

ZONING**PRACTICE**

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PRACTICE AFFORDABLE HOUSING

The background of the cover features a low-angle, warm-toned photograph of a multi-story building with a prominent gabled roof and dormer windows. Overlaid on the lower half of the image is a large, bold, black number '12', indicating the issue number. The number is positioned centrally, with the '1' on the left and the '2' on the right, both extending towards the bottom edge of the cover.

Zoning to Expand Affordable Housing

By Jeffrey Lubell

Despite a recent slowdown in home sales, working families continue to struggle to find affordable homes—both rental and for sale—in communities around the country.



Homeowner's Rehab, Inc.

➡ Auburn Court, a mixed income multifamily development in Cambridge, Massachusetts.

challenge facing working families and the range of policy options available to state and local leaders seeking to address it. Following this overview, the article examines the potential of each of the three zoning policies to increase the availability of homes affordable to working families. The article concludes with brief suggestions on how to build on these policy proposals to launch a comprehensive and coordinated effort to meet a community's need for affordable homes.

HOUSING CHALLENGES FACING WORKING FAMILIES

According to Barbara J. Lipman, author of *The Housing Landscape for America's Working Families*, a publication of the D.C.-based Center for Housing Policy, five million working families nationwide had critical housing needs in 2003—an increase of 60 percent since 1997. For purposes of this calculation, “working families” are defined as families with earnings equal to at least full-time minimum wage work but less than 120 percent of area median income. These tabulations of data from the 2003 American Housing Survey are the most recent available. Updated tabulations will be available in early to mid-2007. The vast majority of these families spent half or more of their monthly incomes on the costs of owning or renting a home. Others had critical housing needs because they lived in homes with severe physical problems, such as lack of reliable plumbing or heating.

Millions of additional working families have moderate housing cost burdens or can only afford to live far from their places of work, forcing them to endure long commutes and spend much of their housing cost savings on

The problem has grown to the point where it is no longer of concern only to the affected families, but also to the communities in which they live or wish to live.

Communities that cannot provide affordable homes for teachers, nurses, fire fighters, police officers, and other essential workers are at a competitive disadvantage in attracting dedicated workers for these positions. Similarly, employers will be less likely to stay in or relocate to communities that cannot provide an adequate supply of homes that are affordable to their workers.

Providing affordable homes is a major challenge that requires multiple responses by a variety of actors at the federal, state, and local levels. While city planners, zoning board officials, and others involved in the zoning process

cannot solve this problem alone, there are a number of steps they can take to make a material difference in increasing the availability of homes affordable to working families.

This issue of *Zoning Practice* highlights three zoning tools used by communities to increase the availability of affordable homes:

- Revising zoning policies to make more land available for residential use and increase allowable densities within residential zones.
- Adopting zoning policies that support a diversity of housing types, including multifamily, accessory dwelling units, and manufactured homes.
- Establishing inclusionary zoning requirements or incentives.

To set these tools in context, we start by reviewing the scope of the affordable housing

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About the Author

Jeffrey Lubell is executive director of the Center for Housing Policy, a nonprofit research organization affiliated with the National Housing Conference and based in Washington, D.C. This article is based on a broader examination of promising state and local housing policies by the same author titled *Increasing the Availability of Affordable Homes: A Handbook of High-Impact State and Local Solutions* (and an accompanying analysis), published and copyrighted jointly by the Center for Housing Policy and Homes for Working Families. Those documents are available at www.homesforworkingfamilies.org and www.nhc.org.

transportation, according to Lipman’s 2006 report for the Center For Housing Policy, *A Heavy Load: The Combined Housing and Transportation Burdens of Working Families*. These problems undermine the well-being of both the affected families and the communities in which they live or wish to live. Families that cannot afford the costs of their homes may be only one paycheck away from foreclosure or eviction. They also may have insufficient income left over to afford necessary food, health, and education expenses, leading to adverse nutrition, health, and education outcomes for their children. Such problems are compounded by the stress of continually struggling to meet unaffordable housing costs and the high cost and lost time with family associated with lengthy commutes.

For many communities, the high cost of homes makes it difficult or impossible for police officers, fire fighters, and other essential workers to live in the communities they serve, reducing their capacity to respond promptly to emergency situations and to participate in community life after 5 p.m. The high cost of homes also makes it difficult for communities to attract teachers, nurses, and other valuable community servants and for employers to attract the workers they need to sustain and grow their businesses.

These are serious problems. But fortunately, there is a wealth of experience in how to address them. While in earlier decades the federal government may have taken the lead in developing solutions, the focus of decision making today is at the state and local level. Many promising strategies exist for municipal leaders—including a number of policies that rely on the zoning process—to expand the availability of affordable homes for working families.

OPTIONS FOR STATE AND LOCAL GOVERNMENTS

State and local governments can choose from six principal options to increase the availability of affordable homes.

Expand the availability of sites for the development of affordable homes. In most communities where homes are fiscally out of reach for working families, land is expensive. By making publicly owned land and tax-delinquent properties available for the development of affordable homes, local governments can neutralize this obstacle. Local governments also can expand the supply of sites for new development through changes in zoning rules or maps that make new areas available for development or expand the number of homes that can be built in existing residential areas.

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Reduce red tape and other regulatory barriers to affordable homes. In the development world, time is money. The longer it takes to gain the necessary approvals to build a home, and the more uncertainty involved in the approval process, the higher the costs of newly built or renovated homes. By expediting the approval process for affordable homes

and addressing the regulatory barriers that drive up costs, such as overly restrictive zoning rules and building codes and regressive fees, state and local governments can cut through the red tape and expand the supply of affordable homes.

Harness the power of strong housing markets. The greatest housing challenges are found in hot housing markets where the costs of buying or renting a home increase much faster than incomes. Fortunately, state and local governments can take steps to capitalize on strong markets to expand the supply of affordable homes. These policies include strategies for tapping the increased tax revenue associated with increases in property values and an active real estate market, as well as incentivizing or requiring the development of a modest number of affordable homes as part of the process of developing more expensive homes.

Generate additional capital for affordable homes. While successful efforts to reduce regulatory barriers can help expand the supply of affordable homes, in many communities additional resources will be needed to bring the price of homes within reach of working families. There is a range of promising approaches for generating revenue for this purpose, including leveraging additional federal funds through the four percent low-income housing tax credit program, supporting the issuance of general obligation bonds for affordable homes, and tapping employer interest in providing homes for their workers.

Preserve and recycle resources for affordable homes. Given the limited availability of public funds for affordable homes, it is essential that funding be used in a cost-effective

HIGH-IMPACT STATE AND LOCAL HOUSING SOLUTIONS

Expand the Availability of Sites for Affordable Homes

- Make publicly owned land available for affordable homes.
- Facilitate the reuse of vacant, abandoned, tax-delinquent properties.
- Expand the supply of homes through rezonings that make more land available for residential use and increase allowable densities within residential zones.

Reduce Red Tape and Other Regulatory Barriers to Affordable Homes

- Ensure that zoning policies support a diversity of housing types, including multifamily, accessory dwelling units, and manufactured homes.
- Adopt expedited permitting and review policies.
- Revise impact fee structure to reduce the burden on families occupying smaller, less-expensive homes.
- Adopt building codes that facilitate rehabilitation of existing structures.

Harness the Power of Strong Housing Markets

- Utilize tax increment financing to fund affordable homes.
- Stimulate rental home construction and rehabilitation through tax abatements.
- Create or expand dedicated housing trust funds.
- Establish inclusionary zoning requirements or incentives.
- Use cross-subsidies to support mixed income housing.

Generate Additional Capital for Affordable Homes

- Expand utilization of four percent low-income housing tax credits.
- Provide pre-development, acquisition, and working capital financing.
- Support housing bond issues.
- Ensure that housing finance agency reserves are used for affordable homes.
- Tap and foster employer interest in affordable homes for their workers.

Preserve and Recycle Resources for Affordable Homes

- Preserve affordable rental homes.
- Recycle downpayment assistance.
- Use shared equity mechanisms to create and preserve a housing stock affordable to families with a mix of incomes.

Empower Residents to Purchase and Retain Private Market Homes

- Expand home ownership education and counseling, including credit counseling.
- Help moderate income home owners avoid forecloser and equity loss.

manner designed to produce the maximum benefits for the minimum cost. Providing funds to help preserve existing affordable homes that might otherwise deteriorate due to neglect or be lost from the affordable inventory through gentrification is one particularly cost-effective strategy. Others include recycling down payment assistance by providing assistance in the form of loans rather than grants and the use of “shared equity” strategies that help preserve the buying power of government subsidies for homeownership in markets with rapidly appreciating home prices.

Empower residents to purchase and retain private-market homes. As a group, the policies described in the first five roles have focused

overwhelmingly on expanding the supply of homes. But there is also a “demand” side to the equation. To the extent that families have adequate incomes and credit to afford private-market homes, the need for government intervention to provide affordable homes is greatly reduced. One demand-side strategy within the domain of housing policy is to invest in home ownership education and counseling that help families navigate the complicated home buying process and improve their credit and debt profile so they can access more private-market mortgage capital at reasonable rates. Given the rise of foreclosures in certain markets, it is important to marry this “pre-purchase” strategy with a “post-purchase” one designed to help

existing home owners retain their home ownership status in the face of confusing mortgage products, rising interest rates, and rising property taxes.

ZONING TOOLS

The pages that follow focus on three zoning tools for meeting the need for affordable homes. The sidebar on the left has a more exhaustive list of high-impact local and state strategies.

Rezoning. Communities can expand the supply of homes through rezonings that make more land available for residential use or increase allowable densities within residential zones. As noted above, one of the biggest challenges involved in building affordable homes in hot housing markets is finding reasonably priced sites for development. By determining what land is available for residential development, and the density with which homes may be built in areas zoned for residential use, zoning policies obviously have a direct bearing on the availability of sites for development. The more sites that are available, the lower the costs, and thus the greater likelihood of a well-functioning housing market capable of producing homes affordable to working families.

By revising zoning policies to make land available for residential development that is not currently zoned for that use, some localities have successfully increased the supply of land for new development. Localities also have expanded the supply of homes by increasing (in appropriate locations) the allowable densities within residential areas.

For example, Fairfax County, Virginia, recently approved a plan to rezone an area near the Vienna Metro stop to substantially increase densities. By combining an older low-density subdivision that contained approximately 65 single-family homes with five acres that had previously been used for surface parking, the MetroWest redevelopment plan will provide approximately 2,250 condominiums, apartments, and townhouses, along with two acres of structured parking, up to 300,000 square feet of office space, and up to 190,000 square feet of retail space. During negotiations over the proposed MetroWest development with developer Pulte Homes, Fairfax County secured a promise that approximately five percent of the homes would be affordable—almost double the number required under current Fairfax County requirements for developments of this density.

New York City took a similar approach in the comprehensive rezoning of Greenpoint-Williamsburg in May 2005. As described by the city, the rezoning “sets the stage for the renewal of a vacant and underutilized stretch of the Brooklyn waterfront. . . . It reclaims two miles of long-neglected East River waterfront to create over 50 acres of open space, including a continuous public esplanade and a new 28-acre park surrounding the Bushwick Inlet. The plan creates new opportunities for thousands of units of much-needed housing, including affordable housing, within a detailed urban design plan that addresses the scale of the existing neighborhoods.”

The zoning plan includes a voluntary inclusionary housing program that provides

To yield meaningful benefits for home affordability, such strategies generally need to be implemented either on a broad enough scale to significantly increase the supply of homes or in a manner designed specifically to lead to the production of additional affordable homes, such as through inclusionary zoning requirements or incentives. The latter approach is discussed later in this article.

Zoning for a variety of housing types.

Many communities have zoning policies that either directly restrict or have the effect of restricting (for example, through infeasible parking requirements) the construction of new multifamily homes, manufactured homes, or accessory dwelling units. Because each of these housing types can be used to construct homes

neighborhoods, increasing the ridership for public transit, and providing homes for working families near where they work—cutting down on traffic congestion and improving job retention. Many of the higher-end manufactured homes can no longer be distinguished from stick-built homes, yet cost thousands less. Finally, accessory dwellings—smaller homes that are built next to or as part of a principal home—can be an excellent way to provide affordable homes for parents or caretakers of the principal residents or to provide opportunities to expand the supply of rental homes while generating income for the owners.

Auburn Court, in Cambridge, Massachusetts, is a good example of an attractive mixed income development that provides 137 homes in a multifamily setting spread out along three garden courtyard residential blocks. Established as part of the larger University Park development on land assembled by the Massachusetts Institute of Technology, Auburn Court consists of a mix of one-, two-, and three-bedroom rental homes distributed among flats and duplexes. Most buildings in the development are three stories, though several rise up to six stories to frame the entrance to University Park. With half the homes affordable to families with incomes below 50 percent of the area median, and other homes either at market rate or affordable to families at 90 percent of the area median income, Auburn Court was featured as part of a recent National Building Museum exhibit on affordable homes.

Many people are familiar with the use of manufactured homes in rural settings, but Oakland Community Housing Inc. [California] demonstrates that they also have a place in the city. As part of their infill homeownership initiative, they have produced both single-family detached homes (the “E” Street project) and multistory town homes (the Linden Terrace project).

Both Santa Rosa, California, and Mercer Island, Washington, use accessory dwelling units as a strategy for expanding the supply of affordable homes. In Santa Rosa, accessory dwelling units are typically incorporated into new developments, such as Courtside Village, a pedestrian-friendly mixed use development that includes 100 accessory units. In Mercer Island, officials have streamlined the permitting process and launched a public education



➡ A rendering of the proposed MetroWest development in Vienna, Virginia.

a density bonus and tax abatements to developers that agree to certain affordability restrictions. Initial reports show a strong take-up of these incentives. According to Mayor Bloomberg’s June 26, 2006, press release, “The plan will spur 10,800 new units of much-needed housing, and through a powerful combination of zoning incentives, housing programs, and city-owned land, 3,500 of those units will be affordable. One year after the rezoning was enacted there are already 1,000 affordable units in the pipeline for near-term construction on the waterfront alone. That’s 64 percent of the rezoning estimate of 1,563 affordable units on the waterfront.”

that are less expensive than detached, single-family homes, such policies tend to make homes more expensive for working families.

On the other hand, by adopting zoning policies that maximize the availability of these housing types, communities can both expand the supply of affordable homes and meet a wider range of their constituents’ needs.

In recent years, tremendous advances have been made in the design of both multifamily and manufactured homes. When well designed, both types are of extremely high quality and fit in well into the community. Multifamily homes can add value to communities by helping to revitalize distressed

and information program to promote accessory units. The Transportation and Land Use Coalition reports that Santa Rosa's strategy produces about 39 to 47 new accessory units each year, while Mercer Island produced about 173 accessory units between 1995 and 2004.

None of these strategies would be possible without zoning policies that allow reasonable use of a diverse range of housing types to expand choices and ensure the availability of homes affordable to working families.

Inclusionary zoning requirements or incentives. Few housing policies have generated as much attention (and in many communities, controversy) in recent years as inclusionary zoning. Inclusionary zoning generally involves a requirement or an incentive for developers to include a modest percentage of affordable homes within newly created developments. This is one way of harnessing the power of the market to produce affordable homes.

The nation's first inclusionary zoning law

developers received a density bonus allowing them to build up to 22 percent more homes than otherwise permitted. The affordable homes were required to remain affordable for 20 years. While the Montgomery County ordinance has been modified many times over the years, it has endured and produced more than 12,000 moderately priced homes through 2005, including 8,527 for-sale homes and 3,520 rental homes.

Since that time, numerous other jurisdictions have adopted inclusionary zoning, especially in high-cost markets such as California. According to a survey conducted by the California Coalition for Rural Housing and the Nonprofit Housing Association of Northern California, as of 2003, 107 cities and counties had adopted inclusionary zoning within the state, producing more than 34,000 affordable for-sale and rental homes. An updated survey was recently conducted and is presently in the process of being analyzed; it is expected to reveal numerous additional jurisdictions in

notably Massachusetts and New Jersey—have enacted statewide laws that achieve similar effects.

While a complete analysis of this complicated subject is beyond the scope of this article, the following are some of the key issues for communities to consider:

- ***Equity.*** Advocates of inclusionary zoning argue that because land is in limited supply and the price of homes in high-cost markets are so out of reach of working families, inclusionary zoning is the only cost-effective way of ensuring the production of homes affordable to working families. Opponents, on the other hand, argue that it is unfair for the government to require one class of individuals (property owners) to subsidize the public good of affordable homes.

- ***Incentives/Offsets.*** Consensus around the adoption of inclusionary zoning is generally easier to achieve when well-crafted incentives (also known as offsets) are included to compensate property owners and developers for the foregone revenue associated with producing homes at below-market prices or rents. By ensuring that development continues to be an attractive financial proposition, well-crafted incentives are also likely to blunt the critique offered by some critics that inclusionary zoning policies may lead to an increase in the price of market-rate housing or a decrease in the supply of market-rate housing in the area (because developers do not want to build there). The most common and effective incentive/offset is a density bonus to allow the production of more homes than would normally be permitted under the jurisdiction's zoning rules. Another useful incentive is to provide developers proposing projects that meet specified affordability guidelines with a fast-track approval process or preapproval to build "as of right." When inclusionary zoning facilitates an increase in density in otherwise low-density areas, greater speed and certainty in the approvals process, and more affordable homes, all stakeholders benefit.

- ***Process Matters.*** Consensus is more likely to be achieved when the process for developing recommendations includes both developers and advocates. It also helps to "get into the numbers," examining the real-world impact of various proposed policies and offsets and the applicability of the proposed policies to local market conditions and housing needs.



Innovative Housing Institute

➡ The Wynncrest development in Ashton, Maryland, in eastern Montgomery County. The moderately priced units are the two smaller units in the middle of the row, flanked by larger market-rate units.

was enacted in the 1970s in Montgomery County, Maryland. The law specified that in any new housing development including 50 or more homes, at least 12.5 to 15 percent must be made affordable to families with incomes at or below 65 percent of the area median income. In exchange for this requirement,

California that have adopted inclusionary zoning and more complete totals of affordable homes produced.

Inclusionary zoning ordinances also have been passed in Washington D.C., Fairfax County, Virginia, and many communities in and around Boston. A number of states—

DEVELOPING AND SUPPORTING A HOUSING STRATEGY FOR WORKING FAMILIES

- Assess housing needs and resources
- Know your market
- Be comprehensive
- Foster interagency collaboration
- Exercise leadership
- Set and track progress toward goals
- Proactively plan for future growth
- Build public support for affordable housing
- Create open lines of communication
- Involve the business community
- Insist on excellent design
- Promote a mix of incomes
- Continually evaluate and refine your strategies
- Think locally and regionally

- *Voluntary vs. Mandatory.* The consensus view of practitioners working in this area is that mandatory requirements work better than voluntary policies that rely entirely on incentives. On the other hand, New York City appears to have had significant take-up of its voluntary inclusionary housing incentives for Greenpoint-Williamsburg. Chicago has a cross between voluntary and mandatory policies, with the policy optional for those developments that do not seek financial assistance from the city, but mandatory for those that do. It remains to be seen whether the voluntary approach can be extended effectively to other contexts.

- *Target Income Levels.* In general, inclusionary zoning appears better suited to producing homes affordable to families with moderate income than families with very low incomes. This is due both to the economics—moderate income families can afford to pay more than very low-income families, meaning there is less foregone revenue associated with those homes—and the fact that inclusionary zoning is more feasible politically when focused on moderate income families.

To ensure that very low-income families have access to some of the for-sale or rental homes produced through inclusionary zoning policies, jurisdictions may want to authorize a

local housing authority or other public entity to purchase a portion of the affordable homes, as is the case in both Montgomery and Fairfax Counties. After purchasing the homes, the housing authorities can combine them with other subsidies to make them affordable to lower income families.

- *Duration of Affordability.* One of the limitations of many inclusionary zoning ordinances is that they guarantee affordability for only a limited time period. While 15 or 20 years may seem like a long time, such affordability periods limit the effectiveness of inclusionary zoning policies in contributing to a lasting increase in affordable housing opportunities for moderate income families. They also make it harder to preserve mixed income communities over time. As discussed in greater detail in the analysis on which this article is based, a number of solutions exist to extend the affordability period indefinitely, while still ensuring opportunities for individual asset growth. Such solutions are generally preferable to more limited affordability periods.

- *On-site vs. Off-site.* Some advocates of inclusionary zoning insist that each development include a percentage of affordable homes. Others believe it is sensible to allow developers to provide an equivalent number of homes off-site or pay a fee in lieu of providing on-site affordable homes, with funds to be used to develop affordable homes elsewhere in the community. In general, it appears easier to gain consensus around inclusionary policies that permit off-site affordability or in-lieu fees. This approach also may increase the number of affordable homes constructed by shifting the production of affordable homes to sites with lower land and production costs.

- *Market variations.* It is important to be sensitive to market realities. Inclusionary zoning mandates probably do not make a lot of sense for declining neighborhoods struggling to attract any development whatsoever. While inclusionary zoning is likely to be more effective in hot markets, it will likely be most effective if enacted while there is still a significant number of developable parcels. Interested communities should try to anticipate areas of future growth.

- *Relation to other housing strategies.* While inclusionary zoning is a promising tool for harnessing strong markets to produce affordable homes, it is not a panacea. Inclusionary housing policies will ultimately be most effective if they are part of a larger and more comprehen-

sive approach to solving a community's housing challenges.

STRATEGY DEVELOPMENT AND SUPPORT

The three policies outlined here demonstrate the potential of the zoning process to expand (or restrict) the availability of affordable homes. Each of these individual approaches is likely to yield improvement, but the benefits would be maximized by adopting all three at once—ideally as part of a comprehensive and strategic approach to meeting a community's need for affordable homes.

While space does not permit a thorough discussion of the process of developing and supporting a housing strategy for working families, the list at the left provides a brief list of many of the key elements. To the extent that communities can initiate a broad and comprehensive process for examining their needs, and bring the full array of resources and agencies to the table to meet those needs, they are more likely to gain support for needed changes and more likely to develop effective strategies for increasing the availability of homes affordable to working families.

Cover photo: www.istockimages.com
A row of San Francisco Victorian homes.

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12

