MIDDLE INCOME HOUSING TOOLS

Staff Recommended Tools from Middle Income Council Memo

May 3, 2016

1. Define and Adopt Community Benefit Policies and Tools

What is the Problem? There is a perception that new development is not providing sufficient community benefit. Many Council members have expressed concerns that the city's current policies and codes are driving larger and more expensive units that are not affordable to middle income households.

Potential Interventions

A. Adopt policies requiring a higher level of community benefit for annexations. For example, require specific housing types that would be affordable to middle income households (attached, smaller in size, access to a yard, etc.) for both market and permanently affordable units.
B. Adopt policies providing guidance for community benefit for an increase in development potential through land use or zoning changes. Amend regulations to require additional affordable housing for any rezoning that increases development potential.
C. Explore options to amend the current Inclusionary Housing (IH) regulations including: requiring or incentivizing on-site units, increasing IH requirements, adding a potential middle income housing requirement.
D. Identify barriers to smaller units and/or incentives for larger units and consider related regulatory and other changes.

2. Identify Funding Options

What is the Problem? Currently, the only mechanism for acquiring permanently affordable middle income housing is through annexation. In addition, investing in middle income housing is currently not an eligible use of the city's affordable housing funds. Therefore, additional funding may be necessary to address the challenge while maintaining the current commitment to housing for low and moderate income households.

Potential Interventions

A. Explore investing public funds in creating and preserving middle income housing options.
B. Expand the current affordable housing linkage fee on nonresidential development to address middle income housing needs (currently being explored as part of the Development Fee Studies).
C. Create a new tax, or raise existing taxes, to fund middle income housing units (e.g., occupational tax, hotel/accommodations tax, general sales tax, and property tax).

One option for using additional funding sources is to create a down-payment assistance program for middle income households. In exchange for the subsidy, the homeowner would agree to 1) a deed restriction to maintain permanent affordability to middle income households, 2) share the home's appreciation through repaying a loan that would revolve, or 3) a combination of both.

SHORTLIST OF TOOLS FOR FURTHER CONSIDERATION:
The group "dot voted" (nine of 12 members) to create this short list of tools for further consideration, with the following comments:

Land Use Designation and Zoning Changes

Cooperative Housing
- Co-Housing only got one dot (voting was limited to five dots each person), but should be considered part of Co-op Housing

Occupancy Limits
- Already happening, make it legal and better enforce nuisance code
- Could be treated as a type of cooperative housing, or could be differentiated from it
- Makes better use of existing houses and densities, and is a good use of land

Height Limit
- Could mean adding more height in general throughout city by adding one or two stories to existing one-story buildings; and/or could mean allowing up to 55' in select places or even over 55'
- Higher buildings are more energy- and land-efficient
- Needs to be considered in conjunction with density and setbacks

Accessory Dwelling Units/Owner's Accessory Units
- Require them to be permanently affordable
- Look at the whole range of amendments to current restrictions, e.g., the current size limit numbers seem arbitrary

Bonuses for Higher Affordability and Certain Housing Types

The group agreed (eight of 12 members present) that of the above tools, these would have the most impact:
- Land Use Designation and Zoning Changes
- Occupancy Limits
- Height Limit

Also, individual members were asked to state their favorite one or two tools and why; their responses are posted online under Meeting #4 Notes.

POTENTIAL TOOLS/POLICIES TO ADDRESS THE "MAINTAIN THE MIDDLE" GOAL

The Housing Boulder Toolkit of Housing Options has a number of tools that could address this goal, including, but not limited to:

A2. Accessory Dwelling Unit/Owner's Accessory Unit Requirements

B2. Homebuyer Assistance Programs

B3. Inclusionary Housing (IH) Program

B4. Revenue Sources for Affordable Housing

B5. Annexation

C2. Land Banking

C3. Preservation of Rental Affordability

C4. Historic Preservation of Smaller Houses and Accessory Buildings

D1. Employer-Assisted Housing

D2. Green and Location-Efficient Mortgages

E1. Bonuses for Permanently Affordable Housing and Certain Housing Types

E3. Height Limit

E4. Land Use Designation and Zoning Changes

F1. Homeowners' Association (HOA) Fee Affordability

F4. Rent Control

A2. Accessory Dwelling Unit/Owner's Accessory Unit Requirements

An Accessory Dwelling Unit (ADU)/Owner's Accessory Unit (OAU) is a secondary living unit that is located within a residence or in an accessory building on the same property. Most often, accessory units are created through the conversion of basement or attic space, or space above a garage (sometimes known as "granny flats" or "in-law apartments"). They are allowed in an owner-occupied house in low-density residential zones and must meet specific criteria to ensure compatibility with the neighborhood.

Key Issues:

- Amending some or all requirements in the ADU/OAU ordinance (e.g., no more than 10% ADUs in a specific area, parking requirement, neighborhood notice, and a lot size limitation of 6,000 square feet for OAUs) could create more ADUs and OAUs within the city.
- This type of housing can impact neighborhood character due to change in density, diminished privacy and increased noise, activity, and traffic created by accessory unit tenants.
- ADUs and OAUs can provide additional affordability options in existing neighborhoods with amenities and access to services.
- ADUS and OAUs can allow seniors to downsize by moving into the ADU while renting out the primary house.
- ADUs and OAUs use land efficiently and advance many city sustainability and historic preservation goals.

Background:

- The Boulder Valley Comprehensive Plan (BVCP) policy on accessory units (2.11) states: "Consistent with existing neighborhood character, accessory units will be encouraged in order to increase rental housing options in single family residential neighborhoods. Regulations developed to implement this policy will address potential cumulative negative impacts on the neighborhood. Accessory units will be reviewed based on the characteristics of the lot, including size, configuration, parking availability, privacy, and alley access."
- ADUs are regulated by section 9-6-3, "Specific Use Standards – Residential Uses" of the Boulder Revised Code 1981.
- Year ADU Ordinance (BRC 1981, 9-6-3(a)) was adopted: 1982.
- The 2012 ADU Study found 186 ADUs and 42 OAUs in Boulder.
- General Provisions (ADU, OAU, LAU): (i) Owner Occupied—the owner of the property must reside in one of the permitted dwelling units on the site; (ii) The occupancy of any accessory unit must not exceed two persons. Overall, the occupancy for one dwelling unit cannot exceed the occupancy requirements set forth in section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981; and (iii) Additional Roomers Prohibited—the property cannot also be used for the renting of rooms pursuant to paragraph 9-8-5(a)(1), B.R.C. 1981.
- ADUs are fairly evenly distributed through the city, with slight concentrations in the Newlands, University Hill neighborhoods, and in South Boulder. OAUs are primarily located in the Whittier neighborhood in Central Boulder.

Implementation Options:

1. Consider amendments to the current ordinance to encourage this housing type and respond to neighborhood concerns.

Goals Addressed Through this Tool:

✓ ***Strengthen Our Commitments***

✓ ***Maintain the Middle***

✓ ***Create Diverse Housing Choices in Every Neighborhood***

Create 15-Minute Neighborhoods

Strengthen Partnerships

✓ ***Enable Aging in Place***

Above-Garage Accessory Dwelling Units.
Source: accessorydwellingunits.org/what-adus-are-and-why-people-build-them/, accessed November 17, 2014

B2. Homebuyer Assistance Programs

Boulder's Homeownership Program operates two down-payment assistance programs: the Solution Grant—a down-payment grant to assist with the purchase of permanently affordable homes in Boulder—and the H2O Loan (House to Homeownership), which helps low- to moderate-income households cover down payment and closing costs when purchasing homes on the open market. These loan assistance programs have evolved from earlier programs. It is possible to adjust these programs to serve more or different households.

Key Issues:

- The city offers two down-payment assistance programs: the Solution Grant for low- to moderate-income households purchasing permanently affordable homes in Boulder and the H2O (House to Homeownership) Down-Payment Assistance Loan for low- to moderate-income households for homes on the open market.
- The maximum qualifying income for a 4-person household for both of the city's loan programs is in the mid $70,000 range.
- The median detached single-family home value in Boulder (2013) was $631,250 and the income needed to purchase it was $158,280.[1]
- Rapid increases in Boulder home prices make some homebuyer assistance tools unsustainable.
- When designing a homebuyer assistance program in an expensive market like Boulder's, factors to consider include: the relative merit of retaining homebuyer households in Boulder, the amount of public subsidy needed to do so, and what that money could do if used differently (e.g., funding other housing options or community development initiatives).

Background:

- Homebuyer assistance tools in the '99 Toolkit included a **shared equity loan program**. Shared equity entails sharing of a home's equity at resale between the homeowner and the community/future qualified home buyers. In 1996, the city established First Home, the first shared equity loan program. It was replaced with a down-payment grant program that required permanent affordability. The rapid increase in Boulder's home prices led to concern that the recapture on resale would be insufficient to ensure 1:1 replacement.
- The **purchase program for existing units**, a tool included in the '99 Toolkit, involved public funds being used by the city or nonprofits to purchase existing housing units for resale or rental to low- or moderate-income persons. The city has not used public funds for direct purchase of homeownership units.
- The **Solution Grant** is limited to up to 5% of the purchase price, has no repayment requirements, and remains invested in property, reducing the purchase price to the next owner. The program serves approx. 20 households annually.
- The **H20 Loan** is limited to up to 50% of the home's purchase price up to $50,000. The H2O loan must be paid as a balloon payment at the end of 15 years or upon transfer. This program serves 3 to 4 households each year. Dramatically fewer households use this loan now than 5 years ago. It is most popular among 1- to 2-person households as the allowable amount does not bridge affordability gap for larger households seeking larger homes.

Implementation Options:

1. Explore expanding the down-payment assistance program to include middle-income homebuyers and to increase the maximum amount per unit.
2. Explore reinstating the First Home Gap Financing Grant.

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SOLUTION GRANT MAX INCOME (LOW/MODERATE INCOME)

1 PERSON	$51,490
2 PEOPLE	$58,850
3 PEOPLE	$66,220
4 PEOPLE	$73,520
5 PEOPLE	$79,450

H20 LOAN MAX INCOME (LOW/MODERATE INCOME)

1 PERSON	$53,870
2 PEOPLE	$61,600
3 PEOPLE	$69,340
4 PEOPLE	$76,940
5 PEOPLE	$83,200

Maximum allowable incomes for different sized households to qualify for two Homeownership programs. *Source: bouldercolorado.gov/homeownership*

[1] Assumptions: 5% down payment; 4.6% interest rate; 30-year fixed term mortgage, no debt

B3. Inclusionary Housing (IH) Program

Inclusionary Housing (IH) in Boulder requires that new residential development contribute at least 20% of the total units as permanently affordable housing. Options for meeting this requirement include providing the permanently affordable units on-site, dedicating off-site newly constructed or existing units as permanently affordable, dedicating vacant land for affordable unit development, or making a cash contribution to the Affordable Housing Fund in lieu of providing affordable units (cash in lieu).

Key Issues:

- Unless the 20% IH requirement is increased, diverting IH unit production to middle-income homes or other community benefits would reduce the number of low-/moderate-income units or cash in lieu realized through the program.
- IH preserves affordability by limiting appreciation. Resale of middle-income permanently affordable homes often takes much longer than for moderate-income homes. Analysis should be done to determine if this is the best method to preserve middle-income prices.
- If the 20% requirement is not adjusted, substituting middle-income units for low-/moderate-income units will effectively reduce the Inclusionary Housing requirement (middle-income units are less expensive for a developer to provide than low-/moderate-income units).
- A minimum of one half of the required for-sale affordable units are required on-site; however, all of the requirements may be met with a cash-in-lieu payment or provided off-site if the developer provides additional community benefit (defined as 50% higher cash in lieu).
- Due to a State Statute on rent control, rentals do not have an on-site requirement and may provide the units off-site or through cash in lieu at no additional community benefit.
- The IH Program is in place, staffed, and would be relatively quick and easy to modify.
- It is reasonable to assume any modification would piggyback on the program's proven success to produce desired outcomes.
- As the city approaches build-out, a reduction in housing development will provide fewer opportunities to gain community benefits through this program.

Implementation Options:

1. Modify the IH Program to include housing affordable to middle-income households.
2. Modify IH requirements to incentivize other community benefits (e.g., accessible units, providing free office space for non-profits in development, or free child care space).

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True Corner—22 permanently affordable condominiums.
Source:*www.forumre.com/communities/colorado/boulder/true-corner-condominiums*

B4. Revenue Sources for Affordable Housing

This tool would broadly explore other sources of revenue for affordable housing, such as a local housing trust fund, a revolving loan fund, occupation/head tax, hotel/accommodations tax, sales tax, and property taxes.

Key Issues:

- Raising or implementing new taxes for affordable housing requires conducting feasibility studies and often has political consequences.
- In Colorado, taxes are fixed and all new taxes are subject to the Tax Payer Bill of Rights or TABOR. Under TABOR, state and local governments cannot raise tax rates without voter approval.
- Raising or implementing any additional taxes requires public will.
- In the past, proposals to raise taxes, including occupation taxes (1994) and hotel taxes, were defeated by voters.

Background:

There are four main sources of city-administered funds that help to subsidize the acquisition and construction of affordable housing in Boulder: the Affordable Housing Fund, the Community Housing Assistance Program (CHAP), HOME, and the Community Development Block Grant (CDBG) Program. Revenue for these funds comes from a combination of city property taxes, a housing excise tax, Inclusionary Housing cash in lieu, the downtown linkage fee, city sales tax, and state and federal funds (2013). There have been efforts in the past to raise a variety of taxes to support affordable housing; all proposals were defeated at the ballot by voters.

Illustration. *Source: http://njplanning.org/wp-content/uploads/Affordable-Housing.jpg, accessed November 17, 2014*

Implementation Options:

1. Consider raising or implementing new taxes for affordable housing (i.e., occupational tax, hotel/accommodations tax, general sales tax, and property tax).*

   2010 AHTF RECOMMENDED

2. Explore establishing a revolving loan fund.

   2010 AHTF RECOMMENDED

3. Explore establishing a housing trust fund.

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B5. Annexation

When properties in the county annex to the city, they must meet certain requirements. One of the recent requirements for properties with residential development potential has been provision of permanently affordable housing. These requirements could be revised to help meet the community's housing goals.

Key Issues:

- The policy and practice for the past several years has been that 40-60 percent of the new development in an annexation be permanently affordable to low-/moderate- and middle-income households, usually split evenly between the two income groups. This mix could be modified depending on the desired housing outcomes identified by Housing Boulder.
- Meeting annexation requirements can be especially difficult for small properties. If the city is seeking more small property annexations as a way to increase housing supply, it may be possible to adjust the requirements for small annexations.

Background:

- Proposed annexations with additional development potential need to demonstrate community benefit consistent with Boulder Valley Comprehensive Plan (BVCP) policies in order to offset the potential impacts of additional development. For proposed residential development, emphasis is given to the provision of permanently affordable housing.
- The BVCP lists the following additional benefits that may be considered as part of an annexation request:
  - Receiving sites for transferable development rights;
  - Reduction of future employment projections;
  - Land or facilities for public purposes over and above that required by the land use regulations;
  - Environmental preservation; or
  - Other amenities determined by the city to be a special opportunity or benefit.

  If other important community benefits are provided in the proposed development, a minimum of 40 percent of the new development could be provided as permanently affordable to low- and middle-income households.
- Annexation requests that do not result in additional density are not expected to provide the same level of community benefit required of vacant, developable parcels.

Implementation Options:

1. Depending on analysis of development feasibility and market for more deed-restricted middle-income housing, consider modifications to the required mixture of housing types.
2. Consider adjusting requirements to facilitate annexation of smaller properties, which could increase the overall number of new housing units.

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Middle-income, permanently affordable units come into the city through annexation. *Source: City of Boulder Homeownership Program*

C2. Land Banking

Land banking is the purchase of land by the city or a nonprofit housing corporation as a future site for affordable housing or other housing that meets community goals. In Boulder, one of the options for fulfilling the Inclusionary Housing (IH) requirement on a market-rate housing development is to donate land. The city has used this tool selectively in the past and can continue the practice of land banking as opportunity arises.

Key Issues:

- Banked land presents the city with flexibility to develop innovative projects that deliver significant and varying community benefits.
- Land banking promotes equity across time (i.e., future generations can weigh in on a vision for the community and make decisions that are appropriate to those later conditions).
- Land banking could reduce future development costs.
- Visions regarding site development often change from the time of original banking to time of actual development; there is no guarantee that land banked with the intent of developing affordable housing will ultimately serve that purpose.
- There is a limited supply of undeveloped land in Boulder.
- Land banking requires political support and must be significant or an otherwise high priority action item to the community. In Boulder, there are many other current opportunities and needs that require immediate funding, thus land banking a site that will not be developed for a number of years is often not viewed as a priority.

Background:

As opportunity arises, the City of Boulder banks sites with the intention of future development. There is a mechanism and process in place to identify sites for acquisition.

Implementation Options:

1. Explore specifically earmarking funds for future land banking activities.

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Illustration of Land Banking. *Source: landbanking.com, accessed November 13, 2014*

C3. Preservation of Rental Affordability

As rental and for-sale home prices continue to escalate in Boulder, it is important to consider options to preserve the existing affordability of the housing stock well into the future. This tool would explore preservation of the affordability of housing currently affordable to low- to middle-income households.

Key Issues:

- In the future, there will be less opportunity for new-built affordable housing.
- As the amount of vacant land in Boulder diminishes and land values increase, there is increasing pressure to rehab and raise rents on existing "market affordable" rental properties.
- Possible risks to the affordability of this housing include expiration of federal affordability requirements, sale of the property or asset, and organizational instability, among other factors.
- According to the Boulder Housing Partners (BHP) Strategic Plan Draft Update, Boulder has lost an average of 1,000 units of market affordable housing inventory per year, every year, for the past 12 years.
- The BHP Strategic Plan Update found that there was a 61% decline in for-sale homes valued below $300K in Boulder. The study concluded that if this rate of decline continues, by 2020, Boulder will have no market-rate, for-sale homes affordable to households earning less than $100,000.
- The 2014 CHS Housing Choice Survey identified a variety of factors that Boulder residents and in-commuters consider in purchasing a home. This information could be incorporated into a preservation strategy.

Background:

- Within the city's 10% permanent affordability housing goal, the city tracks a category of housing deemed "likely to remain affordable" (LTRA). This category includes 1,005 rental and for-sale homes without permanent affordability covenants; residents are still subject to income qualifications and pay below market housing costs.
- Most of the 1,750 affordable housing units created prior to the year 2000 were not considered permanently affordable. Of the 1,750 affordable housing units in the year 2000, 520 (including 122 shelter or group home beds) were secured by covenant, while the remainder—1,230—consisted of public housing units or units owned by other community agencies and fell into the "likely to remain affordable" category.
- The BHP Strategic Plan Update seeks to preserve middle-income housing; BHP aspires to add 2,000 mixed-income units to its portfolio over the next 10 years.
- There are 450 permanently affordable homes targeted to middle-income homeowners in the city's portfolio.
- There are 99 middle-income units in the city's portfolio that become permanently affordable as part of annexations.

Implementation Options:

1. Consider using Inclusionary Housing to deed restrict LTRA units.
2. Consider an ordinance that would allow existing affordable properties with nonconforming densities and/or heights to rebuild with the same total unit count.
3. Study risks to LTRA units.
4. Explore expanding the supply of permanently affordable middle-income housing.
5. Explore ways to discourage residential demolitions.
6. Study ways to maintain middle-income housing opportunities that will remain affordable into the future and are not covenanted.

2010 AHTF RECOMMENDED

7. Include mechanisms to preserve affordability of market-rate units, such as ensuring a right of first refusal for renters to purchase their lower-cost apartment buildings if they are proposed to be converted to expensive condominiums.

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C4. Historic Preservation of Smaller Houses and Accessory Buildings

Preserving smaller, historic houses and accessory buildings is important on many levels in addition to historic preservation: These buildings are relatively more affordable, their embodied energy makes them greener, and their small size could make aging in place more affordable and allow neighborhoods to evolve in an organic, contextual way. This tool suggests creating additional incentives for owners of historic properties to preserve, rather than demolish, their smaller buildings through the city's landmarking process.

Key Issues:

- Historic small homes and accessory buildings are being demolished and replaced with larger structures at a rapid rate, especially in Boulder's central core.
- Preservation of smaller, historic homes advances city goals for retaining the historic character of our central core.
- Removing current barriers to subdivision and designation of ADUs and OAUs in exchange for landmarking (concentration, parking, size, occupancy, permitting, etc.) merits reconsideration.
- Smaller homes, ADUs, and OAUs provide additional affordability options in existing neighborhoods with amenities and access to services.
- Senior homeowners may be able to stay in their neighborhoods and downsize by moving into an ADU or OAU while renting the primary residence to a larger family.
- Historic smaller homes, ADUs, and OAUs use land efficiently and advance many city sustainability goals.
- Subdivision of large lots that contain small historic houses will allow a small, scattered increase in housing diversity in neighborhoods without blanket rezoning or other dramatic changes.

Background:

- ADUs are a "separate and complete housekeeping unit within a single family detached dwelling unit." They are currently only allowed in zones RL-1, RL-2, RE, RR-1, RR-2, A, or P, and there cannot be more ADUs than 10% of the single-family homes in a given neighborhood area.
- OAUs are "separate and complete housekeeping unit[s] within a single family detached dwelling unit," but may be located within a detached accessory structure. They are currently only allowed in zones RR, RE, and RMX and are limited to 450 sq. ft. in size.
- Subdividing lots to allow an owner to preserve a small home while constructing a second house on the site is not allowed for lots smaller than 6,000, 7,000, 15,000, or 30,000 square feet for RMX-1, RL-1, RE, RR-1/RR-2, 2, respectively.

Implementation Options:

1. Allow ADUs and OAUs in lower density zones.
2. Remove the "10% saturation rule" restrictions for landmarked ADUs.
3. Allow detached OAUs that exceed 450 square feet if the site is landmarked.
4. Allow exception of the minimum lot size limitation of 6,000, 7,000, 15,000, or 30,000 square feet for RMX-1, RL-1, RE, RR-1/RR-2, respectively, for subdivisions.
5. Relax parking requirements.
6. Allow subdivision of property into multiple small, non-conforming lots or create a Planned Unit Development (PUD) with multiple units on one lot to preserve an existing historic house or accessory building.
7. Allow relief from Maximum Building Coverage requirements for accessory buildings in rear yard setbacks in exchange for landmarking all of the structures on the site.

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D1. Employer-Assisted Housing

Employer-assisted housing (EAH) can be provided directly to the individual employee in the form of mortgage subsidies, down-payment assistance, relocation payments, and the like; or the city can help to increase the supply of housing by requiring or encouraging employers to participate in the development of additional housing units through such actions as the provision of land, construction financing or purchase/lease guarantees, and down-payment assistance.

Key Issues:

- Jobs/Housing Balance Project: The job growth rate was historically double the housing growth rate (1980-1995).
- Only 41% of employees live in Boulder, with the remainder commuting from a variety of other counties.
- People who live and work in Boulder drive fewer miles to work and are less likely to drive alone than their in-commuting counterparts. Longer commutes increase household expenses.
- Housing vacancy rates in Boulder are extremely low for both rental and ownership housing; they are among the lowest in Colorado.
- Many employers will not invest their own money in housing assistance programs; therefore, this tool could require either a tax on employers or a tax on the city to design and implement programs.
- Employers are not usually interested in providing affordable housing for workers unless they view high housing costs as a significant barrier to worker recruitment and retention.
- Small employers may not find it cost-effective to manage an EAH program.
- The potential benefit will depend on the scope and design of a program (e.g., mandatory vs. optional) and the interest of employers in such a program.

Background:

Currently, some Boulder employers independently offer some level of housing assistance, such as relocation assistance or down-payment assistance.

Implementation Options:

1. Educate and encourage employers to assist employees with housing.
2. Consider a demonstration project to develop housing for essential (i.e., police, fire, etc.) City of Boulder employees.
3. Explore options such as a matching funds program to partner with employers to establish employer-assisted housing programs.

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Income	Homeowners		Renters	
	In-Commuters	*Boulder Residents*	*In-Commuters*	*Boulder Residents*
Less than $10,000	0.4%	1%	1%	2%
$10,000 up to $25,000	1%	3%	7%	13%
$25,000 up to $65,000	16%	17%	50%	40%
$65,000 up to $100,000	28%	23%	24%	25%
$100,000 up to $125,000	18%	16%	9%	7%
$125,000 up to $150,000	15%	12%	3%	6%
$150,000 or more	22%	29%	6%	6%
n=	797	720	306	579

Comparison of In-Commuter and Boulder Resident Income by Housing Tenure. *Source: BBC Research and Consulting Market Analysis Report, 2014*

D2. Green and Location-Efficient Mortgages

***Green mortgages**, also called **energy-efficient mortgages**, allow the homebuyer to roll the costs of making specific energy-saving improvements into the purchase price of a home. **Location-Efficient Mortgages® (LEMs)** increase the borrowing ability of homebuyers in areas that are more walkable and provide good multimodal access, on the assumption that households in these areas will have more income available that can be directed toward housing.*

Key Issues:

- The city has limited ability to affect the mortgage market.
- Both mortgages allow borrowers to borrow more money than standard underwriting would otherwise allow.
- Both mortgages present the homebuyer with a more diverse range of options in the housing market by allowing households with lower energy and transportation costs to qualify for a larger home loan amount.

Background:

National: In June of 2013, Senator Michael Bennet introduced a bill, the Sensible Accounting to Value Energy Act (SAVE), which would allow buyers of energy-efficient homes to qualify for larger mortgages.

The Green Resources for Neighborhoods Act of 2010, also referred to as the Green Act of 2010, directs the Secretary of Housing and Urban Development (HUD) to establish annual energy efficiency participation incentives to encourage participants in HUD programs to achieve substantial improvements in energy efficiency. Specifically, section 7 amends the Energy Policy Act of 1992 to require the Secretary to "establish a commission to develop and recommend model mortgage products and underwriting guidelines that provide market-based incentives to incorporate energy efficiency upgrades and location efficiencies in new mortgage loan transactions."

Beginning in 1995, Location-Efficient Mortgages® (LEMs) were a concept developed by the nonprofit Institute for Location Efficiency. Based on their research, in 2003, Fannie Mae sponsored a market test of LEMs in Los Angeles, Chicago, and Seattle. The LEM Program allowed borrowers who lived near mass transit to qualify for larger mortgages and coupled their location-efficient mortgage with a 30-year transit pass. LEMs were discontinued in 2008 during the national lending crisis.

Implementation Options:

1. Study the city's role in promoting green mortgages and location-efficient mortgage options to homebuyers.

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Boulder Junction. *Source: www.bouldercolorado.gov*

E1. Density Bonuses for Higher Affordability & Certain Housing Types

An affordable housing density bonus would allow for more housing units to be built than allowed by zoning if the proposed project provides more affordable units than required by Inclusionary Housing. This would be based on—and expand—the bonuses already offered for affordable housing in the Mixed Use 1 (MU-1) and Residential - Mixed 2 (RMX-2) Zone Districts.

A density bonus could also be offered to incentivize developers to provide specific housing types. Possible examples include micro-units, age-restricted/senior and family-friendly housing.

Key Issues:

- The current bonus system is used solely by affordable housing developers, as it does not provide enough incentive for market-rate developers. That is because affordable units are a net loss to market developers.
- Additional research would be needed to determine whether a density bonus in additional parts of the city or for certain housing types would be attractive to market developers.
- Allowing additional units may be controversial.

Background:

The bonus for affordable housing is offered in two zones:

- The RMX-2 Zone District was originally created for the North Boulder Holiday Neighborhood with the intention of facilitating a high percentage of affordable housing there. The zone also exists in Palo Park, however, Holiday is the only development that has used the bonus and it is now completely built out. The zone allows 10 units per acre without the bonus. The bonus allows five additional units per acre to be built if at least 30 percent of units (in the entire project) are permanently affordable. Additional units are allowed for projects that are at least 35 percent and 40 percent affordable. A report on form-based codes and affordable housing by Housing Colorado cited this zone district bonus.
- The MU-1 Zone District is also located in the North Boulder Holiday Neighborhood. It allows bonus units to be built in predominantly residential projects if at least 35 percent of units (in the entire project) are permanently affordable. This bonus has not been utilized very much, because affordable housing developers tend to not build mixed-use developments. Therefore, this type of bonus may be most effective in high-density residential zones rather than in mixed-use zones.

Implementation Options:

1. Consider providing a housing density bonus in additional zones.
2. Consider providing a density bonus for specific housing types.

Goals Addressed Through this Tool:

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Strengthen Partnerships
✓ ***Enable Aging in Place***

Holiday Neighborhood: RMX-2 Zone. *Source: www.holidayneighborhood.com*

E3. Height Limit

Raising the 55-foot height limit for residential development in select locations—for example, along transit corridors and in commercial centers—could increase the housing supply. This change would require a voter-approved amendment to the City Charter. Whether to put this issue on a future ballot could be analyzed and discussed as part of the Boulder Valley Comprehensive Plan (BVCP) 2015 Major Update. Another alternative approach, which would not require voter approval, would be to revise the zoning code so that more residential development proposals over 35 feet are allowed by right, rather than by special review.

Key Issues:

- Although the Boulder Valley Comprehensive Plan (BVCP) supports increased density in select locations, such as in commercial and industrial areas and along transit corridors (Policy 2.16), and also has policies about appropriate building scale, the plan does not directly address the issue of building height.
- The current height limit is found in the City Charter and therefore any change would need to be approved by voters. Through the 2015 BVCP Update process, the community and decision-makers could analyze and discuss whether the issue should be placed in a future ballot.
- Exceeding the height limit could be conditioned for only certain housing types or levels of affordability.
- Raising the height limit for residential development could increase the supply of attached housing units. The amount would depend on location and building height.
- Allowing more by-right residential developments over 35 feet could incentivize and facilitate construction of additional attached housing units.

Background:

The current 55-foot height limit was added to the City Charter (Article V. Section 84) by popular vote in 1971, after citizens petitioned City Council to place the issue on the ballot. In 1998, voters approved a special exception in the charter for how height is measured in the Crossroads area, as a way to help facilitate redevelopment of the Crossroads Mall, now 29th Street.

The land use code requires that proposed buildings exceeding 35-40 feet in height (depending on the zone district) go through a discretionary review process for approval. This introduces more risk and adds cost to the development process than if the development were allowed by right.

Implementation Options:

1. As part of the BVCP 2015 Major Update, consider whether a charter amendment should be pursued to increase the height limit in certain parts of the city.
2. Consider revising the zoning code to allow more by-right development of residential proposals over 35 feet in height.

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E4. Land Use Designation and Zoning Changes

The Boulder Valley Comprehensive Plan (BVCP) Land Use Designation Map broadly indicates the type of land use appropriate for each parcel of land in the city and the range of development intensity that should be allowed by the parcel's zoning. Changes to the Land Use Map can be made through regular updates to the BVCP (next update in 2015). Land use and zoning changes can also be considered as part of an area planning process.

Key Issues:

- Changes to land use designation are usually made as part of regular updates to the BVCP, with the next update to occur in 2015.
- Zoning changes follow any land use designation changes. Zoning regulates on a more detailed level the specific types of uses and the intensity of development that is allowed in each zone. For example, zoning changes can be made to reduce minimum lot size or increase allowed building size.
- As part of every five-year BVCP Major Update, the city updates its projections of how many additional housing units and jobs can be added based on zoning. While there is little vacant land left to develop in the city, a lot of redevelopment could occur under current zoning. The BVCP 2015 Update will provide an up-to-date view of development/ redevelopment potential prior to community discussions about whether land use designation changes should be considered.
- Two key ways to increase the amount of housing in the city would be to allow higher densities in residential areas and/or along transit corridors and/or allow more mixed use in commercial and industrial areas (see BVCP policies 2.16 and 7.10). These types of development would provide mostly attached units. However, without additional regulation, there's no guarantee that these would be small or affordable. For example, much of the mixed use that has been built downtown and elsewhere is relatively upscale. But regardless of price, mixed-use development can reduce residents' transportation expenses, if commercial and other services and/or jobs are within walking or biking distance.
- Another avenue for analyzing and considering land use changes is through an area planning process. The city can initiate an area planning process for a particular part of the city at any time. Zoning changes usually follow adoption of an area plan. Examples of area planning include the North Boulder Sub-community Plan, the Transit Village Area/Boulder Junction Plan, and Envision East Arapahoe project, currently underway.
- A "community benefit" requirement (value capture) could be added specifying that for any "upzoning" (giving a property more development potential), the developer must provide more affordable housing than normally required.

Background:

- Major updates to the BVCP occur every five years and include consideration of land use designation changes with community and property owner input. Changes within the city must be approved by both Planning Board and City Council. Changes within the Boulder Valley but not within the city (Areas II and III) must also be approved by the Boulder County Planning Commission and Board of Commissioners. Area plans are approved by Planning Board and City Council.
- The BVCP has policies supporting mixed use and higher densities in select areas ([e.g., Policy 2.16]). Over the past couple of decades, changes have been made through BVCP updates and area planning processes to allow more mixed use and higher densities in specific parts of the city, for example, downtown, North Boulder, and Transit Village/Boulder Junction.

Implementation Options:

1. Consider land use changes in the BVCP 2015 Major Update to allow additional residential development in certain areas, potentially in exchange for an affordable housing "community benefit" requirement upon re-zoning (value capture).
2. Identify specific areas for an area planning process that would consider land use and zoning changes to allow more residential development, potentially in exchange for an affordable housing "community benefit" requirement upon re-zoning (value capture).

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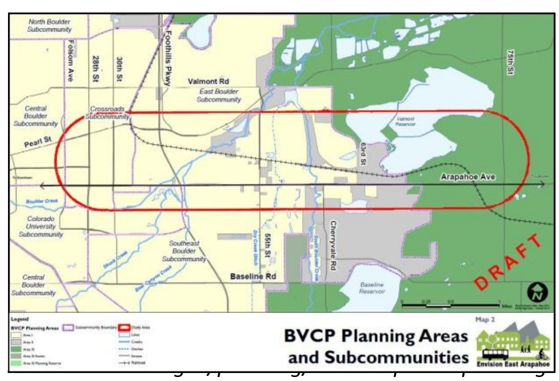

project, accessed November 13, 2014

F1. Homeowners' Association (HOA) Fee Affordability

A Homeowners' Association (HOA) is a self-governing association that, in most cases, is created by a real estate developer for the purpose of controlling the appearance of the community and managing common area assets. HOAs are handed off for private control to the homeowners. Association dues are used to cover maintenance, capital improvements, and upgrades.

Key Issues:

- General HOA issues:
  - HOA regulations are established by the state legislature. The city has limited power to intervene in HOAs' bylaws.
  - There is a tension between ensuring homes remain affordable and meeting ongoing and long-term maintenance and emergencies needs.
  - The best run HOAs commission complete capital needs studies, anticipate and handle maintenance needs, and structure fees to sufficiently cover anticipated costs.
  - There is a tendency to reduce fees initially and under save for long-term needs, resulting in larger fees and assessments for older HOAs.
  - Small associations can run into problems when they can't afford professional management.
  - Increasingly, older market-rate owners report being priced out of their homes as HOA facilities age and capital needs increase.
  - Fee controls established by the city can be amended by HOAs.
- HOAs and permanently affordable homes:
  - Master-developed land, a major source of new affordable ownership opportunities in Boulder, typically comes with HOA membership.
  - HOA fees are included in the initial pricing and affordability calculation; however, the city has no control over future HOA dues increases.
  - Affordable buyers in HOAs hold a minority vote.
  - Currently at Dakota Ridge and the Peloton, HOA fees are over $300/month; this ends up being one-third to one-quarter of the homeowner's monthly housing debt. High HOA fees deter some affordable buyers from these communities.

Implementation Options:

1. Explore requiring an income-based sliding scale for any new HOAs formed and distributing HOA fees according to home value.
2. Explore offering loans and grants to people facing special assessments and analyze the possibility of providing a city subsidy to units that exceed a certain ratio of monthly housing payment to HOA fee.

   2010 AHTF RECOMMENDED

3. Continue outreach efforts with HOAs.

   2010 AHTF RECOMMENDED

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F4. Rent Control

A rent control system would regulate the levels of rent, or rent increases, permitted within the city. Rent control is currently illegal in Colorado.

Key Issues:

- In response to a 1980 citizen initiative in the City of Boulder which imposed rent control on existing buildings, the 1980 Colorado statute banned rent control (CRS 38-12-301). This statewide rent control ban ensured that, notwithstanding home rule authority, no city or county in Colorado would be able to institute a rent control measure.
- The city's Inclusionary Housing (IH) Program applies to rental projects, but due to current statute, as of August 2014, no IH affordable rental units have been provided on-site.
- Rent control is limited to rental housing stock.
- Enabling rent control would require a legislative change at the state level.

Background:

State statute, **HB10-1017**, enacted in 2010, serves to:

- Clarify that the rent control statute applies only to private residential property or private residential housing units.
- Clarify that nothing in the statute prohibits or restricts the right of a property owner and a public entity from voluntarily entering into an agreement that controls rent on a private residential housing unit or places a restriction on the deed to the property.
- Rent control through police power and regulation, such as inclusionary zoning, is prohibited.
- Rent control through a contract in return for some type of consideration is allowed.
- The other exemption from rent control by municipalities and counties is through a housing authority or a "similar agency" (affordable housing non-profits).

Implementation Options:

1. Consider initiating a community discussion regarding rent control.
2. Explore expanding use of the voluntary agreement.

Goals Addressed Through this Tool:

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Source: www.inkcinct.com.au, "Still in control", November 9, 2007. Illustration: Ditchy