommittee on Transportaton and Economic Development
HB 2001 Public Hearing, June 11, 2019
Testimony of Al Johnson, Bend, Oregon

Dear Chairs and Members of the Committee:

Oregon needs a nonexclusive residential use zoning statute for the same reasons it needs an exclusive farm use zoning statute. Please give your support to this bill.

Having represented cities, counties, landowners, and affordable housing providers across Oregon for almost 40 years prior to my retirement, I assure you that the following inconvenient truths about Oregon's land use system are as plain to those willing to face facts as human-caused climate change:

1. Oregon's land use system currently excludes urban residential development from

> ---all rural farmland
> -- all rural forestland
> -- all rural residential land
> -- substantially all urban industrial, commercial, open space, wetland, parklands,
> and wildlife habitat
> -- nearly all residentially-designated land inside urban growth boundaries but outside city limits.
> -- most residentially-designated land inside or outside of city limits that is protected from further residiential development by private covenants and deed restrictions.
> -- most residentially-designated lands inside or outside of city limits that lack access to public sewer, water, and other public facilities and services required by Oregon land use laws to be provided concurrently with development.
> -- the vast majority of the tiny bit of Oregon that has none of the above barriers is planned and zoned for single-family development.

2. Adding to the current supply by expanding urban growth boundaries is extremely difficult and too often is expensive or impossible to build because of barriers to annexation, inability to meet transportation, sewer and other concurrency requirements, and other barriers.

3.   So-called Transit-Oriented Development (TOD) or "Station Area Development" has in practice been premium market-rate development on a very limited supply of sites suitable for such development.

4. The only "trickle-down" that happens under these circumstances, is the trickling down of high prices, driving Oregonians into ever-lower tiers of affordability and ever-higher levels of housing cost burdens.

HB 2001 is the only solution I have seen that carries a promise of long-term viability of our state land use system, which is based on a realistic balance among the many competitors for a place in the beautiful Oregon landscape.   That is because it addresses de facto exclusionary urban growth boundaries that foreclose affordable and inclusive housing opportunities inside Oregon's official urban growth boundaries.

These locally-self-imposed "beautiful walls" establish virtual gates around the vast majority of the tiny fraction of Oregon that is inside current urban growth boundaries and planned and zoned for residential development. They fence out almost all housing that is not single-family detached housing.   They wall out almost all urban lands in locations that are realistically available for development to meet current needs for housing in types, locations, tenures, prices, and rents affordable to all Oregonians, as required by Oregon's statewide housing goal and statutes.

SB 2001 will be Oregon's Nonexclusive Home Use (NHU) Law. It will do for scarce urban residential lands what Oregon's Exclusive Farm Use (EFU) zoning law has long done for rural agricultural lands.

Since the earliest days of Oregon's state land use system, many, though by no means all, local planners and public officials have argued that the state should set broad goals and leave the detailed planning and implementation to them.

These folks have asked the state to "trust us" to protect Oregon's farm and forest lands. They have asked the state to "trust us" on whether and how to expand our urban growth boundaries. They have asked the state to "trust us" on our transportation planning. Now they are asking you to "trust us" on meeting their obligations under Oregon's Statewide Housing Goal and Needed Housing statutes.

In so doing, they are asking you to unlearn the hard lessons of the past. Beginning in 1973, Senate Bill 100 established a strong state role because local governments had failed to move the ball handed to them by an earlier statute. As explained by one historian,

"[T]he original land use bill, Senate Bill 10, passed in 1969, . . . required each local government to enact a comprehensive plan and outlined broad goals for those plans. The problem was that many local governments did not even make an attempt to address the goals sketched by the legislature and those that did so had no success in implementing the plans they outlined. Jim Smart, farmer and former LCDC commissioner, says that the "state became involved in detailing more specific policies . . . because it was the only way to carry out the mandate of the state legislature and the Oregon electorate to protect farmlands and forest lands and reduce the costs of new growth." Leonard, Managing Oregon Growth (1983), p. 129.

Over the past four decades the lessons that that led to SB 100 have been relearned in different contexts. Oregon's state lawmakers have often had to become more prescriptive, always in the face of the same arguments for more local control and less deliberate speed on the part of the state. Many of these specific mandates protect agricultural and forest lands, wetlands, animal habitat, estuaries, and open space. Others impose detailed concurrency requirements governing upgrades to sewers, roads, and other infrastructure.

These enhanced state protections of resource lands, infrastructure capacity, and the public fisc have worked. Often they have also further reduced the availability and affordability of already-scarce urban residential lands. SB 2001 is thus an important step towards restoring and maintaining the balance between conservation and development that is reflected in the LCDC's 19 urban and rural goals. That balance is fundamental to the continuing success and viability of what has long been known as Oregon's "land use constitution.