Policy Recommendations for the U.S. Department of Housing and Urban Development to Promote Sustainable Communities

This document identifies a number of high-priority opportunities for the Department of Housing and Urban Development (HUD) to promote sustainable communities within its existing and planned programs. The vast majority of these changes can be accomplished without legislation.

1) Rental Housing Preservation.

A study of 20 metropolitan areas prepared by AARP, the National Housing Trust, and Reconnecting America found more than 250,000 subsidized affordable rental units located within one-half -mile of public transit stops, with nearly 200,000 located within one-quarter mile. Yet more than two-thirds of these units have subsidies that are set to expire within the next five years.[1] As demand increases for transit-oriented development, the continued affordability of many of these units will be placed in jeopardy, undermining the goal of equitable and affordable access to transit-oriented development.

To address this challenge, HUD should augment its efforts to preserve existing subsidized rental housing, with a specific focus on housing that is well-located near public-transit and/or job and retail centers. This is partly a matter of bolstering support for rental housing preservation generally – for example, developing policies and tools to assist with the recapitalization and long-term preservation of Section 202 developments and helping states and localities to develop detailed inventories of subsidized housing at risk of loss – and partly a matter of developing policies and outreach / technical assistance strategies aimed at ensuring that efforts to develop sustainable communities include a specific focus on the preservation of existing affordable rental housing – including assisted housing, public housing, and unsubsidized affordable housing – near public transit stops, job centers and other essential destinations.

2) Permanent Affordability.

Due to the high costs of developing dense housing near transit and in other sustainable contexts, major investments of public funds will be needed to ensure that a portion of these housing units are affordable to low- and moderate income families. To protect this substantial public investment and ensure that low- and moderate-income families have continued access to sustainable communities, it is essential that these public investments be accompanied by covenants that ensure the housing remains permanently affordable.

A fifteen-year affordability period may seem like a long time, but it will ultimately fail to ensure long-term affordability in years 16 and beyond. With demand for transit-oriented development expected to increase, it will likely be prohibitively expensive to replace those units 15 years later – even if one could gain site control. It is therefore essential that major federal investments in equitable transit-oriented development (and other forms of sustainable communities) be accompanied by permanent affordability covenants.

There is substantial experience with long-term affordability covenants in the rental-housing world, and many states have incorporated long-term affordability covenants into their process for

[1] Rodney Harrell, Allison Brooks, and Todd Nedwick. 2009. *Preserving Affordability and Access in Livable Communities: Subsidized Housing Opportunities near Transit and the 50+ Population*. Washington, DC: AARP, National Housing Trust, and Reconnecting America.

allocating low-income housing tax credits. Still, it would be useful for HUD to encourage longer affordability covenants (in particular, permanent affordability) on new subsidized rental housing within close proximity to public transit stops, job centers and other essential destinations as part of its education, outreach and technical assistance efforts around sustainable communities.

While long-term affordability is common for new affordable rental housing, it is relatively rare for deeply subsidized homeownership units, where most programs follow the minimum guidelines specified in the HOME program (only 15 years or less). This is a serious problem that will compromise the efforts of HUD and its federal partners to ensure that moderate-income families have continued access to affordable transit-oriented developments. Among other policy options that HUD should consider to promote permanent affordability within homeownership units located in transit-oriented and other sustainable communities are the following:

- Simplify the rules for using FHA insurance to ensure they are compatible with community land trusts, deed restrictions and other forms of shared-equity homeownership (an umbrella term for a range of permanently affordable homeownership strategies). The existing rules are dated and have not kept pace with current practice.

- Address barriers to using HOME funds for shared equity homeownership. For example, there is a need to clarify that standard forms of shared equity homeownership provide families a "fair return" on their investment, as required by HUD rules; without this clarification, jurisdictions may fear legal liability. There is also a need to recognize that investments of HOME dollars toward permanent affordability increase the monitoring responsibilities of the jurisdictions (and/or their nonprofit partners), forcing them to incur an administrative cost for which they do not receive any compensation; while the ideal fix to this administrative cost issue would be legislation providing jurisdictions with a stewardship fee to cover these monitoring costs, there might be other interim steps that HUD could take at an administrative level.

- Require communities and regions receiving funding for planning efforts through the Sustainable Communities Initiative to develop a plan for providing permanently affordable housing for low- and moderate-income families near public transit, job centers and other essential destinations. To the extent that funding under this Initiative goes beyond planning to fund implementation efforts, recipients should be required to execute these permanent affordability plans.

- Require communities that receive funding through the HOPE VI and Choice Neighborhoods Initiatives to develop plans for preserving long-term affordability within the community. This includes newly constructed homeownership and rental units as well as existing units in the community that may see their rents/prices rise due to the spillover effects of the concentrated government investment.

3) Education / Outreach / Training / Technical Assistance.

Communities interested in planning for, funding and developing affordable transit-oriented developments face a steep learning curve. HUD could help overcome this barrier by partnering with outside organizations to plan and deliver training and technical assistance on how to do this well. HUD could also help conduct outreach and education to encourage communities to use their existing HUD funds (and other state and local funding) to preserve and expand the availability of affordable housing near public transit, job centers, and other essential destinations.

As part of this work, HUD could identify (and encourage more widespread adoption of) promising state and local models for prioritizing development that advances sustainable development goals and rewarding local land use policies that are consistent with these goals.

4) **Consolidated Planning**

Developing sustainable communities will require active and ongoing coordination between local (and regional) agencies focused on housing, land-use planning, transportation, energy-efficiency, and the environment. One step in the right direction would be to modify the consolidated planning rules at HUD to require that consolidated plans be coordinated with the plans of the regional transportation planning agency. Among other things, such coordination should involve consideration by the housing and economic development agencies responsible for submitting the Consolidated Plans of:

- The impacts of planned transportation investments on housing affordability
- How their plans advance regional housing affordability goals
- How their plans will help to reduce the combined costs of housing and transportation for low- and moderate-income families, in light of the accessibility and affordability of transportation options near planned housing investments
- How they plan to ensure that low- and moderate-income families have access to permanently affordable rental housing and homeownership within close proximity to public transit stops, job centers and other essential destinations and
- How their plans for both housing and economic development investments align with regional and neighborhood transportation investments.

In addition to changes to the consolidated planning process itself, it would be helpful for HUD to issue guidance and provide training and technical assistance on how to effectively integrate local housing plans with regional transportation, economic development and environmental plans. Guidance and/or supporting documents that could be made available through the HUD website should include the Growing Smart Handbook and supporting materials (which HUD funded but has not strongly disseminated) to provide guidance on updating local zoning and codes, as well as syntheses of (and links to) research that show the benefits of integrating housing with land use and transportation plans and document successful practices in this area. An updating of Growing Smart and other existing materials would also be useful. HUD-sponsored guidance and training should also focus on how housing location and quality (particularly energy-efficiency) can impact major environmental objectives, including reductions in the emissions of greenhouse gases.

These changes to the Consolidated Planning Process and related guidance should be well coordinated with the Department of Transportation (DOT) and Environmental Protection Agency (EPA).

5) **Integrating Location Efficiency into HUD Programs.**

In addition to the changes recommended above, there are a number of specific HUD programs whose rules and guidance could be adjusted to better support Sustainable Communities objectives. The following are three specific priorities:

- **Project-based Vouchers**. While HOME, CDBG and Low-Income Housing Tax Credits can be used to provide housing opportunities affordable to many low- and moderate-income families, they are not sufficient to enable extremely low-income and very-low-income families to afford housing near public transit, job centers and other essential destinations. The most logical vehicle for extending affordability to this population is the project-based voucher program under which local housing agencies attach Housing Choice Vouchers to specific housing units to make them affordable. HUD should issue guidance encouraging greater use of project-based vouchers to help low-income families afford housing near public transit, job centers and other destinations. HUD should also consider whether more formal regulatory changes would be useful to make it clear to agencies that proximity to public transit, job centers and other essential destinations should be taken into account in deciding where to project-base vouchers.

- **Choice Neighborhoods / HOPE VI**. In future rounds of HOPE VI funding and in implementing the Choice Neighborhoods initiative, the Administration should prioritize projects located near public transit stops, job centers and other essential destinations.
- **FHA Multifamily Insurance**. The ability of HUD to speedily process applications for FHA multifamily insurance is limited by a number of staff and budgetary constraints. To the extent feasible, HUD should encourage and prioritize projects near public transit, job centers, and other essential destinations for consideration for FHA multifamily insurance.

6) Proposals that Require Collaboration between HUD and DOT, EPA:

A. **Work with DOT and EPA to develop a shared set of "smart location" criteria** that would direct federal investments in environmental protection, housing and community development, and transportation to priority areas. HUD, EPA and DOT could apply these criteria to discretionary grant programs and use them as a mechanism to align and effectively target federal programs to promote sustainable communities and increase the return on federal investments. By defining location efficiency, the agencies can also help states, localities and regions identify specific geographical areas that are well situated for accommodating additional residential development. HUD can provide technical assistance to grantees to map these locations so that communities can see the boundaries of the areas that satisfy these criteria; and provide guidance to communities about how to use this information.

   Smart location criteria should take into account a variety of sustainability factors, such as the proximity to sensitive lands, distance from public transit stops and job centers, availability of existing infrastructure, and presence of essential community facilities, and be usable in markets of all sizes and in urban, suburban and rural areas. The criteria compiled by Smart Growth America provide a useful place to start.[2]

B. **Establish a Sustainable Communities research consortium** of public and private data and research experts to create a federal partnership to develop a shared database for better evaluating and articulating sustainable community objectives and performance measures, and expedite public adoption of these tools through a streamlined federal peer review process, and open source data collection.

C. **Create a HUD/EPA Grants and Process Working Group** to see how the application and reporting processes for HUD and EPA brownfields funding could be coordinated and streamlined.[3]

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[2] Please see Appendix A, "Smart Growth America: Smart Location Criteria to Promote Sustainable Communities", for a matrix of proposed criteria.

[3] For example, both HUD and EPA grant programs are subject to Davis-Bacon Act requirements, but there are currently inconsistencies in the way the agencies apply the law. In order to make combining HUD and EPA funding streams easier, the agencies should clarify that HUD guidelines and waivers used to implement Davis-Bacon for a project also apply to and satisfy EPA Davis-Bacon requirements for that project.

Consider bringing representatives from USDA, EDA, and other agencies that administer brownfields funding into this working group as well.

It is extremely difficult right now for localities to blend HUD and EPA money, but often necessary to do so since the agencies fund different stages of brownfields assessment, cleanup, and redevelopment. There are different timelines, applications, rules, and reporting requirements that make navigating these programs in conjunction with one another burdensome. This has many negative consequences. For instance, as a result of the inability to seamlessly use EPA brownfields funds in coordination with HUD funds, CDBG dollars must be directed towards site assessment and cleanup, resulting in fewer or more costly affordable housing units being built.

As much as the statutory limitations allow, HUD and EPA should coordinate grant deadlines, criteria, review processes, grant lengths, and other relevant aspects of the differing grant programs. Streamlining HUD/EPA brownfields funding sources would be an ideal project for the Partnership for Sustainable Communities, and result in better outcomes in the areas of affordable housing, social justice, community involvement, and human health and the environment.

HUD has already taken initial steps towards revising its brownfields policy to more closely align with EPA practice/policy, through revisions to its Multifamily Accelerated Processing (MAP) Guide.[4] This working group could help build on that initial success.

[4] See http://www.hud.gov/offices/hsg/mfh/map/mapguide/chap09revisions.pdf