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Region 5 Sustainability Project  
Attn: Jean Coleman  
2634 Vincent Ave North  
Minneapolis, MN 55411

Re: Additional Research Memo

Dear Region 5 Sustainability Project:

This memo identifies areas in the final comprehensive plan for affordable housing that need additional research. I have either omitted these areas from the comprehensive plan or limited the language in order to avoid vagueness and legal issues.

1. Baxter incorporates a bonus density provision for affordable housing units. This appears in the city's Planned Unit Development subsection of the Baxter Zoning Code. The code provides for (1) up to a five percent (5%) increase in density that may be granted if the application has housing options for low and moderate income persons and requires at least five percent (5%) of the residential units within the entire development to be affordable. The code doesn't define low and moderate income persons or affordability. Additional research should look at the effectiveness of this provision and the feasibility for other cities, towns and counties in Region 5 to use this model.
2. State law already provides a separate classification for qualifying low-income rental housing for property tax purposes. Ways to further reduce property taxes on affordable housing projects and units should be researched further.
3. Removable accessory dwelling units for senior citizens is a concept that the Department of Housing and Urban Development (HUD) has looked into. The idea is to have a small, free-standing, barrier free, energy efficient, and removable unit designed to be installed adjacent to an existing single-family dwelling. The feasibility of using these units in Region 5 deserves additional research.

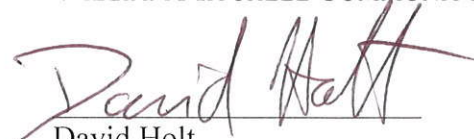


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COLLEGE OF LAW

4. The ordinances should allow for housing units with a minimum of square footage. Brainerd has minimum floor areas for multi-family dwelling units stated in Section 515-17-3 of its zoning code. More research is needed regarding how small units can be while still meeting state minimums.
5. Inclusionary housing ordinances require (mandatory) or encourage (voluntary) all developments with housing units to provide a percentage as affordable housing units. This concept for Region 5 should be researched, including the legality of imposing a fee-in-lieu of constructing affordable housing units and the waiver of impact fees for affordable housing units and projects.
6. The process for the review, approval and permitting for developments that include residential units should be examined in detail to identify the delays in these processes, and measures to minimize or eliminate these delays, within the confines of state law. Possible measures to research include prioritization, expedited permit processing and a pre-application process to identify ways to streamline a project.
7. Green initiatives deserve further research, particularly green initiatives that are proven to reduce long term costs. Generally, green initiatives add to the costs of construction so the research should include options for financing or reducing those costs to the developer.
8. Section 1.5 of the Financing portion of the Comprehensive Plan and Model Language for Affordable Forms of Housing in Region 5 requires an Affordable Housing Incentives Program Agreement (AHIPA) as a mechanism to ensure long-term affordability. The legality and logistics of this document needs additional research, particularly the duration of the affordability agreement, the effectiveness of the duration of the agreement, the feasibility of making the AHIPA a lien on the property, the logistics of enforcing a lien, and the remedies for breach of the provisions in the AHIPA.
9. Ownership models that limit the equity a homeowner may receive (for example, a limited equity cooperative) is one component of the comprehensive plan. There should be additional research on these models, particularly the maximum duration allowed for these restrictions.

Thank you.

WILLIAM MITCHELL COMMUNITY DEVELOPMENT CLINIC

  
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# COMPREHENSIVE PLAN AND MODEL LANGUAGE

## AFFORDABLE FORMS OF HOUSING IN REGION 5

By David Holt

### SUMMARY

The following document proposes a comprehensive plan with integrated model ordinance language for the development of affordable housing in Region 5. Comprehensive plan language is communicated through the objectives. Sub-objectives and model language provide a more specific route for accomplishing the comprehensive plan objectives. The model language is based on the assumption that there is a demand for affordable forms of housing. Also, elements that do not directly address practical affordable housing development are omitted.

### DEFINITIONS

**Accessory Dwelling Unit** - One dwelling unit that is an affordable housing unit secondary to and located upon the same lot as a primary dwelling unit.

**Affordable Housing Unit**—Housing for which households at or below 80% of area median income pay no more than 30% of their income for the costs of the housing. For rental housing, the costs of the housing include rent and utilities. For ownership housing, the costs of the housing include principal and interest payments for any mortgages, property taxes, property insurance and utilities.

**Affordable Housing Projects** – Housing developments creating ONLY affordable housing units.

**Density Bonus** – An increase in the number of dwelling units allowed under the applicable zoning and land use designation.

**Dimensional Standards** – Lot dimensions and building bulk, density, location and height.

**Driveway**- A private road leading from a public road to a house or garage.

**Dwelling Unit** - A single unit with complete independent living facilities for at least one person, including permanent provisions for sleeping, eating, cooking, and sanitation.

**Expeditor Ombudsman** – Assigned agent from the city who can be approached by developers to determine the most practical affordable housing options in relation to the ordinances in the city that are beneficial to both the developer and the community.

**Garage** – A building structure that is used to park and cover a motor vehicle.

**Impact Fee** – Any fee charged with the intent of offsetting a portion of the public services that will need to be provided to the development.

**Mass Transit Point** – An entry point to a public transportation system.

**Mixed-Use Development(s)** – A building that contains more than one use, one of which is residential.

**Multi-family housing** - A residential structure with more than one dwelling unit in the same building.

**Overlay District** - An area superimposed upon a zoned area which supersedes, modifies or supplements the underlying zoning regulations.

**Residential Zone Districts** – Any zoning classification that permits residential uses.

**Resident-Serving Retail and Service Uses** –Commercial functions that provide goods or services for local consumption, as opposed to manufacturing for shipping out of the region. Examples include, but are not limited to: grocery stores; fruit and vegetable markets; bicycle sales and repair shops; furniture sales; audio-video stores; florists; frame shops; clothing and apparel businesses; health clubs; dry cleaning, not including processing plants; laundromats; tailors; shoe repair; retail sales and repair of household goods and appliances; and hobby and craft shops.

**Senior Citizens** – Individuals over the age of 65.

**Unit Size** – The square footage of the unit unless otherwise defined by the jurisdiction of enforcement.

## COMPREHENSIVE PLAN AND MODEL LANGUAGE

### LAND USE

**OBJECTIVE LU1** – Provide transportation infrastructure for residents to keep living costs down and minimize the need for parking.

LU 1.1 Promote residential development near mass transit points.

EX- Residential developments located within 1/2 mile of a mass transit point shall receive a 10% density bonus.

EX- An overlay district will be placed 1/2 mile around a mass transit point which (1) allows mixed-use developments provided all residential units are affordable housing units and the residential units take up at least 50% of the total floor area of the development and (2) requires only one off-street parking space per affordable housing unit.

LU 1.2 Create bike and pedestrian lanes where possible and when reasonable by recognizing the local context, planning, scoping, design, implementation, operation and maintenance of roads in order to address the safety and accessibility needs of all the users.

LU 1.3 Allow different street design options to reduce impact fees or the costs related to the creation and maintenance of the streets.

EX- Street design. Modifications in street layout and design may be permitted subject to site constraints, type and intensity of development and compatibility with surrounding development. The city/county public works director or designee may recommend such modifications as deemed appropriate to reduce the costs for the affordable housing units and projects. However, such recommendation will be in keeping with standard, safe engineering practice, and construction standards generally shall not be modified.

LU 1.4 Zone for districts and corridors that allow for the development of affordable housing units near resident-serving retail and service uses.

EX- A developer of a project that contains affordable housing units within 1/2 mile of resident-serving retail and service uses will receive a density bonus of 25% multiplied by the number of affordable housing units in the development.

**OBJECTIVE LU2** – Expand the permitted and conditional uses to encourage development of affordable housing.

LU 2.1 Allow mixed use development as a conditional use in all districts zoned for commercial or business uses.

EX- A mixed use development shall be allowed as a conditional use in any district zoned for commercial or business use provided: (1) 50% of the residential units are affordable housing units; and (2) the development includes at least one parking space per residential unit. The allowable floor area permitted for the commercial uses shall not be reduced.

LU 2.2 Allow renting in all residential zone districts either as a permitted use or as a conditional use provided the rented unit is an affordable housing unit.

LU 2.3 Allow multi-family buildings as a conditional use in all residential zone districts.

EX - Multi-family buildings are allowed in all residential zone districts subject to the following conditions: (1) the development is an affordable housing project; (2) the maximum height will not exceed X; (3) the maximum number of units will not exceed 150% of the allowable density in the underlying zoning classification; and (4) the housing meets health and safety standards.

LU 2.4 Allow accessory dwelling units as a conditional use in all residential districts.

EX- One accessory dwelling unit is permitted as subordinate to an existing dwelling unit subject to the following conditions: (1) either the existing dwelling unit or the accessory dwelling unit must be occupied by an owner of the property; and (2) the square footage of the accessory dwelling unit shall not exceed the square footage of the existing dwelling unit.

## **DESIGN AND DIMENSIONAL STANDARDS**

**OBJECTIVE DD1** - Modify dimensional standards to allow the development of affordable housing units.

DD 1.1 Remove or reduce minimum lot size requirements and dimensional standards to allow for development of affordable housing units on smaller lots.

EX- Lot Area. Lots which will be developed to contain affordable housing units in single-family subdivisions may be reduced by up to 20 percent of the minimum lot area required by the underlying zoning district; provided, that the density in the subdivision does not exceed 15 percent above the maximum permitted by the underlying zoning district.

DD 1.2 Revise or remove unnecessary dimensional standards that act to restrict the development of affordable building types.

EX- Open Space. Any open and recreation space requirement for an affordable housing project may be reduced to X percent of the gross land area.

EX- Max Height Increase. The maximum height can be increased by one story or 10 ft for an approved affordable housing project under a conditional use permit that: (1) the height increase does not substantially affect the surrounding buildings as determined by the city; and (2) all the units in the affordable housing project remain affordable until the building is demolished or approved for another use by the city.

EX- Minimum Floor Areas. Affordable housing projects can have X less square feet than required in the zoning district, but not less than required by state law.

EX- Minimum Width and Length Requirements. Affordable housing projects are exempt from width and length requirements for the building in the zoning district but may not be less than required by state law.

**OBJECTIVE DD2** - Modify design standards in order to encourage the development of affordable housing units and projects.

DD 2.1 Remove restrictions for constructing removable accessory dwelling units used for housing senior citizens.

EX- An owner of a single-family dwelling may construct a removable accessory dwelling on the property to be used as residence for a senior citizen provided the unit is less than 600 square feet, free-standing, barrier free, energy efficient and adjacent to the existing single-family dwelling. The unit must be removed when it is no longer occupied by a senior citizen.

DD 2.2 Reduce parking requirements for affordable housing projects.

*Alternative ordinances:*

EX- Require only one off-street parking spot per unit in an affordable housing project.

EX- Remove all off-street parking requirements for affordable housing projects.

EX- Parking, Garage and Driveway Requirements. Remove all parking, garage and driveway requirements for affordable housing projects.

EX- Off-street parking shall not be required to be located adjacent to the affordable housing project it is intended to serve. Off-street parking may be provided in a parking court that is within 100 feet of a lot line of the affordable housing project.

EX- For each parking space provided within or under a multiple dwelling structure that contains affordable housing units, subtract X square feet per affordable housing unit from the minimum lot area requirements.

DD 2.3 Provide density bonuses to developers who include affordable housing units in a development.

EX-Rounding of Fractions in Affordable Housing Calculations. In calculating the number of dwelling units or residential building lots that are permitted to be constructed which include affordable housing units, fractions of one-half or greater shall be rounded up to the nearest whole number.

EX- Maximum Density Bonus. The maximum density bonus in a residential area shall only be X or X% of the maximum density for the area, whichever is less, unless otherwise approved by "..."

EX- No accessory dwelling unit will be counted in density calculations in residential zone districts.

**OBJECTIVE DD3** - Make energy efficiency a priority for affordable housing units, especially when evidenced by cost savings.

DD 3.1 Energy Efficiency standards should be a factor in approval for all financing options for affordable housing units.

EX - A set of green building criteria as determined by the city is required for any affordable housing project applying for public funds through the X fund. The standard is based on a system that awards points for a variety of sustainable building practices, including site locations and neighborhood planning; water conservation; energy efficiency; the incorporation of



renewable technologies such as solar energy; improved indoor-air quality; and environmentally conscious construction practices and building materials.

EX- Provide low-interest loans for improvements to affordable housing units that increase energy efficiency and conservation of resources. Borrowers are required to have an energy audit conducted and to prepare a plan to address deficiencies. The savings will benefit the city through reduced demand and the residents of the affordable housing units through reduced utility costs.

## **ADMINISTRATON**

**OBJECTIVE A1** – Create cost-effective and predictable administrative procedures for development of affordable housing units and projects.

A 1.1 Provide an expeditor ombudsman to assist with answering questions from developers and to review planned development of affordable housing projects and units.

A 1.2 Offer expedited review for affordable housing projects or units.

*The process for the review, approval and permitting for developments that include residential units should be examined in detail to identify the delays in these processes, and measures to minimize or eliminate these delays, within the confines of state law.*

A 1.3 Make development decisions predictable and cost effective so construction of affordable housing projects and units are economically viable and attractive to private investors and developers. Eliminate discretion when possible, have concrete, specific and detailed standards, and have a transparent system for approving development applications.

## **FINANCING**

**OBJECTIVE F1** - Create and help developers use financing options that encourage the creation of affordable housing projects and units.

F 1.1 Work with local Community Development Financial Institutions and others to create programs that provide money for affordable housing projects and units and ways to reduce costs. Examples include a program that provides donated building supplies from local companies or installs energy efficient elements.

F 1.2 Identify and work with nonprofit organizations or government agencies that provide financing for the creation or purchase of affordable housing units or

projects such as Local Initiatives Support Corporation, Enterprise Community Partners Inc., Minnesota Housing Partnership, Central MN Continuum of Care, Small Cities Development Program, Federal Home Loan Bank, Rental Rehabilitation Loan Program, Central MN Community Land Trust and the Greater MN Housing Fund.

F 1.3 Contact organizations that can help build affordable housing units or projects such as Habitat for Humanity, Neighborworks Network and the Minnesota Housing Partnership.

F 1.4 Provide funding to pay or reduce any impact fees.

EX- The Impact Fee Assistance Program may provide funding for the cost of impact fees for homebuyers purchasing homes in "...". Funding will be provided as a 0% interest, soft second mortgage for a five year term. The homebuyer will have to repay a portion of the loan only if the homebuyer sells, rents or refinances within the first five years of owning the home. The household's gross annual income must be less than 80% of the area median income.

F 1.5 Create a contract between the developer and the city to ensure the long-term affordability of any affordable housing units.

EX- Affordability Agreements. Affordable Housing Incentives Program Agreement (AHIPA). An application for a proposed project that includes affordable housing units and incorporates any of the incentives to construct affordable housing units shall not be deemed completed until the applicant has submitted a signed Affordable Housing Incentives Program Agreement as a component of the application package. The agreement shall include, but not be limited to:

1. Identification of all the incentives, monetary and non-financial, that the project proposes to incorporate;
2. Identification of the number of affordable housing units;
3. Binding language that protects "...". interests in the event that a developer obtains affordable housing incentives through the platting or building phases but fails to construct the requisite affordable housing units;
4. An explicit statement of the duration of the agreement.

5. An agreement that all affordable housing units that are rented shall remain affordable (1) to the existing tenants who shall pay no more than 30% of their household income; and (2) to new tenants whose household income shall be 80% of area median income or less and shall pay no more than 30% of household income during their tenancy. The manager of the rental units shall conduct certification of household income at least annually;

6. An agreement that specifies the qualifications of a purchaser of any affordable housing units that will be sold.

6. Language that states the remedies if the applicant fails to build the required number of affordable housing units or fails to maintain rents on the rental units as required by the AHIPA;

7. The agreement that covers affordable housing units to be rented runs with the land and shall be binding on the assigns, heirs and successors of the applicant for a period of ten years.

8. The agreement that covers affordable housing units for sale runs with the land and shall be binding on the assigns, heirs and successors of the applicant until the affordable housing unit is sold to a qualified buyer.

9. The AHIPA shall be fully executed prior to the final approval of the incentives and shall be in recordable form and shall be recorded with the county recorder or registrar of titles at closing;

F 1.6 Create affordable housing units for sale that have limits or restrictions on the equity an owner may receive upon subsequent sale. Examples include limited equity cooperatives, community land trusts, deed restrictions which limit the resale price or deeds which include a right of first refusal for a public agency or non-profit to purchase the unit at a restricted price.