



**Draft**

## **Affordable Housing**

# **Best Practices Paper #2: Growing Smarter Implementation Project**

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**Maricopa Association of Governments  
Regional Development Division  
302 North First Avenue, Suite 300  
Phoenix, Arizona 85003**

**Prepared by:  
Corey Cox Planning and Research, Inc.  
6220 E Calle Camelia  
Scottsdale, Arizona 85251  
Phone/FAX: (480) 663-1820  
E: [plannerz@qwest.net](mailto:plannerz@qwest.net)**

## 1.0 Introduction

This paper is a component of the MAG Growing Smarter Implementation Project. A series of best practices paper topics have been identified. This component will assist member agencies in the following two ways, First, economies will be achieved by sharing some of these planning efforts that each community does in isolation. Second, innovative alternative planning solutions of individual communities will be highlighted for potential use by others.

The topics for the best practices working papers were selected by interviewing planning department staff from all member agencies as well as the State Land Department, Pinal County, Casa Grande and Apache Junction. During the interviews, planners were asked what they felt the most important planning issues are within and outside their jurisdictions. This information was then compiled into a survey, which was forwarded to members of the Planners Stakeholders Group, who prioritized the following as their top issues.

- Affordable Housing Policy
- Adequate Facilities Ordinance
- Fiscal Impact Fees Comparison
- Development Standards for Wash & Viewshed Preservation
- Planning for Transit Corridors
- Traffic Calming, Cut Through Mitigation, Multi-Modal Systems
- Survey & Best Practices - Multi-Use Trails Collaboration
- Open Space & Trails Master Plans
- Planning Territory - Analysis of Options under Existing Statutes

The reasons that the interviewees cited for selecting affordable housing as the topic for a best practices working paper were compelling:

- Increasing awareness of an acute affordable housing crisis throughout Arizona.
- Awareness of an existing spatial imbalance of lower wage jobs to proximate affordable housing. This results in local jobs to housing imbalances and increased in regional traffic congestion.
- Likelihood that economic restructuring, immigration and changing demographics will exacerbate existing affordable housing shortages.
- Concern about the long-term health and safety impacts of segregating economically disadvantaged people from potential employment and educational opportunities.

Given the increasingly scant nature of federal funds that are available to construct public affordable housing and promote incentives for private sector affordable housing, land use measures may become one of the most effective means for stimulating private sector affordable housing construction.

The focus of this paper is on land use planning mechanisms that can be used by local governments to promote an adequate supply of affordable housing. It is in four parts. The first states the problem as it exists in metropolitan Phoenix.

Part two describes a framework of nationwide affordable housing strategies over time and discusses some of the more successful state and regional government approaches used in other states. The third section discusses local government options for affordable housing. Some of these are permitted under our existing statutes, and others would require new legislation. Finally, part four contains findings and recommendations.

## **2.0 The Affordable Housing Problem in Metro Phoenix**

### **2.1 Introduction**

The Arizona Housing Commission characterized the problem in its report, *The State of Housing in Arizona*<sup>1</sup>.

"The urgent, overriding message is clear; housing affordability is an impending crisis in Arizona. The large growth of new single-family construction has occurred mainly in the high-income household category. Simultaneously, the number of Arizona households able to afford a mortgage has sharply decreased. Perhaps the most telling data is found in home ownership trends of the last three decades: in 1970 64 % of households could afford to buy the median priced home; as of the second quarter of 1999 the number fell to 43 %".

According to the Arizona Center for Business Research, an Arizona household must currently make at least \$40,200 to afford the median priced resale home or \$46,800 for a new home.<sup>2</sup> The 2000 Census indicates that some 46 % of Valley households have incomes of \$40,000 per year or less.<sup>3</sup>

A large segment of workers in these households are employed in jobs that would have supported a middle class lifestyle on one income in earlier generations. A recent report by the Phoenix Affordable Housing Commission cites local average starting salaries for several of these professions<sup>4</sup>:

<i>Career</i>	<i>Average Starting Salary</i>
Secretary	\$ 18,044
Accountant	\$ 22,724
Teacher	\$ 25,180
Mechanic	\$ 31,220
Firefighter	\$ 33,000
Police Officer	\$ 34,340

<sup>1</sup> The Arizona Department of Commerce, *The State of Housing in Arizona, 2000*

<sup>2</sup> *MAG Regional Housing Assessment*, May 2001

<sup>3</sup> U.S. Census Bureau, 2001 <http://factfinder.census.gov>

<sup>4</sup> Data from *City of Phoenix Housing Commission Affordable Housing Report*, May 2001

The annual salary of a worker earning the current minimum wage (at \$5.50 per hour) is \$11,440.

The recent MAG *Regional Affordable Housing Assessment* ( also prepared as part of the Regional Smart Growth Implementation Project), notes that between 235,000 and 284,000 valley households (from 20 to 24 percent) are experiencing a housing problem. This is defined as paying more than 30 percent of their income for housing or living in substandard or overcrowded housing.

Data from the ASU Bureau of Economic Research suggests that without some change in public policy the problem will worsen. "In Arizona, the service sector is the largest and fastest-growing sector of the economy, comprising nearly one-half of the metropolitan Phoenix job growth in the period between 1990 and 1995.<sup>1</sup>" This fastest growing economic sector is also one of the lowest wage sectors.

MAG's *Regional Affordable Housing Assessment* identifies a land use component to the problem. The greatest numeric and percentage increases in service sector employment were in outlying areas. The greatest concentrations of service sector job growth in urban areas were in Midtown Phoenix, East Phoenix from Thomas Road to Camelback Road, Central Tempe and Downtown and West Tempe<sup>2</sup>. None of these areas experienced growth in affordable housing commensurate with the increase in low wage jobs. It is important to solve this spatial mismatch not only because it isolates those in need of affordable housing from employment and educational opportunities; it is also an important factor in growing regional freeway congestion.

Most local governments have affordable housing programs that rely on federal funding. In metropolitan Phoenix and elsewhere the scale of these publicly funded housing programs does not even begin to produce an adequate supply of affordable housing.

According to the US Department of Housing and Urban Development (HUD), there are some 20,902 federally assisted housing units in metropolitan Phoenix. There are currently some 166,800-renter households earning less than 80% of the mean family income in the Phoenix region<sup>3</sup>. Much of this group experiences severe enough housing cost, quality or overcrowding problems to qualify for publicly assisted housing. Looking at renter households alone, this leaves 145,898 households in need.

A recent study by the Harvard Center for Housing Studies indicates that the proportion of some demographic groups experiencing housing problems will increase during the next two decades.

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<sup>1</sup> *MAG Regional Housing Assessment*, May 2001

<sup>2</sup> Id.

<sup>3</sup> Id.

Disproportionately large shares of minority, elderly and single-parent households—who have low incomes will face severe cost burdens. This is particularly troubling because many of these households have limited housing options. Single-parent households, headed primarily by women, have an especially difficult time finding households in safe neighborhoods with ready access to employment. Inequalities in income and wealth remain stubbornly large, leaving minorities households at a disadvantage in housing markets. While age and family composition shape housing preferences, the distribution of income and wealth are what determine the ability of households to act on their preferences. Given their lower average incomes and limited access to wealth, minorities will thus remain at a disadvantage in the marketplace.

A trend that will influence the future housing market, although to a lesser extent, is an increase in the number of three-generation households. In 1980, only 1.3 million children under the age of 18 lived with one or both parents in their grandparent's homes. By the year 2000, this number had doubled to 2.6 million. This increase is likely due in part to the increase in housing affordability problems and in part to cultural influence of recent Hispanic immigrants, for whom three-generation households are more of a cultural tradition.

### **Contributing Factors**

Reasons for the crisis in affordable housing in Arizona and elsewhere include the following:

#### *2.2.1 Lack of Political Will*

Nationwide, most local efforts to promote affordable housing are in response to an immediate problem within the jurisdiction, litigation or a comprehensive mandate that is determined by state legislation and enforced by some state or regional agency<sup>1</sup>. In the absence of these forces, local officials in suburban communities may see the benefits of promoting an adequate supply of affordable housing they may not respond because there is no human cry this housing, as those who need it do not live in those communities. Often, existing residents exert pressure to exclude affordable housing from their neighborhoods out of a fear that the quality of their neighborhoods will be diminished.

#### *2.2.2 Market Imbalances*

98.5 % of the housing in this country (affordable and otherwise) is provided by the private sector. One may ask, "If there is such a great demand for affordable housing, why has the market not responded by producing an adequate supply of affordable housing units?" The following points are likely factors in the answer to this question.

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<sup>1</sup> Morris, Marya, *Incentive Zoning*, American Planning Association Planning Advisory Service (PAS 494) 2000

Market forces have shaped suburban growth in most US market areas. Fiscal and Exclusionary zoning practices have limited the supply of housing in many areas and driven housing prices upward<sup>1</sup>. An example would be communities vying for high tax generating commercial/industrial uses. The "winners" have high jobs to housing ratios and the "losers" end up as bedroom communities relegated to housing the workers from the prosperous job centers. Another example is an affluent community that zones only large lots to accommodate high-end housing. Although those who can afford them find these communities highly desirable, an unintended consequence is the spatial distortion of the affordable housing market.

Low-income households have a more difficult time securing a mortgage than other households do. Qualifying for a loan and saving the money for a down payment are often insurmountable obstacles to low income households.

The NIMBY (not in my backyard) syndrome creates further uncertainty in the development approval process, affecting timing, probability and financing.

The process of "filtering" (where upwardly mobile residents move to more affluent neighborhoods and the homes that they vacate become a source of affordable housing) has typically created affordable housing units in other cities. In Metropolitan Phoenix, this model does not exert the same influence as it does in other cities, as the greatest proportion of housing units have been constructed in the last twenty years and the greatest numbers of people have moved here from other places rather than from local housing.

The profit margin on the construction and sale of affordable housing is low compared to that of higher end housing. This impacts the developer incentive to build and the desire of banks to finance affordable housing.

### *2.2.3 Fragmented Local Government Tax Structures*

When a region contains many local government taxing entities there is an incentive for jurisdictions to compete for "high ratable" commercial and industrial uses. This fosters a spatial imbalance in low wage employment and housing for the workers that it employs.

The most lucrative of these are high-end retail, class "A" office space and high tech uses, which tend to locate in areas with large proportions of executive housing<sup>2</sup>. These same areas are often those that have

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<sup>1</sup> Cerverno, Robert, *Jobs Housing Balance and Regional Mobility*, APA Journal, Spring 1989

<sup>2</sup> Leinburger, Christopher and Charles Lockwood, *The Changing Pattern of Urban Cores*, 1986

excluded affordable housing. Leinburger and Lockwood (1986) note that in the case of Atlanta's Perimeter Center, (one of Atlanta's most prestigious corporate addresses) many workers live 15 to twenty miles to the south and must endure one to two hour bus rides twice a day. This pattern is replicated in many American regions, including our own. The following maps<sup>1</sup> illustrate this problem in Metropolitan Phoenix. The first shows the location of poverty clusters. Next, is a map that illustrates metropolitan employment densities.

DeDe - I have attached the two maps and table to insert here. (Last time e-mailing them in the paper changed all of the formatting.) Please insert them in the order mentioned above.

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<sup>1</sup> MAG Draft Regional Affordable Housing Assessment, May, 2001





#### 2.2.4 *Land Use and Subdivision Regulations*

Most of the local government Planning and zoning regulations in this country are based on the concept of segregating land uses. Developed in response to circumstances much different than those of today, these regulations have been criticized for contributing to affordable housing shortages. Residential uses that are typically the most affordable (multi family housing, houses on small lots, accessory dwelling units) are excluded from some zones and concentrated in others. Increasingly, local governments are modernizing their ordinances and regulations to be more mindful of the mix and relationship of uses.

Development fees and adequate public facilities ordinances, which have become widely used during the past two decades, are often cited as raising housing costs. Although these are valid concerns they are sometimes overstated. If a community were to remove a development fee program that finances infrastructure (for example), the money to fund that infrastructure would still be needed. These costs would be passed on to homeowners at the subsequent stages of the housing cycle or the infrastructure would remain inadequate to serve the development. Either of these scenarios would be to the detriment of housing sustainability and affordability.

Exactions that are used to provide streets water and wastewater lines and other public facilities are typically a part of the development approval process. These have also been cited as raising housing costs. In the absence of other funding mechanisms, either the public health and safety is endangered by substandard capacity or the costs are passed on. The costs of retrofitting can be high. In testimony to the Commission on Regulatory Barriers to Affordable Housing, a Fairfax County Virginia representatives described a \$60 million effort underway to repair substandard conditions of development that was built before the County had subdivision authority<sup>1</sup>.

Economists argue that there are four primary land use control factors that impact affordable housing supplies<sup>2</sup>:

The effect of growth controls that restrict the supply of new housing below market equilibrium levels. An example would be regional growth boundaries that are put in place without allocating an adequate supply of vacant land to ensure land values remain at a reasonable level.

Improving community quality and thus increasing the demand for housing within the jurisdiction. This will raise housing costs, and exclude lower income groups from the community. (Although

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<sup>1</sup> Id.

<sup>2</sup> Id.

improvements in community quality are always desirable, the affordable housing balance should be carefully monitored and measures should be put in place to ensure that an unintended consequence, the exclusion of workers from the community is avoided.)

Shifting growth pressures to other communities, which increases the demand for housing in those communities. In a region with many jurisdictions, this can stem from local growth control mechanisms that decrease the supply of available land or increase development costs over that of a neighboring jurisdiction.

Shifting the demand for housing to existing housing stock, which raises the price of that housing. Restricting the availability of land or raising land acquisition and development costs above market equilibrium causes this.

These factors should be carefully considered in the design of any new or existing local government regulation. Where applicable, barriers to affordable housing should be removed. However, regulators should be wary of taking a "meat axe" approach to removing barriers, because to sacrifice infrastructure financing and concurrency would be a false economy.

### **3.0 The History of National and State Affordable Housing Policy**

Local governments operate against an ever-changing backdrop of federal and state policy affecting affordable housing. This section provides a synopsis of some of these policies and how they have changed over time.

#### **3.1 Federal Affordable Housing Policies**

For 60 years, Congress has recognized that meeting America's housing needs require federal partnership with the private housing industry and state and local governments. This has come through a combination of programs such as, mortgage insurance, direct investment of capital, tax incentives, a write-down of mortgage interest, among others. Today we are engaged in a debate over the future of that partnership, the people it serves, and the millions of units of housing it has produced.

Federal government involvement in housing began in 1937 with the National Housing Act. The Act made the United States Government responsible for "for the elimination of unsafe and unsanitary conditions for the eradication of slums, for the provision of decent, safe and sanitary housing for families of low income and for the stimulation of business activity".

In the 1949 Housing Act that established urban renewal, Congress set the policy of "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family."

Congress reaffirmed this policy in 1968, declaring that "the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality." Every housing act since has reaffirmed that goal, yet we have failed to have much of an impact on the magnitude of inadequate affordable housing. It seems clear that local government will play the greatest role in affordable housing, in some cases with state mandates to do so.

### **3.2 State Policies**

Regional solutions to affordable housing issues and jobs/housing imbalances cannot be accomplished without a change in state enabling legislation and/or other strong leadership. These can only be achieved through state legislative mandate for local policy that is implemented at the state or regional level or with a high level of regional collaboration. Regional revenue sharing and "fair share housing" allocations are often discussed as prospective remedies for these problems. However, local resistance to any measure that would decrease local autonomy has made most of these discussions academic. There are some notable exceptions however.

Regional revenue sharing reduces much of the incentive of local government to zone for commercial uses at the expense of housing development. Under this system, the balance between jobs and housing (including affordable housing) is improved by pooling some portion of tax revenues at the regional level and reallocating them according to the ratio of workers to employed residents. In principal, this causes communities of high tax generating commercial uses to reimburse communities that house their workers. In the twin cities of Minneapolis-St. Paul 30 % of municipal revenues are pooled and redistributed based on jobs to population criteria. In addition communities contribute 40 % of the taxes generated by new commercial and industrial uses. This has caused some suburban communities to stop zoning out low revenue generators, such as small houses.

In the 1970's the New Jersey Council for Affordable housing was established in response to the Mount Laurel<sup>1</sup> and subsequent Mount Laurel II<sup>2</sup> court decisions. These found that most municipal zoning ordinances discriminate against low and moderate-income households by precluding affordable housing. The Council subsequently set an affordable housing quota for each municipality, based on a fair share formula. The Mt. Laurel legislation was successful in generating 15,000 affordable housing units by 1997.

The Mt. Laurel formulas have been adjusted over time. Critics argue that the original fair share formula did not account for the amount of vacant land available for development. This is an important when considering the fact that communities

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<sup>1</sup> Southern Burlington County NAACP v. Township of Mt. Laurel, 67 N.J. 151 A2d 713 (1975)

<sup>2</sup> Mt Laurel II (92N.J. 158, 456 A2d 390 (1983))

that are close to build-out would never meet the requirement<sup>1</sup>. The State Council has made adjustments by issuing rules for a myriad of conditions under which a local government may lower its regional fair-share requirement based on the amount of buildable land, employment projections and other factors.

The Mt. Laurel mandates have been continually tested and modified by an evolving history of case law. Recently, a New Jersey trial court found that the Township of West Windsor had not met its Mt. Laurel obligation to provide its fair share of affordable housing. The New Jersey Supreme Court has accepted the case for review.

## **4.0 Local Policy**

### **4.1 General Plan Tools**

The Growing Smarter and Growing Smarter Plus legislation added the following housing element requirements to municipal General Plans. For communities of 50,000 and greater, the housing element must contain the following components

"[A housing element consisting] of standards and programs for the elimination of substandard dwelling conditions, for the improvement of housing quality, variety and affordability and for provision of adequate sites for housing. This element shall contain identification and analysis of existing and forecasted housing needs. This element shall be designed to make equal provision for the housing needs of all segments of the community regardless of race, color, creed and economic level."

It seems most appropriate that local governments are given this responsibility, given that federal and state programs are not adequately addressing the affordable housing crisis in Metro Phoenix. To date most of the proposed updates contain broad language that does not define specific actions for implementation. The proposed City of Phoenix, the City of Mesa, the joint Coconino County/City of Flagstaff and City of Tucson general plan updates recommend more specific implementation policies, with set asides of affordable housing as a percentage of total housing constructed. (This is discussed in greater detail in the section on inclusionary zoning, below.)

Regardless of the content of the general plan update housing elements, they will be meaningful only when followed up with effective implementation policies and programs.

### **4.2 Fiscal Tools**

This section discusses some of the fiscal and regulatory planning tools that may hold the most promise to local governments for promoting affordable housing

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<sup>1</sup> Payne, John M.; *Remedies for Affordable Housing: From Fair Share to Growth Share*, Land Use Law and Zoning Digest June 1997

units. Some of these tools can be used under our existing statutes and others would require new legislation. This is not intended as legal advice, but as a discussion of what options for affordable housing hold potential for local governments within the MAG Region. Communities considering the adoption of any new land use policies should seek legal counsel.

#### 4.2.1 *Housing Trust Funds*

A housing trust fund is a dedicated source of revenue available to help low and moderate income people achieve affordable housing. This could be used as a source of revenue to finance the housing improvement districts that were enabled under Arizona Statutes in 1998. Sources of housing trust funds in other states include linkage payments, tax increment financing, endowments and grants, surplus reserve funds from refinancing municipal bond issues, taxes and fees.

The 2001 MAG Affordable Housing Study proposes that a valley wide housing trust fund could be created if a modest surcharge of one dollar or less were assessed on all residential building permits. Alternately, the report recommends a modest twenty-five cent fee on all residential deeds recorded.

#### 4.2.2 *Development Fee Exemptions*

Several states have adopted legislation specifically enabling development fee exemptions as an incentive to privately constructed affordable housing units. Exemptions are expressly authorized in Georgia, Florida, New Jersey and Vermont. If Arizona statutes were changed this mechanism could be applied to promote affordable housing. A development fee exemption program must meet the following two criteria.

Revenue shortfalls caused by the exemptions cannot be passed on to market rate units

The exemption must expressly apply to target beneficiaries and developments taking advantage of the waivers should have some enforceable ongoing restrictions to ensure that the units remain affordable.

To be defensible, a development fee program must meet the constitutional tests of the rational nexus (there must be a direct linkage between the fees and the development) and rough proportionality (the fee must be roughly proportionate to the demand that it places on capital facilities)<sup>1</sup>. Our state development fee statutes provide further guidance which includes the following statements "If development fees are assessed by a municipality, such fees shall be assessed in a non-discriminatory manner<sup>2</sup>. This can be interpreted to mean that a community cannot simply waive fees for affordable housing unless the cost is paid by some other means. Such funding could be provided by a housing trust fund.

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<sup>1</sup> Nolan and Dolan

<sup>2</sup> ARS 9-463.05.5

### 4.2.3 *Linkage Fees*

Linkage fee ordinances require developers of commercial, office and industrial uses to build housing or to pay an in lieu fee that is placed in an affordable housing trust fund. The underlying rationale is that when non-residential uses create an affordable housing need by attracting low-wage workers to the community, they should mitigate that need.

Although several components of the Arizona development fee statutes suggest that this might be done in Arizona, local governments may hesitate to adopt such a program because it is not explicitly stated in the laundry list of public services under the development fee statute. Also, given the tax incentives that local governments often use to attract commercial and industrial development there may be a concern that linkage fees would "scare off" developers who would simply go to a nearby community that did not assess linkage fees.

Under the development fee statutes "A municipality may assess development fees to offset the costs to the municipality associated with providing necessary public services to a development"<sup>1</sup> Affordable housing is defined as a public service under Arizona Law in the following language:

It is a valid public purpose of municipalities to assist in providing for the acquisition, construction or rehabilitation of housing and other facilities necessary or incidental to the housing and primarily for the use of those residing in the housing, in areas that are declared by the municipality to be housing development areas, and public monies may be spent for these purposes in these areas. The statute further defines procedures for establishing a housing development area, which include adoption of a resolution that a shortage of housing exists and that assisting in the development of a housing development area is in the interests of the public health safety, morals or welfare of the residents of the municipality. Boundaries of housing development areas cannot exceed 20 % of the total amount of land within a community.<sup>2</sup>

In combination, these statutes suggest that development fees could be assessed for affordable housing and/or "other facilities necessary and incidental.

### 4.2.4 *Adequate Public Facilities Ordinances (APFO's)*

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<sup>1</sup> ARS 9-463.05.A

<sup>2</sup> ARS 9-441.01

Adequate public facilities ordinances are a means of controlling the timing of development in direct relationship to a government's ability to service it. (For a detailed discussion of APFO's see MAG GSI Working Paper #1.) This method ties tight regulatory restrictions with a tight, financially feasible capital improvement plan. The level of growth is tied to the capacity of capital facilities in place and those that are programmed in the CIP.

The APFO is frequently cited as a land use control that will raise housing costs<sup>1</sup>; however, when designed with affordable housing needs in mind, it can actually be a powerful tool to promote affordable housing.

Often neighborhood opposition to higher density developments is based on the real possibility that street congestion will increase. By tying roadway capacity to development based on level of service (LOS) standards APFO's can provide a mechanism to ensure that infrastructure capacity is not exceeded. If capacity is exceeded by a development proposal, either capacity is increased or the approval is denied. In cases where there is adequate capacity, capacity-based objections by neighboring landowners will be deflated.

An APFO can contain provisions to reserve some portion of public facility capacity for low and moderate-income housing.

APFO's can be used to expedite the development approval process. As APFO's are based on level of service (LOS) standards, an objective determination of infrastructure capacity can be made in a short period of time.

#### 4.2.5 *Tax Increment Financing (TIF)*

Arizona statutes do not provide a mechanism for TIF's, so a change in state legislation would be required to enable their use. If TIF legislation were adopted in Arizona, TIF's could be used as a source of funding for housing incentive districts.

This method is frequently used in other states to encourage redevelopment of blighted areas.<sup>2</sup> Under TIF, tax revenues from a "base" valuation existing prior to the redevelopment project continue to be allocated to existing entities. Taxes on increases in value (the tax increment) are used for local government redevelopment activities. These funds are generally used to finance "tax allocation" bonds issued by the redevelopment authority and the value is added back to the tax when the bonds are retired. This method was initially thought inappropriate for financing affordable housing (except in mixed-use projects) because property value increases are necessary to retire the tax allocation bonds and the interest on the bond is higher than that of general revenue bonds.

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<sup>1</sup> Discussed in greater detail in *MAG Growing Smarter Implementation Project Working Paper #1*, February 2001.

<sup>2</sup> White, Mark S, *Affordable Housing*, American Planning Association, Planning Advisory Service (PAS 441)

In California, state law now requires that 20 % of all TIF revenues be allocated to low and very low income housing. Minnesota also authorizes the use of TIF to finance affordable housing. A TIF may be established for a housing district containing projects for low and moderate-income residents and non-affordable housing or nonresidential uses up to 20 % of fair market value. Ninety-five percent of the units must be affordable to families earning 115 % of the area median income and 50 % of rental units must be affordable to households earning no more than 50 % of the area median income. The bond can remain in effect for up to 25 years, but if the set aside requirements are not met time limits that shorten the period to 10 years from the first approval of the TIF plan begin.

### **4.3 Zoning and Subdivision Tools**

#### *4.3.1 Inclusionary Zoning With Incentives*

This refers to local government zoning that either ties development approval to the provision of low and moderate-income housing as a part of a proposed development or requires a percentage of the development to be low to moderate income housing. This can be calculated as a flat percentage or as a proportion that can be raised and lowered based a bonus and incentives system that the local government has adopted. Inclusionary zoning may soon be used in Arizona. Both the City of Tucson and the City of Mesa are considering a 15 % affordable housing policy. Also, the City of Flagstaff and Coconino County proposed joint comprehensive regional plan states that this will be considered as a method to supply affordable housing. To stem an immediate crisis, the City of Phoenix General Plan (proposed for adoption in September of 2001) contains language that would require 10 % of the housing units constructed in the year after plan adoption to be affordable. (The language approved by the City of Phoenix Housing Commission is attached as "Appendix A") *you may nee to make this appendix B & switch the other to A*

Inclusionary housing programs are either voluntary or mandatory. Mandatory programs have a specified amount of affordable housing (or in lieu fees) that must be provided by all development that meets set criteria. Communities with mandatory inclusionary zoning policies include; Boulder, Colorado; Davis, California; Montgomery County, Maryland; Santa Fe, New Mexico; Pitkin County, Colorado; and all municipalities in New Jersey (which must meet the Mt. Laurel doctrine). Voluntary inclusionary housing programs offer some incentive for the provision of affordable housing units. This is usually a density bonus, with increased density permitted for increased affordable housing units. Communities with voluntary inclusionary zoning programs include Dallas, Texas; Hilton Head Island, South Carolina; Orange County, California and Orlando, Florida.

According to the Innovative Housing Institute:

The most successful inclusionary zoning program in the country is found in Montgomery County Maryland. There, the local moderately priced dwelling unit (MPDU) ordinance, enacted in 1974, requires developers of more than 50 units to include 15 % MPDU's. Of that 15 %, two-thirds are sold to moderate-income first time

homebuyers, and the remainder can be purchased by the local housing commission or local non-profits for use in their affordable rental programs. So, for example, in a typical subdivision of 100 units, 85 units would be market-rate, 10 would be sold to first time eligible home buyers, and five would be owned by the housing commission or a non-profit for use in their rental programs.

To make the program work, Montgomery County provides a density bonus to developers; that is, within local planning constraints, the builder is granted the ability to build 22 % more units in the subdivision than otherwise would be allowed. Thus, the land for the MPDU is "free".

Montgomery's mandatory MPDU inclusionary zoning program has produced nearly 10,000 units since 1974. Other states, such as California and New Jersey have instituted programs that promote affordable housing through the use of density bonuses. [There are] a number of jurisdictions throughout the country who are exploring or implementing inclusionary zoning ordinances.

As long as compensation is provided to the developer takings challenges can be avoided. This compensation can be in the form of a density bonus to allow more intensive development that enables the developer to recoup what the municipality has required the developer to produce at below market value. Communities using this method to create affordable housing units have demonstrated that they can be blended into market-rate developments to minimize the impact on market rate re-sales and avoid concentrations of lower priced units.

#### 4.3.2 *Cluster and Tandem Zoning*

Innovative cluster site planning techniques can create cost savings by allowing more compact lot sizes and arrangements, more efficient use of infrastructure and greater densities than those allowed under traditional zoning. A 1978 HUD report notes that the cost of street pavement, clearing and storm sewers for cluster development is only 62 % of these costs for comparable traditionally zoned development.

Orlando Florida has pioneered the concept of tandem single family development (two single-family units on a single lot). In subdivisions these are allowed as a conditional use permit on lots that allow duplex development. The ordinance requires that there is a minimum 10-foot separation between buildings with no less than 5 feet on each side of the property line. Design requirements state that "all lot layouts, circulation and open space provided permit an attractive variety of orientations and groupings of dwellings and driveways consistent with the existing development pattern of the neighborhood."

#### 4.3.4 *Zero Lot Line (ZLL) Development*

Zero lot line development can be used to increase density in a single family detached setting. HUD has cited Bentonville, Arkansas and Dade County

Florida as success models for ZLL. In Bentonville, a ZLL district was created in response to a housing shortage. By ordinance, the ZLL district allowed developers to increase density to 16 houses per acre (including duplexes and detached units), instead of the conventional 4 units per acre that are common in many single family neighborhoods.

#### *4.3.5 Fast Tracking Development Approvals for Projects Containing Affordable Housing*

This may provide an incentive for developers to add an affordable housing component to their projects. Some communities in other states confer early vesting as a bonus for the addition of some affordable housing to a development project. Expedited development approvals should be done with the caveat development standards will not be compromised and that it will take additional staff to expedite the process.

#### *4.3.6 Accessory Dwelling Units (ADU's)*

The most readily available housing within a community is existing housing. Out of a concern that increasing numbers of older people are unable to afford to age in place, the American Association of Retired Persons (AARP) commissioned the American Planning Association (APA) to draft model legislation and a model ordinance for ADU's<sup>1</sup>.

From the report "Reductions in the size of American households, along with changes in their composition and economic circumstances warrant consideration of zoning policies that encourage the more efficient use of the nation's infrastructure and supply of single family homes to meet current and future housing needs. States and localities are also seeking ways to assure the independence and security of older residents with a minimum public investment. ADU's provide a potential resource for addressing these issues by making more effective use of existing housing stock and providing older homeowners with a potential source of income to maintain their independence."

There are three different types of ADU's. These are an accessory apartment that is built within the principal dwelling unit. Attached accessory cottages are connected to the principal dwelling unit, and detached accessory cottages are on the same lot but not attached to the principal dwelling unit.

ADU's enable communities to expand their current housing stock using existing infrastructure with less land consumption than other residential development forms. A community can achieve multiple objectives of creating reasonably priced housing and allowing (for example) a widow on a fixed income to keep her house and supplement her income. In some cases older people trade the use of an accessory unit for services such as housekeeping, nursing care or the increased security of having a second person on the premises.

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<sup>1</sup> Cobb, Rodney L. and Scott Dvorak, *Accessory Dwelling Units: Model Act and Local Ordinance*, AARP Public Policy Institute / APA, 2000

Outdated zoning ordinances that prohibit ADU's are the principal obstacle to the widespread availability of this housing option. Also, there may be initial community resistance to the concept of accessory uses. For this reason the AARP/APA model legislation and ordinance are written for three levels of acceptance, so that a community can test community acceptance and later adopt a more optimal policy if the result is favorable. In many cases that resistance has diminished as communities recognize that they can actually strengthen the neighborhood fabric with ADU's.

#### *4.3.7 Conclusion*

There are a plethora of other affordable housing strategies that have been implemented in other states. Some of these will be more politically feasible to implement than others. These include grants to affordable housing developers, local government initiated zoning for higher densities, and direct mortgage subsidies to first time homebuyers. The choice of strategies to use will depend upon the unique values of each community.

### **5.0 Findings, Analysis and Recommendations**

Despite a decade of economic growth there is a crisis in affordable housing in Arizona and within the Phoenix region. Demographic trends such as, increases in the proportion of elderly and Hispanic households and the continued increase in the number of single parent households indicate that this problem will only get worse. As federal public housing assistance programs have been able to provide only a small percentage of the affordable housing necessary, action toward solving this problem must be at the state and local level. The following are steps that local jurisdiction should take to address the issue of affordable housing in their communities.

- 1) Communities should define the affordable housing shortages that are particular to their communities in the housing element of the General Plan. This should be based on a market study to determine the amount of affordable housing that is required and should include analysis of jobs/housing balance and the amount of available land. Also, to promote comprehensive implementation, affordable housing goals and policies should be incorporated into the land use, growth areas, cost of development, neighborhoods and redevelopment elements and (if applicable) infill incentives areas of the General Plan. Also, provisions should be established to include affordable housing in any mixed use and transit oriented development-zoning district.

The General Plan should contain a statement that the proportion of affordable housing will be benchmarked and monitored over time. This will provide an annual gauge of the impact of the General Plan and subsequent implementation policies. (The proposed City of Phoenix Growing Smarter Draft General Plan Update contains this benchmarking and monitoring component.)

- 2) The housing goals and policies defined within the General Plan should

be used as a springboard for the development of new implementation policies for affordable housing. Without the timely development of meaningful implementation tools it is unlikely that any community will make progress toward the statutory goal of "equal provision for the housing needs of all segments of the community regardless of race, color, creed and economic level".

The development of implementation policies should include a comprehensive assessment of zoning and subdivision regulations. In Arizona and throughout the country these were largely written before the recognition of the importance of smart growth and sustainable development policies. For this reason the emphasis is on the segregation of land uses. It is now time to rewrite these to better promote an adequate supply of affordable housing in proximity to the employment base that it serves.

Implementation policies to be considered should include:

Voluntary or mandatory inclusionary zoning ;

Fast track development review for projects that contain affordable housing;

New forms of higher density housing promoted by new zoning classifications. These should include accessory dwelling units, tandem houses, and zero lot line and cluster development;

Public provision of infrastructure support for affordable housing. This could potentially include housing trust funds, development fee waivers, linkage fees, APFO's and/or other new sources;

Establishment of Housing Incentives Districts incorporating all of the above options.

- 3) MAG communities should develop consensus on a legislative package to change our state statutes to enable different regional policies to support affordable housing. This might include some level of regional revenue sharing, legislation to allow tax increment financing for affordable housing and specific legislation to enable the use of regional linkage fees.
- 4) MAG should regularly provide updated jobs housing balance and community housing affordability data to member agencies.

None of these methods will be "the" answer to solving the problem of affordable housing. In the words of APA Staff Researcher Marya Morris<sup>1</sup>:

Analyzing inclusionary housing legislation for the purpose of identifying best local practices or creating model legislation raises as

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<sup>1</sup> Marya Morris, *Incentive Zoning: Meeting Community Design and Affordable Housing Objectives* American Planning Association Planning Advisory service (PAS 441)

many questions as it does answers. What is clear from looking at the most extensive state programs is that the provision of density bonuses and regulatory waivers of fees or development standards are not sufficient, in and of themselves, to get developers to build affordable housing. What does work, are carefully crafted packages of financial and regulatory techniques that remove the barriers to affordable housing but also meet the overall community planning objectives.

There are significant opportunities for local governments in the MAG Region to develop tools to remove barriers to affordable housing. Given the scale and urgency of the affordable housing problem, these opportunities should not be wasted.

## **Resources**

These sources may be useful to planners that are considering ways to increase the amount of affordable housing in their communities.

### **Accessory Dwelling Units Model State Act and Local Ordinance, 2000**

This recent work by Rodney L. Cobb (formerly) Staff Attorney and Scott Dvorak, Research Associate of the American Planning Association would be helpful to those communities wishing to update their zoning ordinances to incorporate the beneficial effects of allowing accessory uses. This is a means for local governments to assure the independence and security of these older residents with a minimum of public investment. Commissioned by the Public Policy Institute of the American Association of Retired Persons it contains optimal, favorable and minimal provisions for both state statute and zoning ordinance. This approach would allow a local government to test the response to a minimal approach and later expand it based on community acceptance.

### **Affordable Housing: Proactive and Reactive Planning Strategies (PAS 441) December 1992**

Mark S. White offers several strategies that a local government can use to establish a balanced regulatory program that will stimulate affordable housing, rather than being a costly barrier to it. This report also analyzes related state and federal legislation.

### **Incentive Zoning: Meeting Urban Design and Affordable Housing Objectives (PAS 494) September, 2000**

Incentive zoning is nothing new, but the innovative way that many communities are using it to promote urban design and affordable housing goals is. In this work APA Researcher Marya Morris details the legislative a framework profiles communities that have used these methods, so that we can benefit from lessons learned.

### **The City of Phoenix Affordable Housing Report , May 2001**

This May 2001 the City of Phoenix Commission on Housing and Neighborhoods prepared report. It report defines the affordable housing problem and begins the discussion of a wide variety of new land use planning and design tools that could be used to promote affordable housing. It then suggests the potential implementation programs that could be developed and the different departments and programs where these might occur in the City of Phoenix.

### **The State of The Nation's Housing, 2001**

This recently published report from the Harvard Center for Housing Studies contains a comprehensive analysis of the current housing market and the populations that it serves. The appendix contains tables that can be downloaded as spreadsheets. This report can be downloaded from [www.gsd.harvard.edu/jcenter](http://www.gsd.harvard.edu/jcenter).

### **Town of Carey Affordable Housing Toolkit, 1999**

This 1999 work suggests implementation strategies as a part of the Town of Cary Affordable Housing Plan. It contains a comprehensive survey of current

examples of communities using a wide array of the tools including those discussed in this paper. This would be useful in planning an affordable housing implementation program, as it presents a balanced pro and con discussion of each mechanism and agencies embarking on these and lists agencies that are using them. It can be found at [www.townofcary.org](http://www.townofcary.org).

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## Appendix "A"

New housing recommendations (bold Italics) approved by the Phoenix Planning Commission on July 25, 2001 for inclusion in the Housing Element

Draft

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### HOUSING ELEMENT

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**Goal 2 Housing Choice: A diverse choice of housing should be provided in all villages of the city to meet the needs of all households.**

**Policy 2. Preserve and increase housing opportunities for low and moderate-income households within the villages and throughout the city.**

***K. ESTABLISH A GOAL TO HAVE 10 PERCENT OF ALL NEW HOUSING UNITS COMPLETED WITHIN A YEAR IN PHOENIX TO BE AFFORDABLE TO LOW INCOME FAMILIES (THOSE WITH ADJUSTED HOUSEHOLD INCOMES AT 50 PERCENT OF THE COUNTY MEDIAN INCOME LIMIT OR LESS AND NOT PAYING MORE THAN 30 PERCENT OF THEIR INCOME FOR HOUSING.) AFFORDABLE HOUSING FOR THIS RECOMMENDATION REFERS TO WORKFORCE HOUSING, NOT HOUSING FOR SENIORS OR SPECIAL NEEDS GROUPS. (BASED ON HOUSING COMPLETIONS IN PHOENIX IN 1998, 1999, AND 2000 AS SHOWN BELOW, THIS COULD MEAN A GOAL OF APPROXIMATELY 736 TO 1153 UNITS.) MEETING THIS GOAL WOULD INCLUDE COUNTING THE TOTAL NUMBER OF UNITS COMPLETED UNDER ALL PUBLIC, NON-PROFIT, AND PRIVATE PROGRAMS. THE 10 PERCENT GOAL DOES NOT MEAN THAT EACH DEVELOPMENT SHOULD PROVIDE 10 PERCENT OF ITS UNITS AS AFFORDABLE.***

Year	Total units	Single-family	Townhouse /Condominium	Apartment	Mobile Home
1998	7,355	5,023	94	2237	1
1999	11,531	5,375	129	6027	0
2000	8341	4331	40	3962	8

***L. CONTINUE TO WORK WITH NONPROFITS AND OTHER GROUPS TO ACQUIRE VACANT SITES OR VACANT OR OCCUPIED BUILDINGS FOR DEVELOPMENT OF***

***LOW- INCOME HOUSING. PRIORITY SHOULD BE GIVEN TO LOCATIONS IN VILLAGES LACKING IN LOW- INCOME HOUSING.***

***M. ESTABLISH HOUSING DEVELOPMENT AREAS WHERE APPROPRIATE TO PROVIDE FOR MIXED INCOME PROJECTS ONCE CRITERIA FOR THE AREAS ARE DEVELOPED. (HOUSING DEVELOPMENT AREAS ALLOW MARKET AND MIXED INCOME HOUSING TO RECEIVE FINANCING AT THE CITY'S BORROWING RATES AND PROVIDE CITIES WITH OTHER TOOLS.)***

***N. CONSIDER AMENDING THE PHOENIX ZONING ORDINANCE TO PROVIDE FOR SMALL DENSITY BONUSES FOR PROVISION OF SOME AFFORDABLE SINGLE-FAMILY UNITS, WHERE APPROPRIATE. (THE ORDINANCE CURRENTLY PROVIDES FOR DENSITY BONUSES FOR AFFORDABLE HOUSING ONLY IN MIXED INCOME RENTAL PROJECTS SUBJECT TO CITY APPROVAL.)***

***O. CONSIDER WAIVING DEVELOPMENT IMPACT FEES IF ACCEPTABLE AND LEGAL WAYS CAN BE FOUND TO REIMBURSE THE FEES.***

***P. REVIEW CITY-OWNED OR SPONSORED PUBLIC PROJECTS FOR THEIR ABILITY TO CONTRIBUTE TO AFFORDABLE HOUSING.***

**Policy 3. Disperse lower income housing units throughout the city**

***B. REVIEW CITY POLICIES RELATED TO THE PERCENTAGE OF ASSISTED HOUSING RECOMMENDED IN NEW FAMILY HOUSING OF 25 UNITS OR MORE FOR THEIR IMPACT ON PROVIDING HOUSING CHOICES AND ANY OTHER POLICIES THAT COULD AFFECT AFFORDABLE HOUSING. CONSIDER AMONG EVALUATION CRITERIA TO BE DEVELOPED THE CONCENTRATION OF LOW-INCOME UNITS WITHIN THE PROPOSED CENSUS TRACT, THE NEED FOR UNITS IN THE VILLAGE AS A WHOLE, AND THE DESIRE TO ACHIEVE CITYWIDE GOALS.***