September 22, 2015

Land Conservation and Development Commission
Delivered via email to Bob Rindy, Amie Abbott and Casaria Taylor, Department of Land Conservation and Development

Dear Chair Macpherson and Members of the Land Conservation and Development Commission,

The Oregon Chapter of the American Planning Association (OAPA) represents over 850 professional and citizen planners in the State of Oregon. Our mission is to promote the art and the science of planning in Oregon.

Thank you for the opportunity to comment on the proposed rules to implement 2013 HB 2254. We commend the Department, Commission, and the numerous advisory committee members who have devoted years to finding ways to improve the planning for urbanization and urban growth boundaries. Before directing you to our comments on the draft rule, we want to take a moment to recognize the work that’s been done to get to this point. The Legislature passed HB 2253 and HB 2254 in 2013. Portland State University’s Population Research Center (PRC) worked with the Department of Land Conservation and Development (DLCD) staff and a rules advisory committee (RAC) to create and enable the Commission to adopt rules for the development of population forecasts for every city and county outside of Metro. The PRC just completed the first round of forecasts for ten counties and all of their cities in June of this year. While this was taking place, Department staff were working with a RAC on implementing HB 2254. The RAC has met 11 times over the last two years. Staff has asked a lot from the RAC and the RAC has delivered.

Overall, OAPA is supportive of the proposed draft rules and believe they go a long way in making the process more efficient without compromising the quality of analysis and the rational of the Urban Growth Boundary (UGB) process.

Specifically, OAPA recommends that Land Conservation and Development Commission (LCDC):

- **Keep the eye on the prize and adopt rules that create a simpler, and less time and resource intensive process.** Oregon communities need a simpler process to analyze their UGBs. A single planner working for a community in Oregon should be able to do this work with a spreadsheet.

- **Don’t add new definitions.** Keep the definitions recommended by the RAC.

- **Make definitions and assumptions consistent when there is not a compelling reason for them to be different.** There are several places in the proposed rule where definitions are not consistent. For example, Division 38 states that land in UGBs is 50% buildable if it’s at least one contiguous acre of more than 25% slope. However, it then states that land outside UGBs is 0% buildable if it’s a contiguous five acres with more than 75% of it with more than 25% slope or...
any land with more than 40% slope. Similar inconsistencies also occur for lands in the 100-year flood plain.

The LCDC may want to consider simplifying the draft rule and referring Division 8 language for buildable land (660-008-005) and state that there is an assumption of 0% buildable land on areas that are severely constrained by natural hazards as determined under Statewide Planning Goal 7; subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17, or 18; have a slope of 25% or more; are in the 100-year flood plain; or that cannot be provided with public facilities.

• **Don’t add a layer of value judgments on the proposed residential and employment ranges.** Trust the work completed by the Community Service Center at the University of Oregon. It’s the most comprehensive review of development that’s occurred in UGBs in Oregon to date.

Some people may find that the development that has occurred does not meet their expectations with respect to density. Efficiency is one of the guiding principles of this effort, with the goal of ensuring that land within urban growth boundaries is used efficiently to accomplish multiple objectives – ensure needed housing, ensure economic opportunities, and provide land for uses that need to be located within urban growth boundaries.

Please be mindful to not devote undue time and energy on whether densities are “too low” or “too high.” The goal is not to achieve a magic number of units or jobs per acre; the goal is develop a process that ensures communities can evaluate their UGBs more frequently to see how they’re doing, and to take measures to use land more efficiently as their communities grow and change.

• **Support local communities’ ability to make incremental changes to efficiency – at their own pace and in ways that works for them.** In several sections, the draft rule requires communities to propose a “bump” in some metric, such as density. This work will require some close coordination and listening to ensure that communities are doing enough to use land efficiently for housing and jobs, while respecting that different communities will have different expectations on the “bump.” For one community, a one percent increase in density may not move the needle; for another, a one percent increase may be a push.

• **Make sure the paths are clear for determining housing and employment needs.** Consider testimony and be prepared to make changes to the rule to ensure that what’s required from a community is clear and that expected outcomes are clear. State law already requires that a community demonstrate that the estimate needs for housing and/or employment cannot reasonably be accommodated on land already inside the UGB before expanding the UGB. Before adopting the final rules, make sure that a community can make this determination with as much certainty as possible before going down the road to expand their UGB. Rely on the work completed by staff and the RAC have completed with respect to density ranges and efficiency measures.

• **Monitor the analysis of serviceability.** OAPA supports the work done to date to improve planning for serviceable land in UGBs. We recommend the Commission and Department monitor how communities are doing with respect to this requirement and make sure such input can inform any improvements to this work.

• **Conduct an evaluation every five years and update the rules as needed.** The Commission is about to adopt its policy agenda for 2015-2017. OAPA recommends the Commission plan an
evaluation of these rules in five years, around the 2020-2022 biennium and update the rules as needed based on that evaluation.

Thank you again for the opportunity to provide feedback on the proposed rules to implement 2013 HB 2254.

Sincerely,

Jason Franklin, AICP
OAPA President