September 22, 2020

Robin McArthur, Chair, and Katie Pearmine, Vice-Chair
Land Conservation and Development Commission
esther.johnson@state.or.us

Re: Testimony on Agenda Item 4 - Climate-Friendly and Equitable Communities Rulemaking

Dear Chair McArthur, Vice-Chair Pearmine, and Members of the Commission:

The Oregon Chapter of the American Planning Association (OAPA) supports initiating this critical rulemaking effort, which will lead to reductions in greenhouse (GHG) emissions by autos and small trucks and as stated in the title, more climate-friendly and equitable Oregon communities.

Our organization’s membership is comprised of professional planners, public and private, who will be charged with institutionalizing the practices, policies, and zoning and development code changes necessitated by the rulemaking. Our membership also includes the volunteer planning commissioners who are a key component of the public decision-making process. OAPA’s focus in this testimony, and our future involvement in the process, is to bring this local planning perspective to the rulemaking effort.

OAPA concurs with the desired outcome to “take action with a sense of urgency and lasting programmatic response.” Time is not on our side. It is imperative that the Department of Land Conservation and Development (DLCD) acts to complete the rulemaking as quickly and as efficiently as possible. It is also imperative that jurisdictional and organizational change efforts begin immediately upon completion of rulemaking, rather than waiting for more planning, discussed in further detail below. The on-the-ground impact of the new rules needs to be felt sooner, not later.

This imperative has led us to believe (contrary to our prior emphasis on completing scenario planning) that the Land Conservation and Development Commission’s (LCDC) primary focus should be on:

- Immediately requiring jurisdictions to change their plans and regulations to incorporate those elements known to significantly reduce GHG emissions, and
- Helping to find the state and federal resources necessary to do so.

We recognize this is a change of emphasis from the staff proposed actions and may not be the route LCDC chooses to take. What follows are a series of questions, comments, and suggestions to the proposal before you. We look forward to responses and thoughts from the commission and from the agency.

1. Proposed Actions: Page 6 of the staff report briefly describes two proposed actions: Planning for Carbon Pollution Reductions in Metropolitan Areas and Requiring Climate-Friendly and Equitable
Land Use and Transportation Planning and Land Use Regulations. They are further described beginning on page 3 of Attachment A. We want to make sure we understand the distinction between, and the intent of, the two actions.

The first action appears to focus on requiring local and regional planning (as regards GHG emissions from autos and light trucks) within Metropolitan Planning Organizations (MPOs). As described in Attachment C, this could take the form of ‘scenario planning’ or of a ‘local baseline assessment to the STS vision.’ Is this correct?

OAPA is concerned that this approach, if dependent on scenario planning work at the MPO level, will significantly extend the timeline for achieving what local jurisdictions will need to do on the ground. Can LCDC ensure that local jurisdictions will be required to incorporate the policies and actions that result from such scenario work into their land use and transportation plans? It appears that this approach means that following rulemaking, local jurisdictions will engage in some form of coordinated local/regional planning rather than in making changes to their policies, practices, zoning, and transportation and land use codes. Previous scenario planning efforts have generally resulted in the same set of “levers” or actions that will be needed to achieve the GHG reduction goals. Additional scenario planning efforts are likely to identify the same elements.

Although we understand the conceptual benefits of regional alignment and collaboration to achieve cross-jurisdictional climate goals, the types of decisions that need to be made for transportation systems that support GHG emission reductions are well known. The land use and transportation practices that are needed to support GHG emission reductions by replacing auto/light truck trips with walking, biking, transit and shorter trips are also well known. It seems that it would be a better use of resources to focus on local jurisdictions changing their comprehensive plan policies, Transportation System Plans (TSPs), and land use and transportation codes to implement what we know and to do so sooner, rather than later.

The second action addresses regulations. This action, if it focuses on arriving at what comprehensive plan amendments are needed, should result in an immediate pivot to local jurisdiction action on changes once the rulemaking is completed. What local jurisdictions will the rulemaking apply to? Only those within the MPO boundaries, or will it apply more broadly, and if so, where?

2. Schedule: A rulemaking schedule is shown on page 7 of the staff report. OAPA is concerned that this 15-month schedule does not show the needed urgency. We know that this rulemaking process is well overdue. We only need to look out our windows to see results of delaying on-the-ground change. Focusing rules on local action rather than scenario planning would help shorten the process. We also do not understand the expectation that this rulemaking process stops for three months during the legislative session. Other agencies do not stop their core functions during the session. Can the Rulemaking Advisory Committee (RAC) meet more frequently? Can LCDC meet more frequently?

Does the department have a more detailed work plan than is laid out in the schedule? Does it describe tasks that need to be done and the timing of those tasks, including “critical path” tasks and their
alignment with RAC and LCDC meetings? It is difficult to reconcile the actions described in Attachment A to the RAC meeting items or to understand the degree of urgency of this schedule.

3. Scenario Planning: Page 4 of the staff report describes scenario planning policy options, which are detailed in Attachment C. As previously noted, OAPA believes that local action is a higher priority than additional scenario planning that is unlikely to yield a different result. If the staff’s Option B is chosen, we have these questions to pose:

- What is “short term” and what does “implementation” mean regarding Central Lane and Salem-Keizer full scenario planning?
- What does “Local Baseline Assessment to STS Vision” mean for the five ‘smaller’ metropolitan areas? What is the consequence of doing scenario planning “in the future”?
- What can be expected from the above efforts that will result in on-the-ground changes by local jurisdictions?
- When do these planning efforts occur in the context of the rulemaking schedule?
- Will the scenario planning efforts focus on those actions over which local jurisdictions and LCDC have authority? Past scenario efforts have, for example, included identifying “clean fuel” as a lever even though these are Federal/State issues.
- On page 4 of the staff report, the final sentence in III.A indicates that “staff’s recommendation is integrated into the recommended rulemaking charge described below,” but we were not able to identify where that was.

4. Desired Outcomes: Pages 5 and 6 of the staff report propose six desired outcomes from rulemaking. OAPA has one suggestion and a few questions:

- Rules that result in new community forms that promote alternatives to driving is a high-value lever for reducing GHG emissions from autos and small trucks. An added desired outcome suggestion: “More transit-supportive development in mixed-use and walkable areas of metropolitan communities.”
- Outcome 3 includes “healthy living.” Studies have shown that increased access to transit in walkable (and bikeable) communities increases active living, resulting in healthy outcomes. Is this the context of healthy living in this outcome?
- Outcome 5 says impacted communities “are consulted and considered in state policies, programs, and grant criteria.” OAPA concurs but would add “and local” following the word “state.” If the result of this rulemaking is to have “Climate-friendly and Equitable Communities,” it is absolutely critical that all impacted communities be at the center of the local efforts that will follow the rulemaking.

5. Requirements: Attachment A (page 3) proposes requirements that would be included in rulemaking. Requirement C relates to off-street parking mandates. OAPA would also suggest including regulations that establish maximum allowed parking.

6. Equity Considerations: We recognize that targeted transportation investments in neighborhoods may have the unintended consequence of displacement of vulnerable populations, such as low-income residential and commercial tenants, as these investments may lead to increased desirability and cost of living in neighborhoods. We ask the Commission to be very mindful of this possibility
during the rulemaking process and consider effective anti-displacement measures in conjunction with requirements for investments in walking, cycling, and transit infrastructure. We look forward to helping devise strategies to avoid displacement in the rulemaking process.

7. RAC: OAPA is eager to participate in the RAC. We have requested that two OAPA members serve on the RAC. OAPA feels that it is important that we connect our organization’s efforts to dual aspects of the rulemaking — climate friendly and equitable communities. This will also make it easier for us to keep our membership informed, as many members will ultimately be the implementing practitioners on the outcomes of the rulemaking.

OAPA is an independent, statewide, not-for-profit membership organization of more than 950 planners from across the state who work for cities, counties, special districts, state agencies, tribes, community-based organizations, and private firms. OAPA provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and resident empowerment, and providing the tools and support necessary to meet the challenges of growth and change. OAPA supports sustainable communities, working to enhance the quality of life for current and future generations by helping to create and stabilize places that are equitable, healthy, and resilient, and to provide ongoing economic, environmental, and social benefits.

Thank you for your time and attention to our testimony.

Sincerely,

Aaron Ray, AICP, President
Board of Directors