

A National Survey of Local Land-Use Regulations

Steps Toward a Beginning

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The authors of the original survey, Rolf Pendall of Cornell University and Larry A. Rosenthal of the University of California, Berkeley, submitted timely papers in reaction to survey results. They were staunch advocates of the survey and consistent champions of its long-term value.

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Preface

In an effort to reduce the land-use regulations that impede the provision of affordable housing, the Department of Housing and Urban Development announced the *America's Affordable Communities Initiative* in June 2003. A primary goal of the Initiative is to work with state and local public-private partnerships to find ways to reduce regulatory impediments to the availability of affordable housing for America's working families.

As part of this effort, in April 2004, HUD conducted a major research conference that reviewed the current state of research on land-use regulations, and suggested research priorities for a new review of regulatory impacts on affordable housing. The leading recommendation of that conference was for HUD to initiate an effort to create a national database of state and local land-use regulatory practices to broaden the opportunities for the research community to conduct high-quality, credible research on this important affordable housing issue.

HUD responded by launching an effort involving leading members of the land-use and housing-research community to develop and test a prototypical data-collection instrument. *A National Survey of Local Land-Use Regulations: Steps Toward a Beginning*, prepared by Rutgers University's Center for Urban Policy Research, is the result of that effort. CUPR meticulously critiqued the draft survey instrument and alternative approaches for implementing the national land-use regulatory database through a rigorous five-city focus group review. The result is cutting-edge research that can and should inform any future effort to develop a workable strategy to establish a local land-use regulatory barriers database.

This report provides valuable information and guidance to anyone in the research and policy communities concerned with obtaining sound data for regulatory barriers and related land-use issues. It is an important step in achieving an effective strategy for reaching that goal.

Executive Summary

The following report is the result of a year-long evaluation and refinement of a field instrument designed to gather information about local land-use regulations using focus groups of professionals from five cities in regions with disparate approaches to land-use regulation. The instrument is intended to enable a comprehensive national survey of land-use regulations. This national survey would gather data from municipalities and counties to determine the types of land-use regulations that exist in various sizes of communities and in various geographic locations throughout the United States. The survey is the recommendation of HUD's *America's Affordable Communities Initiative* 2004 Roundtable in its quest for basic information about local land-use regulations, and is the second phase of HUD's Regulatory Barriers Initiative.

The survey would indicate the degree to which communities have various types of residential zoning, what densities are permitted, whether mobile homes are allowed, and how often requests for rezoning to higher-intensity residential development are granted. The study would also address the level of development activity, permit-approval times associated with various types and sizes of developments, whether growth boundaries or adequate public facilities requirements exist locally, and whether affordable/workforce housing is being developed on a regular basis. Examples of hypothetical developments and questions about acceptance and approval times would also provide quantitative statistics.

The study reported here consisted of pilot testing a survey questionnaire taken to five focus groups in five different cities across the United States. The cities were selected based on the different types of land-use systems likely to be

in place and policies practiced by each of the following cities:

- New Brunswick, New Jersey (pre-test)
- Portland, Oregon (Focus Group 1)
- Atlanta, Georgia (Focus Group 2)
- Minneapolis-St. Paul, Minnesota (Focus Group 3)
- Boston, Massachusetts (Focus Group 4)

These cities represent jurisdictions in:

- A home-rule state where cities have a reasonable level of autonomous discretion regarding land-use decisions (New Jersey)
- A state that has sophisticated state planning and an established means of regulating development outside the city's bounds (Oregon)
- A state that is noted for its suburbanization trends and related metropolitan congestion, yet one that is reacting to moderate the results of such policies (Georgia)
- A state that has fostered a strong regional government in one part, where city land use must confront an extra layer of regulation (Minnesota)
- A state that does not exert an enormous amount of oversight of local development policies but that has a long history of encouraging both affordable housing and community development (Massachusetts)

The focus group cities would provide a severe field test for the survey instrument developed for the national survey.

What was found at these various sites? First, state land-use policy and local development regulations are very different in each of these locations. This necessitated altering the survey instrument and development hypotheticals in order to be adaptable to each location.

Further, the survey instrument needed clarity and specificity. This initially lengthened the survey, but it was cut back at the final site. Finally, the hypothetical examples were cut back considerably but were nonetheless retained to quantify information in addition to the survey narrative.

As well as restructuring the questionnaire and survey, the focus groups raised such issues as who would receive the survey, did each fact have to be explicitly researched (or whether approximate information would suffice), how long it would take to respond to the survey, and what could be done to encourage communities to respond.

The national survey of local land-use regulations would be answered online by as many of the 3,100 U.S. counties and 12,000 municipalities as would agree to participate. The questionnaire would be sent electronically to city managers/attorneys, local planning and community development directors, and mayors/executives of the municipality or county, with instructions for the planning/community development director, zoning officer, or code official to complete the survey individually or in a group setting. The survey is designed to take one to two hours to complete, using knowledge at hand; it is not intended that those completing the survey need to research planning and zoning board minutes or building permit files.

The overall results of the focus group testing were presented at a symposium sponsored by HUD. Participants included authors of the survey, focus group leaders and the research group that

tested the survey instrument, study funders from HUD's Office of Policy Development and Research, and members of the development and land-use communities from a variety of locations, primarily on the East Coast.

After hearing the study results, most of the authors and audience agreed that the survey instrument should be administered in various locations across the United States in the form of a comprehensive field test. This would allow completion of the questionnaire in different types of land-use settings and at different levels of respondent sophistication, largely reflecting the size of the jurisdiction undertaking the survey. Ideally, this would lead to minor modifications of the survey instrument and also provide feedback on how the survey was received locally, time required to fill it out, and incentives necessary to ensure adequate response. If this comprehensive test goes well and necessary funding for such an exercise can be put in place, a national survey of local land-use regulations could become a reality.

The survey would be the first of its kind in the nation. It could be administered every five years with overall results posted on the Internet. Participants and other interested parties could get more detailed information. (The identity of responding jurisdictions would be kept confidential.) In addition, the national survey of local land-use regulations could become as valuable as the *American Housing Survey*. It will help housing researchers understand local development regulations and development patterns in various regulatory environments.

Summary of Findings

Background

The study that follows involved testing of a survey instrument designed to obtain data on local land-use regulations. Once refined, the instrument could be used to gather information on land use nationwide just as the *American Housing Survey* gathers information on the existing housing stock.

The refined survey instrument consists of about 40 questions on land-use regulations plus two hypothetical development examples that would be completed by local jurisdictions through a Web-based interface. The survey would be used to determine the extent to which various types of zoning and other local regulations—both requirements and incentives—affect development. The results would be shared with survey participants while protecting the anonymity of the respondents.

What Was Done

The survey was pilot tested in one pre-test location and in four focus group settings nationwide. The focus group sites (Atlanta, Boston, Minneapolis-St. Paul, and Portland) were chosen because they represent different land-use cultures and because professionals from surrounding suburban and rural areas could access these locations.

The survey was presented exactly as it was prepared by original researchers in the pre-test location and in the first focus group (Portland). It was then steadily modified after each of the remaining focus groups.

Facilitators gathered 14 to 16 local land-use officials into groups with a nationally known land-use professional (usually a land-use lawyer) and with principal investigators who are seasoned

land-use professionals. Each focus group followed an agenda that involved

1. gaining familiarity with the survey instrument before arrival;
2. reviewing introductory material and instructions;
3. understanding each of the individual questions;
4. scrutinizing the hypothetical development examples; and
5. commenting on implementation strategies, including who should receive the survey instrument locally and what incentives should be proffered.

The research team responded to focus group comments by altering the content of the survey instrument, changing the form of the survey instrument, adding a glossary at the end of the instrument, and providing common classificatory variables at the beginning of the instrument.

A few questions were eliminated that involved land-use controls specific to a limited number of locations. This involved fine-tuning the wording of questions so that they were clear and would stand the test of nationwide applicability.

Findings: Survey Instrument

- The modified survey questionnaire can be understood and easily completed at the local level.
- The survey questionnaire appears to gather both correct and adequate information on land-use controls nationwide.
- The survey questionnaire, while lengthy, appears to strike an appropriate balance between acquiring the necessary information and the time required to complete it.
- The survey produces information that is factual rather than based on impression.

- The survey generates information that is not available elsewhere. It provides necessary insight into the various types of local land-use controls that exist nationwide.

Specific Questions

- Questions have a form and structure that can be understood by most representatives of local governments across the United States.
- Questions have a neutral tone and seek to explore the factual basis of local land-use controls.
- Questions appear to be reasonably balanced relative to content and process, zoning and subdivision/site plan procedures, and incentives/regulatory controls.
- Questions have more of a greenfield than a brownfield emphasis; i.e., they deal more with development rather than redevelopment.
- Questions are probing without being too detailed or difficult to complete.
- Questions follow a similar format and do not involve extensive chart-like completion.

Hypothetical Development Examples

- Hypothetical development examples probe whether certain types of development would be permitted locally.
- The examples address two densities of single-family development and three densities of multifamily development.
- Answers to the hypothetical scenarios provide concrete examples of what local land-use controls would permit locally.
- The hypothetical situations allow for additional interpretation of the survey questions.

- The hypothetical examples are both understandable and able to be completed in a relatively short period of time.

Implementation Potential

- The instrument would be completed by local planners, planning board chairpersons, and code officials.
- Both the mayor and city attorney would be aware that the survey was being completed.
- The survey can be downloaded from a Web site and uploaded when completed. Alternatively, it can be filled out online over time by multiple individuals.
- A combination of requirements and incentives would encourage prompt completion of the survey.

Conclusions

Land-use policies and cultures vary widely across the United States. As a result, it was difficult to (1) produce a questionnaire that is easily understood and can be responded to nationwide without misinterpretation; (2) adequately proportion questions about zoning, subdivision, control, planning, growth management, and so on; and (3) understand the controversy over land use nationwide, which will likely affect the willingness of local jurisdictions to respond to information gathering by the federal government.

A number of important questions remain to be answered. Could this information be used to deny certain types of federal aid? Are the resources for initiating a land-use survey at hand? Another obstacle could lie in determining how representative information from one location may be of another location, even in the same county or state. Should there be a processing screen to eliminate answers that are probably wrong?

Future Efforts

A national land-use survey appears doable from a technical perspective. With developable land decreasing due to lack of water in the West and Southwest, such a survey might prompt more efficient land use in these areas.

The survey instrument needs to be refined. This includes striking an appropriate balance between information needs and time required to complete the survey; perfecting terminology so that the intent of questions is fully understood; moving some questions under more appropriate headings; and streamlining the hypotheticals so that the time required to complete the survey does not impede participation.

The authors believe that a national land-use survey should move forward and continue to be championed by HUD. All of the focus group participants agreed that such a survey would be well worth the investment.

The next step is to sample communities and counties. The survey instrument tested by the focus groups will be used to determine whether appropriate and usable information is forthcoming.

It would be easy to move from a national land-use survey to a national land-use research study, but this should be done only if there is no chance to implement the recurring and larger land-use survey.

Implementation continues to be a thorny issue. There must be some type of incentive to participate, but what those incentives—or requirements—are is not yet clear.

Confidentiality is also a difficult issue. There must be agreement on how to protect the identities of respondent locations while maximizing the amount of information that is available to participating localities and the public.

The research community should continue to advocate strongly for a national land-use survey. This is the only way to obtain critical information about the state of U.S. land-use regulations and emerging trends.

Focus Group Information and Statistics

Event	New Brunswick	Portland	Atlanta	Minneapolis-St. Paul	Boston	Total
Location	Planning School (Rutgers)	Planning School (PSU)	Law School (GSU)	Law School (U. Minn.)	Planning School (Harvard)	
Date	Oct. 3, 2006	Oct. 26, 2006	Nov. 10, 2006	Dec. 18, 2006	May 22, 2007	Oct. 2006– May 2007
Conducted by†	Burchell Lahr Svelka	Burchell Moore Svelka Juntunen	Burchell Juergensmeyer Lahr Marks	Buchell Orfield Lahr Luce	Burchell Kayden Lahr	
Number Invited	61	72	40	65	65	303
Number Accepted	16	15	19	21	20	91
Number Participated	14	11	16	16	18	75
Overall Attendance	21	16	22	19	22	100
Group Composition						
Planners	6	3	4	4	4	21
Academics	4	2	2	2	4	14
Attorneys	3	3	6	6	4	22
Developers	1	1	1	4	4	11
Community Development/ Housing Finance	1	2	3	0	2	8

† Full names of session participants:

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1. OVERVIEW

The purpose of the information that follows is to communicate with land-use professionals, public officials, housing developers, and others involved in the development process. This communication involves the current status of and reception to field instruments designed to collect information on the types of land-use regulations that exist nationwide at the local level. What do they look like? How prevalent are they? Do they accomplish the same things in different areas? Do they enable the production of an adequate amount of housing at a price that can be afforded? This is the essence of the materials that have been assembled here.

Local, state, and national policymakers are perplexed by the large share of their constituent households that are shelter poor or have lived in crowded conditions for decades. In some areas of the nation, employers have joined the chorus to express their concern about the skyrocketing costs of living. These costs, largely influenced by rising prices of housing, are undermining their ability to attract and retain a solid workforce. As a result, affordable housing has vaulted to the top of the public policy agenda. The clear cause of this state of affairs is that the demand for housing at the lower end of the price spectrum continues to outstrip supply in much of the nation (HUD 2007).

Housing markets are complex. A key point is that the American housing market is heavily segmented by household income class. Hence, factors that influence housing affordability need not apply to all segments of the housing market. The affordability problem in American housing centers on housing for middle- and low-income households. The lack of housing that can fit within the budgets of these population segments in some areas of the nation has occurred because housing suppliers in these regions have opted to focus their efforts within other, more profitable segments of the market. Economic theory informs us that profits for suppliers of housing tend to be highest where the

demand for housing is greatest (where the demand-supply gap is relatively high) and where construction costs are comparatively low.

1.1 Theoretical Framework

Researchers have spent much effort investigating the underlying causes of the long-term affordable housing supply gap. From the demand side, they have identified various factors that have retained housing suppliers' interests in other market segments. In a review of the subject, Sasser et al. (2007) cite five possible causes from a demand perspective:

1. Rising real median household incomes
2. Heightened household income inequality
3. Changes in the age distribution of households
4. Greater availability of mortgage credit
5. High and rising expectations of home price appreciation

High and rising incomes clearly enable households to afford housing in both greater quantities and at higher costs, all else remaining the same, while higher concentrations of wealth among the rich can decrease levels of affordable housing and push the poor out of the home credit market. A significant correlation exists between the areas with high income inequality and increased appreciation rates in housing properties. In the last thirty years, educational attainment became more closely tied to the ability of the household to purchase a home (Gyourko and Linneman 1997), while the substantial gap between median renter and owner incomes widened in real terms during the past two decades (Joint Center for Housing Studies 1996 and 2005). Evidence suggests that this is a minor factor, however; annual increases in real income in recent years have been 1 to 2 percent, far less than those of real housing prices.

Demographics, meanwhile, plays a significant role as well, given that income tends to be tied to the life cycle. Those in their teens and twenties are still acquiring education and experience, therefore leading to smaller earning power, while those in their sixties

and older generally retire from the workforce. Hence, areas with a large middle-aged population are more likely to see increased housing appreciation rates. Nationally, as the baby boomer generation reached their peak earning years, it is not surprising that the demand for high-end housing would increase. Further, evidence shows that demand for housing can be particularly strong in regions that have a greater-than-nationwide share of household heads in age brackets with the most disposable income (Case and Mayer 1996).

Finally, falling interest rates also helped to increase the demand for housing. This is because in reducing financing costs, lower interest rates relax income constraints, allowing for a broader segment of the population to buy homes (Di and Liu 2005). Thirty-year fixed-rate mortgages have fallen about two percentage points in the last decade despite recent Federal Reserve action. Paradoxically, though, this sort of demand-pull inflation could price people out of the market just as they enter it—were it not for the vast array of mortgage innovations that have been developed in recent years. Greenspan (2005), among others, indicates that interest-only and payment-option mortgage loans “might have enabled some people to purchase homes that they otherwise might not have been able to afford and thereby added to housing demand” (Sasser et al. 2007, p. 36). This includes the greater willingness of lenders to issue subprime loans during the past decade or so.

Sasser et al. (2007) also identify three possible causes from the supply perspective:

1. Rising real costs for materials used in construction
2. Increasing real land prices
3. Increases in the costs of construction due to regulations and ordinances

The first relationship is obvious: if the price of inputs increases, then the final cost of a house must increase as well. Increases in the real price of raw

materials for construction appear to be minimal, but higher levels of quality in newly built homes—more homes including central air conditioning, for example—have corresponded to roughly 40 percent of the increase in housing prices, according to Sasser et al. (2007). The second relationship is also clear, given that land is often a major element of final house price. Here, this relates to the availability of buildable real estate in a given geographic area, dictated by previous construction and natural obstacles. This has generally been found to be a minor component of housing costs, however; Glaeser and Gyourko (2003) suggest that these intrinsic components constitute at most 10 percent of land prices.

This leaves the third component: legislative obstacles to home construction. An underappreciated burden mentioned by Sasser et al. (2007) is building codes. They are often capricious and parochial in both their implementation and enforcement and also can impose significant costs for compliance. While occasionally difficult to navigate, the economic effects of these restrictions are often not very large, constituting perhaps a 5 percent increase in housing prices. The more crucial issue is that of land-use policy, primarily the creation of “exclusionary zoning” statutes, which impose significant restrictions on the quantities or types of structures that can be built. These often add a further layer of bureaucracy and generate spatial distortions in development that can lessen total social welfare. According to Sasser et al. (2007), land-use regulations can increase house prices as much as 50 percent depending upon the number and type of regulations in place in a particular area. The specific policies falling under the land-use “umbrella” are discussed in the next section.

Clearly, the demand-side factors are entirely exogenous or, at best, can be managed to some extent at the federal level. Economic policies enacted at a local level are of limited effectiveness, given that individuals and firms can relocate with relative ease across municipal or state boundaries, while demographics and psychological perceptions

are even more intractable. Raw materials prices and the natural availability of land are similarly intractable, but regulations certainly can be altered by subnational public-sector entities. Hence, the primary means that local and state authorities have at their disposal for regulating the availability of such housing are land-use controls and the provision of incentives to suppliers of housing.

1.1.1 Land-Use Policy

It is worth noting that a wide variety of policies exist to regulate land use. Clearly, the most direct are zoning regulations. These include provisions to regulate population or employment density, limits on square footage and lot size, programs to preserve open space, and broad-based restrictions like urban growth boundaries (Quigley and Rosenthal 2005). Beyond this, however, are somewhat more opaque laws that serve similar purposes. For example, regulations that require areas of new development to have preexisting adequate public facilities (APF) serve to prevent construction in areas that the city has not yet provided with infrastructure, curbing the private sector's ability to strain the public finance system. On the other side, development impact fees may be implemented to force developers to pay for the added infrastructure that their structures will demand.

The application and scope of such regulations varies across American geography. Pendall et al. (2006) examined the phenomenon across a total of 1,844 municipalities in the country's 50 largest metropolitan areas through a survey that grouped land-use regulations into six categories: zoning, comprehensive planning, containment (greenbelts and growth boundaries), infrastructure regulation (APF requirements and impact fees), growth control (limitations on building permit issuance), and the incentivization and/or provision of affordable housing (inclusionary zoning statutes, density bonuses, public-private partnerships, and

so on). They found 91 percent of communities in their study had some form of zoning statute and 85 percent had comprehensive plans. According to Pendall et al. (2000), a large share of zoning communities use the controls to maintain low density; 38 percent of municipalities prevent the construction of housing units in quantities more than eight per acre and are, therefore, called "low-density-only jurisdictions." Beyond these tools, the next most common in the communities in their survey were infrastructure regulation techniques; impact fees are imposed by 37 percent of the jurisdictions, while APF ordinances were used by roughly 20 percent of the jurisdictions. One-sixth of municipalities in the study employed some form of containment policy, while affordable housing incentive programs exist in 23 percent of the communities.

Interestingly, the pervasiveness of such zoning practice in the study appeared to depend heavily upon the region of the country under discussion. In particular, while causality is unproven, Pendall et al. (2006) note a correlation between regions with strong exclusionary zoning statutes and several urban problems persistent largely in the Northeast and Midwest—declining population density, impoverished central cities, racial segregation, low rates of homeownership and college graduation, and relatively high housing prices. Moreover, their findings imply that strict zoning regulations, which outright prohibit many types of development rather than employing newer techniques like impact fees (which are almost universally employed in western states), cause housing prices to be high. The fact that western states tend to have a greater propensity to adopt affordable housing incentive programs and to set aside funds dedicated to this purpose (50 percent in the West versus 15 percent nationwide) certainly at least shows general political concern for the issue of housing affordability. But then it may be that such affordability programs do not

accomplish their desired objectives. Glickfield and Levine (1992) note that the plethora of legislative local actions in California pertaining to rural land preservation, urban population growth containment, and urban infrastructure protection have often failed to contain home prices. They suggest that this is because growth—a regional phenomenon—spills across municipal boundaries to areas where it is more welcome.

1.1.2 Housing Impacts

Often an increase in the supply of affordable housing is an expense to housing producers and other housing market segments. For example, a significant influx of low-income families into higher-income neighborhoods typically is perceived to dampen the fiscal prospects of the communities through an unusually high demand for the public services they must deliver. Moreover, cost savings of enhanced land-use intensity that result from the installation of affordable housing can be chewed up by higher construction costs (higher labor costs, transportation costs, longer and more approval procedures, and so on), not to mention the costs of any land remediation. Schill (2004) made this particularly poignant when he noted that “none of us wants people to live in substandard housing or to pay more than half of their income in rent; we also do not want to have more crowded roads and to pay more in property taxes for our schools.” He therefore suggests that the will is lacking in outer suburbs to support affordable housing policies. This is because homeowners’ largest asset is at risk. Nelson et al. (2004) suggest, however, that land-use controls may enable more affordable housing by prohibiting exclusionary zoning practice.

The alternatives to exclusionary zoning practices are, naturally, inclusionary ones. There is scant evidence about the effects of such inclusionary principles on the affordability of housing. In part this may be because there has

not been much litigation against inclusionary zoning. Porter (2004) suggests this is because due caution is taken when such legal provisions are drawn up. Such ordinances tend to allow property owners to make a reasonable return on proposed projects and also retain some form of regulatory relief that compensates for the subsidies implicit in the affordable units they provide. Hence, most ordinances force advocates to craft statements that show the benefits of the subsidized units. Porter (2004) reports that density bonuses are the most commonly used approach to induce production of such units but that the success of such bonuses in achieving desired levels of affordable units has varied. Indeed, their potential has fallen short of original perceptions. This is coupled with Pyatok’s (2004) warning that the application of inclusionary zoning in older communities could displace similar efforts of neighborhood organizations. His concern is that such regulation could undermine the critical self-help thrust of community organizations. He therefore advocates for subsidies to become available to a wider set of agents than just developers.

Needless to say, effective governance of residential developments and housing markets poses a challenge to land regulators. Higher-income homeowners tend to be in control of the political process. As a result, regulations that are preferred by this group tend to prevail. Therefore, the direction of causality is muddled; “one cannot estimate effects ... on prices, segregation, or neighborhood and housing quality without accounting for the ways in which those effects themselves influence the land-use choices being studied” (Quigley and Rosenthal 2005, p. 87). Second, it is practically impossible to control for all potential variables across municipalities and regions; numerous widely variable policies that are difficult to identify, let alone quantify, are instituted at all levels of government that can have significant influence upon the relationship in question.

Regardless, there are clear theoretical reasons to expect causality between spatial regulation of development and the affordability of housing. But research to date fails to specifically identify a cause-and-effect relationship “if only because variations in both observed regulation and methodological precision frustrate sweeping generalizations” (Quigley and Rosenthal 2005, p. 69). A substantial body of the literature shows little or no effect of land use and growth control on housing prices. This could imply that local regulations may be either symbolic or ineffectual, or perhaps simply weakly enforced.

Nonetheless, growth controls certainly have influenced income segregation and housing quality. Schwartz et al. (1984) state: “Low-priced, small-floor-area homes began to disappear after growth management was imposed, and the housing stock shifted generally away from units affordable to low- and moderate-income households.” Hence, the majority of studies have found exclusionary zoning and related policies to be a double-edged sword of sorts, in that they have increased the quality of the housing stock, but only for those that can afford it; income segregation is increased markedly, pushing the poor into areas with substandard housing.

Where case studies fail, however, economic theory can attempt to elucidate the role of zoning in housing prices. According to Quigley and Rosenthal (2005, p. 77), “The imposition of a restriction on land available for housing may increase social welfare when the incremental social cost per unit exceeds the private cost borne by the incremental resident.” Hence, preventing negative externalities generated from excessive development through zoning regulations can increase the utility of all area residents. Without this condition, however, the price of housing is merely artificially inflated by creating a housing shortage, redistributing wealth toward long-term residents at the expense of new arrivals. The effects are greater, of course, when the zoning entity in question has

control over a large portion of the regional housing market.

1.2 Research Objectives

Summarizing the above, the literature that centers on the causes of rising housing prices points toward zoning and land-use regulations as prime factors. Although numerous studies exist that specifically attempt to evaluate the effect of land-use controls on housing prices, to date—other than one by Pendall et al. (2006)—none has covered a broad geography. Even the Pendall et al. study, however, was limited in its coverage, with a geographic scope only of jurisdictions in the largest 50 metropolitan areas. For this reason, HUD is pursuing the development of a nationwide database of U.S. state and local regulations of land use.

A first step in HUD’s effort was the production of draft survey instruments. Several predecessor instruments existed: most notably, the Glickfield and Levine (1992) survey and the Wharton survey instrument (Linneman et al., 1990), both of which appear in Quigley and Rosenthal (2005), and the survey instrument in Pendall et al. (2006). The initial preliminary survey instruments for the current nationwide HUD-generated effort, which were developed by Rolf Pendall and Larry Rosenthal, are displayed in Appendix A.

This research project is the second step in the effort. HUD wanted to explore and refine the two nationwide draft survey instruments. The idea was to take the preexisting instruments before a varied audience to: 1) evaluate their general suitability in measuring state and local land-use regulations related to residential development across the country; 2) refine them so they are as responsive as possible to regional and/or local variations in practice, terminology, and other factors; 3) obtain a set of recommended methods for administering

the survey with maximum useable results; and 4) identify additional types of contextual information concerning land-use and development regulatory processes that may be necessary for meaningful land-use research.

1.3 Research Scope

To achieve the objectives mentioned above, CUPR proposed gathering focus groups at four different U.S. metropolitan areas to analyze the draft HUD survey instruments. By inviting participants from various relevant professions within the fields of housing, residential development, and land-use law from geographically diverse areas, CUPR believed that the groups would facilitate wide-ranging discussions of how the instruments could best be adapted for consistency in terminology and procedures found in various regions across the country.

In cooperation with HUD, CUPR selected Atlanta, Boston, Minneapolis-St. Paul, and Portland (Oregon) as sites for the focus group meetings. These four metropolitan areas were picked based upon criteria specified in D&R International's request for proposals:

1. There must be one MSA from each of the country's four major regions—Northeast, South, Midwest, and West.
2. Each MSA must have a population in excess of one million.
3. Each MSA must be located in close proximity to the state capital.

The Boston (Northeast), Atlanta (South), Minneapolis-St. Paul (Midwest), and Portland (West) MSAs were chosen because they readily met these criteria. In addition, four nationally known experts in the fields of housing, metropolitan growth, and land use existed in these areas and were selected to be a part of the research process.

2. RESEARCH APPROACH

2.1 Summary of Approach

The focus group approach was selected since optimal administration of the surveys and revisions to the instruments' current wording, content, and/or organization could be best achieved through this format. Moreover, by having CUPR administer the project with assistance from a nationally recognized local expert on the survey's focus, it was deemed that a reasonable balance of local and national perspectives could be attained. Focus groups are interviews with groups of participants about a precise topic. In this case, the topic was the two surveys. Typically a moderator (or "facilitator") prepares a set of questions that sets the meeting's agenda. The questions are presented for discussion by participants, who can be given preparatory materials in advance of the meeting. The facilitator is often accompanied by an assistant who takes notes and records the responses. The optimum size for an individual focus group is approximately eight to twelve participants. Focus group meetings are typically relatively brief, with each session tending to last a maximum of 1½ to two hours. In the case of the present study, the time of the set of sessions was designed to be considerably longer due to the length of the draft survey and the broad scope of the research objectives.

The focus group approach has proven to be a particularly effective way to gather data on surveys (Morgan 1997). Specifically, it enables a researcher to probe participants to discover what prompted a particular response, whether they understood the questions, and why they considered certain factors the researcher had not considered. Responses during the focus groups can then be used to refine the survey instrument.

2.2 Selection of Focus Group Participants

The primary criteria CUPR used in selecting focus group participants were knowledge of and experience with land-use regulations and how the regulatory process affects the provision of affordable housing. Without this basic knowledge and understanding, the focus group process could not achieve its intended purpose. Therefore, the participation of professionals was solicited in fields and professions that readily involve them in residential development, including the provision of affordable housing and zoning and other regulatory activities. Among these fields and professions were local land-use regulatory agencies and departments; state-level officials concerned with land-use regulations; state housing finance officials; market-rate home builders; affordable housing developers; public housing authorities and other housing providers and managers; manufactured housing entities; real estate professionals; advocates for low- and moderate-income renters and homebuyers; planners; state and local environmental review officials; academics in the fields of urban planning, public policy, real estate, business, and law; regional land management and transportation officials; and consulting planners, legal counsels, and community organizations. By involving such a wide range of participants, a broad diversity of opinion on the focus group topics could be obtained.

In light of the above, several methods were used to identify focus group participants. First, the four local facilitators supplied the research team with the names and contact information for individuals and organizations best suited to participate in the focus group sessions. The four researchers selected are well-known, nationally recognized experts in urban and regional planning, housing, public policy, and land-use regulations. They are Jerold S. Kayden, Professor of Urban Planning and Design at Harvard University; Julian C. Juergensmeyer, Professor of Law at Georgia

State University College of Law; Myron W. Orfield, Jr., Associate Professor of Law, University of Minnesota; and Terry Moore, Vice President of ECONorthwest in Eugene, Oregon. To ensure as full a variety of participants as possible and to attain required attendance for a successful set of focus group sessions, CUPR's contacts in the field from across the country were invited to participate. Further review of key literature and Internet resources helped identify key groups that have worked on affordable housing and land-use regulatory issues. This yielded a wealth of potential focus group participants.

For each metropolitan area, when a list of 40 to 60 potential focus group participants was obtained, the list was forwarded to HUD for approval. Once approved, an initial contact letter was sent to these prospective participants. The letter was sent on HUD letterhead by e-mail, signed by Edwin A. Stromberg, who has directed research supporting HUD's Regulatory Barriers to Affordable Housing Initiative over the past eight years. A copy of a representative letter is shown in Appendix B. It introduces the project, invites the recipients' participation, and briefly provides details about the focus group meetings, including the location, date, and time. The letter also points out that participation is by special invitation and is rewarded with a small honorarium. In addition, the letter describes what selected participants will be expected to do as members of the focus groups. Recipients are asked to indicate their interest by return e-mail.

It turned out that no more than 20 respondents of the 40 to 60 solicited in each metropolitan area ever indicated an interest in participating in the focus groups. Hence, all respondents received a second note along with the draft survey instruments. The note asked them to read through the survey thoroughly and to respond to an attached form with specific comments about the survey, issues they might have with the survey, and ways it could be improved.

2.3 Focus Group Method Applied

Five focus groups were held—the pre-test group and one in each of the four metropolitan areas. The sessions each took place over the course of a single work day, generally lasting from 9:00 A.M. until 4:00 P.M. Upon arrival at each regional session, participants gathered for breakfast while they informally convened. Breakfast was followed by formal greetings from the facilitators and their assistants, after which all participants had the chance to introduce themselves. This was followed by an initial session during which Robert W. Burchell, project manager, outlined the day's agenda, discussed what generally would be covered in each of the day's four following sessions, set out the ground rules for participants during the sessions, and began the focus group meeting by asking participants what they liked and disliked about the form and format of the survey instrument, the ordering of its sections, and what might be missing from the survey's contents. A copy of the final facilitator's guide, which was developed for the focus group meetings, is displayed in Appendix C. Table 1 is an example of the day's agenda: it is the agenda for the focus group meetings held in Atlanta.

When there were 18 or more participants, as was the case in Atlanta and in the New Brunswick pre-test site, participants were distributed into two groups based on their professions and interests. The first of two breakout sessions, lasting approximately two hours, then convened. These two sessions focused on the content and wording of specific questions in the surveys. A catered lunch provided a respite and split these two intensive sessions. The two groups rejoined after an afternoon break to discuss issues pertaining to implementation of the survey—in particular, to whom it should be sent within local jurisdictions in their region, how it might be delivered to maximize response, and how a surveying entity could entice

local governments to respond. A final wrap-up session that summarized the group's findings concluded the set of sessions.

During the sessions, the facilitator and recorder took copious notes. Moreover, two digital recorders were employed to take down the complete testimony of participants. After each meeting, the focus group notes were fully articulated and sent by CUPR representatives to the local facilitators. They, in turn, converted those notes as well as their own into a complete set of proceedings for each site. In parallel, Robert W. Burchell used the notes to make a very select set of fundamental changes to the survey instruments. While the original concept was to keep the survey instruments intact and to have all groups discuss identical instruments, it became evident that certain verbiage in the survey was not articulated well, some answer sets to questions did not span the full range of possibilities, and some specific series of questions were difficult to disentangle.

3. PRE-TEST: NEW BRUNSWICK

3.1 Summary: New Brunswick Pretest

In preparation for focus groups in four locations of the country, a pre-test focus group met in New Brunswick, New Jersey, on October 3, 2006. This pre-test served as an opportunity for the principal investigators, Robert W. Burchell and Michael L. Lahr, and Rutgers University's Center for Urban Policy Research (CUPR), to refine the focus group procedure that would subsequently be used in evaluating the draft survey instruments in the four focus regions. In all other ways, the purposes of the New Brunswick focus group were identical to the other sites and, hence, to the overall research goals of the project.

Recent research by the Brookings Institution's Metropolitan Policy Program (Katz and Puentes

Table 1: Sample Schedule of Activities for the Focus Group Sessions

AGENDA
Focus Group to Evaluate HUD Land-Use Regulations Survey
Friday, November 10, 2006
9:00 a.m. to 4:00 p.m.

9:00–9:15	Participant Sign-in; Coffee
9:15–9:45	INTRODUCTIONS AND OVERVIEW (30 MINUTES) ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Purpose of the survey and today’s focus group</i> <i>Overview of activities</i> <i>Ground rules for participation</i>
9:45–10:30	DISCUSSION OF GENERAL SURVEY TOPICS (1 HOUR, 15 MINUTES) ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Format and organization of survey</i> <i>Survey content</i>
10:30–10:45	BREAK (15 MINUTES)
10:45–12:00	BREAK-OUT SESSIONS (1 HOUR, 15 MINUTES) JULIAN JUERGENSMEYER, GEORGIA STATE UNIVERSITY, AND ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Discussion of specific survey questions in two small groups</i>
12:00–12:45	LUNCH (45 MINUTES)
12:45–2:00	BREAK-OUT SESSIONS (1 HOUR, 15 MINUTES) JULIAN JUERGENSMEYER, GEORGIA STATE UNIVERSITY, AND ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Discussion of specific survey questions continues in small groups</i>
2:00–2:15	BREAK (15 MINUTES)
2:15–3:00	IMPLEMENTING THE SURVEY (45 MINUTES) ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Who should complete the survey?</i> <i>How can we encourage a high response rate?</i>
3:00–4:00	CONCLUSIONS AND MEETING CLOSE (1 HOUR) ROBERT W. BURCHELL, RUTGERS UNIVERSITY <i>Summary and discussion of key focus group results</i>

2006) characterizes New Jersey as facing one of the toughest housing affordability challenges of any state in the nation. In this regard, having a pre-test sited in New Jersey made it an excellent addition to the overall program that HUD is pursuing.

During the sessions, it became apparent that survey design and format are inextricably linked to questions of implementation and feasibility. Because of this, the overall reaction to HUD's effort to create a national database of land-use regulations was enthusiastic yet measured due to the identification of challenges facing the administration of a survey of this type.

At best, the purpose of the survey was vague to many participants in this group. Certain terminology was not always perfectly clear. Hence, it was suggested that a glossary of terms and an explanatory introduction to the instrument could be added. Some had difficulty navigating the survey. So, it was deemed that a "road map" that walks respondents through the survey might increase levels and quality of participation. A set of descriptive headers at the start of each section was also believed to help. Other participants did not understand how the requested data would be useful without some background information that would provide a socioeconomic profile of the respective jurisdictions. Still others believed it would be best to start the survey instrument with questions on zoning.

The most problematic issue was deemed to be the length of the survey. Because of this, participants recommended that HUD (1) minimize the number of questions that required more than one person to obtain an answer by local governments, (2) limit questions that could not be answered accurately even with some research, and (3) have certain questions include an option that allowed the jurisdiction to indicate that information was not available so that speculative answers would be minimized. One sentiment that emerged about Part Two of the survey during the

focus group was that it needed to be more concise and coherent than currently structured. In its present form, some participants thought that the hypothetical scenarios had the effect of making a lengthy survey seem dramatically longer. Moreover, the somewhat subjective nature of the responses led some participants to be less sanguine about the significance of any findings that might be derived from them.

Also, the "greenfields" tilt of the survey was believed not to deal with many of the key issues facing affordable housing in New Jersey, which is trying to focus on infill. Issues of availability of parking, redevelopment costs, and transit-oriented development were not touched upon.

The focus group concluded that the survey would need to be sent in paper form to the "chief administrative officer" in a jurisdiction but should be filled out online by various local officials as needed to complete a full response. The idea was that political will would ensure response. This was deemed the case by a majority of participants even though a few individuals expressed concern about the potential legal ramifications of municipalities filling out a survey that might reveal exclusionary practices.

The group also believed it might behoove HUD to draw up a complementary survey for members of the development community. It was believed that developers could be motivated to participate in a survey if they believed it might reduce the number of "obstacles" faced in the residential development process. Moreover, such a survey would serve as a check on the survey of governments, especially on questions pertaining to the time it takes to bring a residential project to fruition.

In summary, the New Brunswick pre-test focus group was supportive of the process and project purpose. It was generally believed that additional focus group meetings would strengthen the survey instrument and provide a framework for

implementing the survey through a wider range of feedback. This was deemed especially true if some of the survey's format and navigational issues could be resolved in the interim.

3.2 Full Proceedings: New Brunswick Pretest

3.2.1 Regional Context

Located in central New Jersey, New Brunswick is part of the New York Consolidated Metropolitan Statistical Area (CMSA). With 19.4 million residents in 2000, the New York CMSA is the largest in the United States and represents one of the world's most expansive metropolitan regions. It is a diverse region with a wide variety of jurisdictional types, some overlapping. New Brunswick and its surrounding communities represent the type of suburban development that prevails in the periphery of many large cities of the Northeast and Midwest. In New Jersey, this development is typified by medium- to low-density jurisdictions with populations near or below 50,000 inhabitants.

Katz and Puentes (2006) of the Brookings Institution Metropolitan Policy Program suggest that among states in the nation, New Jersey faces one of the toughest housing affordability challenges. Its housing prices, already among the highest in the United States, continue to rise and to consume an ever-increasing share of New Jersey household income. A lack of new multifamily housing supply has helped to drive up prices for the low- and middle-income segments of the state's housing market. In fact, just 12 of the state's 566 municipalities have provided 52 percent of New Jersey's affordable housing units.

Despite the landmark New Jersey Supreme Court *Mount Laurel* cases,¹ which state that communities should not use their delegated

police power to regulate land use in a manner that excludes housing for low-income persons, some localities in New Jersey continue to put regulations in place that make development more expensive. Throughout the state of New Jersey, more than 60 percent of municipalities restrict densities to fewer than 8 dwellings per acre, and 35 percent hold densities under 4 units per acre (Pendall et al. 2006).

Almost all New Jersey communities have comprehensive plans, but many other land-use tools that deal with capital facilities provision or timed growth are infrequently used throughout the state. New Jersey allows adequate public facility ordinances, but they are instituted in only about 20 percent of jurisdictions within the New York CMSA. Similarly, only about a quarter of jurisdictions impose impact fees, while only a handful of communities report having urban containment tools. There have been very few residential development moratoria in recent years, and no community has instituted a building permit cap. Still, New Jersey, along with Massachusetts and Connecticut, is one of the most progressive states with regard to using local land-use regulations to require the production of affordable housing. In addition to court rulings and the New Jersey Fair Housing Act, which endorsed the use of inclusionary zoning, nearly half of the New Jersey jurisdictions in the New York CMSA have an affordable housing regulatory or incentive program.

3.2.2 Focus Group Approach and Composition

The New Brunswick focus group was held at Rutgers University's Edward J. Bloustein School of Planning and Public Policy on October 3, 2006. One of the first tasks involved assembling a list of participants. Initially, the Center for Urban Policy

1. For more information on the *Mount Laurel* decisions and their effect on land-use laws in New Jersey, see *The Impact of Land Use Laws on Affordable Housing* by Peter W. Salsich, <http://www.ewgateway.org/pdffiles/blueprintdocs/landuselaws.pdf>.

Research (CUPR) drew up a list of 40 potential candidates. CUPR identified potential focus group members by selecting professionals with expertise in the realm of land-use regulation and affordable housing. CUPR solicited candidates by e-mail, with a formal invitation on HUD letterhead signed by Edwin Stromberg. Unfortunately, with less than a week remaining before the meetings were slated to be under way, response turned out to be lower than expected. As a result, the list expanded to over 60 potential candidates. Ultimately 16 candidates accepted the invitation, but two of them cancelled on the meeting day. The sessions were facilitated by Professors Robert W. Burchell and Michael L. Lahr.

The group of 14 consisted of public and private practicing planners, developers, land-use attorneys, and academic researchers, many of whom were members of local planning and zoning boards. The focus group members' collective experience in a state that has aggressively tried to address its severe affordable housing problems provides them with a unique perspective on land-use regulations. Acutely aware of the connection between regulation and housing prices, many have been at the leading edge of thinking about land-use control. Furthermore, the focus group's location at the Bloustein School allowed for unique interaction between land-use practitioners and academic researchers who also practice in the field. This diversity of backgrounds ensured a comprehensive understanding of land-use regulations in the New Jersey region at the local, county and state levels.

Prior to the day of this pilot test of the focus group meeting approach, the research team e-mailed to each intending participant a copy of the survey instrument. The survey instrument was accompanied by a form (see Appendix D) that was designed to be filled out by the participant and returned by fax before they arrived at the focus group meetings. The intention was to generate questions and points unique to each region that

could be used by the facilitators. The version of the survey instrument discussed in New Brunswick was a slightly updated copy of the original submitted by Rolf Pendall and Larry Rosenthal, which is located in Appendix A. A copy of the survey instrument that the focus groups discussed in New Brunswick, New Jersey, is displayed in Appendix E.

3.2.3 General Reaction to Project and Instrument

Several testified that their participation showed their strong support of a national effort to gather data on regulatory barriers to affordable housing. Indeed, HUD's endeavors were supported across the full set of participants, regardless of their specific occupation or experience. Nonetheless, several individuals voiced concern about some aspects of the nature of the survey throughout the various sessions of the focus group meeting. Most of the day was spent reviewing the many multiple choice questions, the hypothetical prototypes, and how a survey like this could best be administered.

The general sentiment of participants is they believed (1) it is possible to craft a survey that accurately describes land-use regulations, and (2) focus group sessions are an effective method to discover ways to improve the instrument.

Even before format issues or concerns about question topics were entertained, participants almost unanimously agreed that the most problematic issue was the length of the survey. Of particular concern was the feeling that many questions seemed to require an undue amount of research; thus, participants thought the survey would take a significant amount of time to complete. Alternatively, they suggested that selected questions should include an option that allows jurisdictions to indicate that information is not readily available. This would not only speed up the process of filling out the survey for some municipalities but also minimize speculative

answers. One sentiment that emerged during the focus group about Part Two of the survey was that it needed to be more concise and coherent than currently structured. In its present form, some participants felt that the hypothetical scenarios had the effect of making a lengthy survey feel dramatically longer. Moreover, the somewhat subjective nature of the responses led some participants to be less sanguine about the significance of any findings that might be derived from them.

Also, the purpose of the survey was perceived as vague at best to many in the group. And some terminology was thought to be less than crystal clear. Thus, the idea of a glossary of terms was raised. Also, much early discussion pertained to how an introduction to the survey could be added to motivate potential respondents to answer the instrument and give those that intended to respond a better sense of what the survey is all about. Some suggested that a clearly worded enumeration of affordable housing issues and their link to land-use regulations would result in an increased willingness on the part of jurisdictions to fill out this survey. They put forward the notion that prominent inclusion of “Affordable Housing” or “Barriers to Affordable Housing” in the title of the survey or its introductory materials could address some of these concerns.

In the first session of the New Brunswick focus group, facilitators initially asked participants to comment on the overall organization and content of Part One of the survey, the outline of which follows:

- Recent Redevelopment Activity
- Permit Processes
- Zoning
- Regulations to Manage Growth Rates, Locations, and Infrastructure Capacity
- Affordable Housing Mandates and Incentives

- Recent Rezoning Experience
- Controversy of Residential Development
- Other Constraints on Development

They asked the group to consider the logic of the sequence of topics as well as the sequence of questions within each topic. While participants made many suggestions for modifying questions and including new ones within these topics, they thought these categories adequately framed the issues of land-use controls and regulations. One structural suggestion raised in one of the two concurrent sessions was to move the questions in the “Zoning” category to the beginning of the survey. The rationale was that zoning establishes the framework by which a municipality regulates its land.

Another theme that emerged during this discussion of the structure and content of the survey was the potential need to gather basic information about the responding jurisdictions to supplement the land-use regulation data being requested. Suggestions for the type of information that should be gathered ranged from qualitative to quantitative in nature. Participants thought it might be useful to ask respondents to characterize their community’s character (urban, suburban, rural), level of development activity, amount of developable land, structure of government, and so on. Other framework data might include census-type information such as population, household types, and income statistics. While most in the group thought this information would be useful, some cautioned that asking jurisdictions to supply this type of information would introduce unnecessary errors so that cross-referencing and data-checking procedures would be needed. It was concluded that it probably would be best to have this information gathered independently by a central source using existing databases.

Given the division of questions and the issue of navigating the survey instrument in an

organized, purposeful fashion, some participants thought more intermediate instructions should be provided to introduce each section. They believed this would help potential respondents better understand the context within which the questions in a section should be answered. Some further indicated they had some difficulty navigating the survey. They thought a “road map” that walks respondents through the survey would undoubtedly increase levels and quality of participation. For example, instead of simply labeling Section One “Recent Development Activity,” the questions in that section could be preceded by a statement: “We will begin by asking you some questions about recent development activity in your community.” Additional benefits of this approach might include improved pacing and visual understanding of a survey that appeared cumbersome to some participants at the New Brunswick focus group. Participants also felt that the survey could become more “user friendly” through the use of several survey design elements and techniques. That is, the version of the instrument available at New Brunswick had somewhat of an unprofessional appearance with no room for answers. Suggested techniques included the use of appropriate typographical elements to enhance the look and feel of the survey by breaking up the monotony of a long series of somewhat undifferentiated questions. Also, participants generally agreed that boxes rather than bullet points for multiple-choice answers would be better.

At the outset, some participants noted that the survey had a heavy “greenfields” orientation. As a result, participants affiliated with older, denser municipalities did not perceive that the survey dealt with many of the key concerns facing affordable housing in New Jersey, particularly those focusing on infill. For example, issues of availability of parking spaces, redevelopment costs, minimum floor-area ratios, and transit-oriented

development were not touched upon in the instrument.

Finally, by the end of this discussion it became clear that further elaboration on the general topics of survey design and format are inextricably linked to issues of implementation and feasibility. Thoughts and recommendations on implementing a national survey of land-use regulations appear later in the portion of the report on the New Brunswick sessions.

The focus group made several recommendations regarding the multiple-choice and fill-in questions that constitute Part One of the survey. These comments centered on word choice, question scope, and alternative areas for inquiry. While specific reactions to individual questions are covered in more detail later in this section on the New Brunswick sessions, it is worth noting that the hypothetical questions posed in Section Two of the survey ask respondents to consider a variety of single and multifamily development scenarios and judge their suitability for a given jurisdiction. While the group thought these types of questions could add value to the survey data, the hypothetical questions received only mixed support due to confusion over the organization of the section and the general method by which respondents would be asked to evaluate a certain scenario.

3.2.4 Reaction to Individual Questions in Part One of the Survey Instrument

The New Brunswick focus group dedicated two sessions to examining the multiple-choice questions in Part One of the survey. Several recommendations and suggestions for individual questions were generated during these sessions. The discussion of these questions is organized by topic and summarized below.

Recent Development Activity

The questions in this section of the survey seek to measure the quantity and nature of recent

development activity in a given jurisdiction. The discussion of this section focused primarily on the terminology that was needed to make these questions explicit yet applicable to a national audience. Specific suggestions for altering questions appear below:

Q1: Respondents recommended that the term “projects” should be used instead of “subdivision,” and “units” should be used in place of “lots” for questions 1, 2 and 4. The time frame of “last calendar year” is potentially confusing and should be simplified by using “the last twelve months.” Also, Q1–Q4 appear to be concerned with single-family development and should be labeled as such. Q1 could become: How many single-family residential projects of at least 5 units were approved by your jurisdiction in the last twelve months?

Q2: Similar project versus subdivision and units versus lots concern as in Q1 were voiced here. The term “typical” first appears in this question and is repeated several times throughout the survey. While opinions varied about how this would be interpreted around the country, the group agreed that the typical development would vary greatly from region to region. “Typical” was identified as a potentially confusing term that might need to be defined or changed. It was recommended that Q2–Q4 focus on residential projects that were “approved” in a jurisdiction to capture recent development activity. Q2 could become: What was the number of units in the most common single-family residential subdivision approved in your jurisdiction over the last twelve months?

Q3: In addition to the above concerns, the intervals presented in the answer choices needed to be amended so that there were no overlaps. Answer choices should be:

- Under 7,500 square feet
- 7,500 square feet to one-half acre
- More than one-half acre to one acre
- More than one acre to two acres
- More than two acres

Q5: The focus group found that “multifamily” was a word that required definition. For instance, does multifamily include any structure of more than two units? It was unclear where townhouses and condominiums fit into the definition of “multifamily” housing. This and other requests for definition were handled through the introduction of a glossary. It was at least clear from discussions that townhouses are defined as single-family attached units on a single lot; therefore, they are not “subdivided” onto individual lots, as are single-family detached units.

Permit Process

The questions in this section deal with the process of obtaining various permitting approvals with special attention to the amount of time required. Again, word choice was a central focus during the ensuing discussions. The most controversial element in these questions was the use of the term “final” approval to signify the most significant step in approval process. This term crops up in questions 7, 8, and 10.

Q7: Participants suggested that for governments in New Jersey, “final” approval would need to be changed to “preliminary” approval since that is the stage at which development rights begin to be vested. The preliminary stage is also the last physical association that planning boards in the state have with granting development approval. Thus, if time is the concern, since “time is money” for developers, this is the critical step in the approval process. It was further recommended that “residential” be used in place of “subdivision” to describe the type of application that is being approved.

Q9: This question lists three examples of developments that may use flexible standards: cluster developments, planned developments, and planned residential developments. While these terms were familiar to members of the New Brunswick focus group, they may need more explanation for use in a national survey. Additionally, the names of these types of developments may vary by region; thus, clarifying their meanings may help respondents understand this question.

The intervals of the answer choices also needed to be amended so that there were no overlapping values. The answer choices should read:

- None
- Some, but less than 25%
- 25% to 49%
- 50% to 75%
- Over 75%

Q10: Some participants wondered if this question could become more universal by using the expression “filed” instead of “deemed complete” to refer to the application status. It has been left as is. The requirements for completion of an application may vary significantly among regions. The intervals of these answer choices also need to be amended so that there are no overlapping values. The answer choices should read:

- Less than two months
- Two to six months
- More than six months to one year
- More than one year
- The times vary so much that it is impossible to say

Q11: The group thought that although this question might be difficult to answer it was still potentially a source of valuable information. It may be helpful to add a fourth answer choice for jurisdictions that are not able to answer this question accurately.

Q12: Question 12 contains redundant “Yes” answer choices. The group suggested that the first blanket “Yes” answer be removed. The answer choices then become:

- Yes, as of right, multifamily developments must observe site plan approval requirements
- No
 - ♦ If no, why not?
 - As of right, multifamily developments go directly to construction permits
 - Multifamily developments are not allowed in this jurisdiction

Q13: The group thought this question should include “elected official” along with “elected body” as someone who may grant application approval.

Zoning

The Zoning section of Part One asks respondents to describe zoning in their community as it relates to issues of jurisdiction and residential regulation.

Q16: The focus group felt that the term “sub-county unit” might be problematic. They suggested using an alternate term or providing examples such as city, township, borough, etc. The latter alternative (listing city, township, borough, and so on) was chosen.

Q18: Some participants cautioned that respondents may not be familiar with the concept of net acreage. Suggestions included explaining how to calculate this figure or asking for answers in terms of gross acres. For the time being, it was left as is. In addition, it may be useful to repeat the logic of this question with floor-area-ratio (FAR) categories and parking requirements. These types of regulations may influence development as much as density and height regulations.

The intervals of these answer choices need to be amended so that there are no overlapping values. The answer choices should read:

- Less than one dwelling per net acre
- One to two dwellings per net acre
- Three to four dwellings per net acre
- Five to seven dwellings per net acre
- Eight to 15 dwellings per net acre
- Sixteen to 30 dwellings per net acre
- Over 30 dwellings per net acre
- The jurisdiction has no zoning

Q20: The focus group was unsure of the correct terminology for describing mobile and manufactured homes. They suggested checking with U.S. Census guidelines to see how “mobile home” is defined and whether this definition includes “manufactured housing.” They also thought that this question could become more useful by adding these follow-up questions:

- Are they allowed in places other than existing parks?
- Must they meet specific provisions such as pitched roofs, attached garages, etc.?

Residential Regulations

The four questions in this section ask respondents to describe regulations in their community dealing with residential growth rates, location, and infrastructure capacity.

Q22: The groups suggested adding two additional answer choices to the “Yes” category: A sewer moratorium and an adequate public facilities ordinance. However, the addition of these categories may necessitate the division of answer choices into shorter- and longer-term measures to limit housing construction.

Q23: This is one of the more complicated questions in Part One of the survey. Participants stated that this sort of information would be difficult to quantify because some fees may be charged as a percentage of a development project, number of bedrooms, or other similar measure and not on a per unit or per lot basis. Some

participants suggested that providing ranges of fees or exactions for a respondent to select might be more effective than allowing open-ended answers.

Q24: Participants thought this question might benefit from developing the “yes” answer choice with possibilities such as adequate public facilities ordinances, regional plans, the Coastal Area Facilities Review Act (CAFRA), and so on, so that the answers became more meaningful.

Q25: Several members of the focus group objected to the wording of this question and recommended using “Is your jurisdiction subject to a policy to limit development. . . .” instead of “Does your jurisdiction have a deliberate policy to limit development. . . .”

They also suggested adding a basic question about the effect of a development boundary: “Has the adoption of a growth boundary affected the availability of land and the affordability of housing?”

There may be too many options for comparing the boundary now to when it was first adopted. “Larger,” “smaller,” and “about the same” may suffice.

Finally, as respondents are asked to forecast the supply of vacant land over the next ten years, it may be necessary to add language asking them to consider the pace and character at which development has been occurring in their community. The type of development includes density considerations that affect the development of vacant land.

Affordable Housing

The three questions in this section ask respondents to consider mandates and incentives that exist in their community to provide affordable housing. While the group thought that the questions adequately frame affordable housing mandates, they were concerned about a lack of attention to certain types of financial incentives, such as tax abatements or tax credits that may

be provided to developers who follow certain guidelines.

Q26: Participants found that, despite their familiarity with the terms “affordable housing” and “inclusionary zoning,” these terms might require definition or clarification. For example, does affordable housing pertain simply to low- and moderate-income households? Perhaps the survey should include the issue of workforce housing, a term used to describe the problems that moderate-income workers often encounter when looking for housing close to their place of employment. The group also thought it was pertinent to ask if there was a threshold above which inclusionary requirements applied. For instance, does a jurisdiction require every project over two units to meet the same requirements?

Q27: The answers to this question may be more useful if respondents are asked to indicate whether density bonuses are awarded at the local, county, or federal level.

Q28: The group thought that two of the answer choices for this question could be improved. In the first answer choice, “expedited permit review” should be changed to “expedited or concurrent permit review,” and “subdivision standards” should be replaced by “development standards” in the second answer choice.

Controversy over Rezoning

The four questions in this section deal with a community’s recent efforts to add residential development or increased density through rezoning. Because some of the questions in this section also deal with variances, some in the focus group thought that it should be renamed Recent Rezoning and Variance Experience. The focus group generally found these questions to be acceptable with very minimal changes.

Q31: This question could include both rezoning and variance applications as in:

“In the past twelve months, how often have applications for rezoning or variances been requested. . . .” Another minor point concerned what the group thought was the awkward word choice of “more seldom” in the final answer choice. This could be changed to “less than once a year.”

Residential Development Decisions

The three questions in this section seek to capture the reaction of builders and citizens to development proposals and residential regulations. At the New Brunswick focus group, this section engendered some of the most divergent opinions. Some in the group worried that these questions would discourage jurisdictions from participating in the survey altogether because they would not want to disclose this sort of information and may worry about “getting in trouble.” Despite a suggestion that this section be removed, it has been retained.

Q33: Jurisdictions may be hesitant to characterize their conditions for project approval as “excessive.” This word could be dropped from the question. The group also felt that asking communities to consider the past five years was difficult because it required an “institutional memory.”

Q34: The group thought that limiting citizen opposition to “referendum campaigns” was too constraining. The terminology for this type of legal opposition varies regionally. Also, it may fail to capture other types of organized opposition such as that organized by public interest groups or more general appeal processes.

Q35: The focus group felt strongly that this question was not an accurate indication of the controversy over residential development and suggested that it be removed or refocused. The

group pointed out that there are several reasons why meetings may run late into the evening, and only some of them deal with controversy. This is in addition to the fact that rules governing the end of meetings may vary significantly from place to place. Suggestions for alternate areas of inquiry include:

- The frequency with which the planning board meets to consider development proposals
- The number of meetings it takes to get an application approved
- How controversial meetings where new developments are being considered typically are

Development Constraints

The final question in Part One of the survey attempts to summarize and consider additional obstacles to residential development in a community.

Q36: The discussion of this question focused on alternate answers that may need to be added to make this question comprehensive. Suggestions included:

- Most undeveloped land is in areas zoned for lower density
- Other environmental considerations, such as the presence of brownfields sites, could be added to option two
- The presence of a growth boundary or other similar measure
- The jurisdiction is not interested in additional residential development

Summary of Additional Recommendations

One topic that some members of the focus group did not think was addressed by the survey is the pre-application processes available to developers. The pre-application process provided by a municipality may include a pre-application conference, concept review, or “sketch plat” designed to expedite the development approval process. This aspect of the permit process may be worth measuring because it can streamline the

approval process for some applications. A suggested version of this question, appearing in the Process Permit category, is:

“Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite residential development approval?”

- No
- Yes

If yes, how long does this pre-application or other conference last?

- One meeting
- Several meetings
- The number of meetings varies so much it is impossible to say”

In addition to the specific suggestions on individual questions, the group made several recommendations on items or subject areas that could be included. One recurring suggestion was to include a glossary of terms that may not be readily understood or that may need clarification. Opinions varied on how this could be implemented, but the consensus was that the glossary could be placed at the end of the document. Terms that were to be included in this glossary could be specifically identified in the survey by appearing in italics or with an asterisk indicating that a definition has been provided. Candidates for inclusion in such a glossary include:

- Sub-county unit
- Single-family and multifamily; for example, does multifamily simply mean rentals or does it include condominiums?
- Affordable housing
- Inclusionary zoning
- Gross density and net density, with notes on how to calculate whichever measure is used
- Mobile home and manufactured housing
- Completeness requirement
- “As of right”
- Master plan
- PUD

Participants of the New Brunswick focus group generally thought that the survey instrument does a good job of measuring land-use regulation at the local level. However, some members felt that the survey did not do as good a job at measuring certain related aspects of residential development that may affect affordable housing. Some of these topics include the effect of property taxes on housing affordability, the integration of transportation issues and land use, environmental regulations, state statutes, and market forces. These factors may affect land-use decisions in a municipality but are beyond the reach of local policymakers. Some of these issues may warrant inclusion in this type of survey while others may deserve entirely separate research efforts. A few participants also voiced concern that the survey seems more concerned with suburban or “greenfield” development than it does with urban areas that are often characterized by infill projects and mixed-use developments.

Time Required to Complete Survey

The preceding sections concerned the scope of the survey as well as potential areas of ambiguity. It is necessary to include some comments about the overall time investment necessary for a participating jurisdiction to complete a survey of land-use regulations. Members of the focus group agreed that answering the multiple choice questions in Part One of the survey would require a substantial amount of time to complete. This opinion was based on the perceived need to research several types of information, in some cases over a number of years. This may involve consulting several different people and possibly several different departments. Acknowledging this, the focus group also realized that the comprehensive nature of the end database requires a lengthy survey in order to be useful. They also acknowledged that the cumulative effect of implementing many of their suggestions

would make the survey longer and not shorter. One caveat of this discussion is the possibility of administering this survey electronically. This may have the effect of minimizing the survey’s perceived length. More attention will be paid to this issue later in the report.

3.2.5 Reaction to the Hypothetical Prototypes in Part Two of the Instrument

Part Two of the survey embraces two sets of hypothetical residential development situations. Set A contains two scenarios proposing different single-family developments. Set B contains three scenarios outlining various multifamily development proposals. The stated objective of the survey is to randomly assign one hypothetical from each set, one single-family and one multifamily, to each jurisdiction. Each jurisdiction is to then answer the same series of questions about each prototype.

The New Brunswick focus group interpreted Section Two of the survey as a way of gauging the ease with which certain development schemes could be built in communities around the country. In this way, the section approaches land-use regulations from a different perspective and offers the opportunity to provide supplemental information to the answers received in Part One. Despite the potential value of this information, Section Two was viewed as significantly more problematic than the earlier multiple choice questions. Several potential obstacles to effectively carrying out these questions as well as some suggested remedies are discussed below.

Potential Impediments

As stated, the focus group did not understand the rationale for randomly distributing hypothetical prototypes to individual jurisdictions. Participants believed that randomly assigning prototypes for evaluation would hinder the usability of data collected because there were too

many opportunities for spatial mismatches. An example of this type of mismatch would be a small rural community evaluating a proposal for 40 market-rate apartment units on one acre. In this case, the jurisdiction's response that this type of development would probably not be approved fails to produce meaningful information. This response may be influenced more by the market factors and development character of a jurisdiction than by its land-use regulations. The group feared that a database comprising these types of responses would confuse the issue of regulatory barriers to affordable housing.

The participants voiced concern over several aspects of the proposals and questions themselves. For example:

- The use of the word “accommodate” in the Set A descriptions may be vague. Stating that a vacant parcel could accommodate the proposed development may cause respondents to wonder if the parcel is simply the right size or if the parcel is currently zoned appropriately for the hypothetical project.
- The specific description of unit size—1,500 square feet in Set A and 1,000 square feet in Set B—was seen as unnecessary and possibly distracting. The group did not feel that an answer to the second “No” follow-up question after Q1 would depend on unit size. These scenarios seem more interested in the density of each proposed development, so potentially extraneous information could be removed. Nothing was done to the questionnaire at this time.
- The second scenario in Set A: Single-family, may need to be revised. This hypothetical question calls for the construction of 50 single-family detached homes on a five-acre parcel, resulting in a density of 10 detached homes per acre. Participants seemed to think that this density was physically unrealistic for detached housing, specifically for a national audience.
- Referencing a specific percentage of affordable housing in Q1 may be problematic. Q1 asks respondents to evaluate if the given hypothetical would be allowed in the jurisdiction according to the existing zoning. If a respondent answers “No” they are directed to answer four follow-up questions. The third follow-up asks them to reconsider the project with the condition that 20 percent of its units were reserved for low- and moderate-income households. Some of the members of the focus group thought the figure of 20 percent was arbitrary. Hence, they suggested the question might be rephrased to:

“Would the project be permitted under the prevailing zoning if some percentage of its units were reserved for low- and moderate-income households?”
- Forecasting housing demand over the next several years was perceived to be too much to ask of survey respondents. Q2 deals with the amount of land that is currently zoned for a proposed development and asks communities to respond in temporal terms, i.e., enough to satisfy medium-term demand (2-10 years). Participants felt that quantifying demand in this manner may be too speculative and variable to result in meaningful data.
- The scope of Q4 may need to be enlarged to include the multifamily proposal from Set B. Members of the focus group were unsure why this question directed respondents to consider only the case of detached homes and subdivision applications. The question should provide a different set of answer choices for Set A and Set B. In this way, multifamily housing and site plans could also be considered.

- Q7 may not generate enough useable information to warrant its inclusion in the survey. This question asks jurisdictions to compare themselves to neighboring jurisdictions in terms of their regulatory climate. The group felt if this question was going to be answered at all by a community, the answer would be opinion- and not fact-based. Some in the group recommended dropping this question entirely, saying that this is the type of judgment a researcher could make after analyzing the results of this survey for a region.

Suggestions for Improving the Hypothetical Prototypes

During the focus group, one sentiment that emerged about Part Two of the survey was that it needed to be more concise and coherent than it was currently structured. In its present form, some participants felt that the hypothetical questions might have the effect of making a lengthy survey feel dramatically longer. The discussion of this section included several ideas which, if implemented, might improve the presentation and effectiveness of the hypothetical prototype questions.

As described above, the randomness of the distribution of these prototypes was one of the main topics of conversation. The group briefly discussed the possibility of using some sort of stratified random sampling technique to ensure the statistical significance of any findings before turning their attention to alternative modes of distribution. Several suggestions for better aligning the type of responding jurisdiction with development proposals were introduced. The proposals that communities are asked to evaluate could be pre-selected for a jurisdiction based on certain established criteria. This criterion could combine size and character of development to ensure that jurisdictions are evaluating relevant proposals. Implementing this method could take three forms:

- HUD selects the most appropriate development proposal based on the relevant criteria and statistics and specifically directs a respondent to answer particular prototypes.
- The instructions could be more generally worded and invite a respondent to self-select the most appropriate proposal to evaluate. In this case, the directions could set up conditional responses. For example, “If you are a jurisdiction of this size and this type, please evaluate Prototype One from Set A and Prototype Two from Set B.”
- If the survey is ultimately to be administered electronically, via a Web site perhaps, the scenarios could be assigned to a jurisdiction based on the answers provided in earlier sections.

A variation on these methods involves more clearly defining the intent of this set of questions. If, as some in the focus group believed, these questions were designed to measure a development threshold for a community, jurisdictions might be asked to pick the highest-density development for which there was a chance of approval. In this way, the survey would provide an illustration of the upper bound of development intensity as well as information about what factors influence that boundary.

A more radical suggestion entailed breaking the current survey instrument into two separate surveys. The questions in Part One would make up the first survey and perhaps some subset of responding jurisdictions could be selected to participate in the hypothetical prototype portion of the survey. The second survey could be used to provide extra insight into a few regions or spot-check results in areas with conflicting responses. In either case, respondents could be instructed to evaluate particular proposals based on the research goal. Another suggestion was to do away

entirely with Part Two. Neither suggestion was implemented.

Finally, it is important to note that the New Brunswick focus group felt strongly about the need to improve the formatting and “readability” of this section. That sentiment applies to whichever form the prototypes and questions ultimately appear in. Participants found the language and structure of this section to be confusing. Q1, in particular, was singled out for criticism because of its length. Participants had a difficult time keeping track of which follow-up questions were linked to each of the general “Yes” and “No” answers. Formatting changes, including the use of additional white space and more pronounced indentations, may alleviate some of these complaints. Another suggested improvement to the structure of this section involves modifying its layout. Respondents were confused by the presentation of two series of development proposals and only one series of questions. Arranging this section such that each set of prototypes is followed by its relevant questions is a simple remedy that may greatly improve the look and feel of Part Two.

3.2.6 Implementation of a National Survey

In addition to evaluating the specific content of the draft survey instrument, members of the New Brunswick focus group were asked to comment on the implementation of a national survey of land-use regulations. The ambitious scope of this survey necessitates a sound plan for implementation and provides opportunity for innovation in the delivery and collection of these surveys. A nationwide survey will need to select a sampling technique that provides a representative sample of the types of jurisdictions and range of regulations found within them. While the group did not consider the specifics of sampling techniques, participants were directed to approach this task with few limitations in order

to encourage creative thinking about the subject. The discussion during this session focused on administering the survey, selecting respondents, maximizing the response rate, and considering alternate versions of the survey for related fields.

Survey Medium

The question of how to effect a national survey invariably must include several factors. Chief among them is the decision about the form in which respondents will receive the survey. The focus group seemed to agree that using a combination of traditional and modern dissemination would work best. The traditional approach involves sending a paper or “hard” copy of the survey to each jurisdiction. Respondents would also be notified that a digital or electronic copy of the survey would be available via a HUD-sanctioned or -supported Web site. This hybrid approach to distribution may have several benefits. A paper copy is likely to be viewed as a more formal document that must be completed, while electronic documents have a more informal air. Also, paper copies of the sections of the survey can be distributed to various people or departments who will be responsible for filling them out. In addition, if sent as hard copy, technological limitations would not hamper the completion of the survey for jurisdictions lacking information technology infrastructure. Alternatively, digital access to the survey would allow for jurisdictions comfortable with the Internet to complete and process their submissions in an efficient way.

The focus group suggested that hard copies of the survey may need to be mailed first class so that they receive prompt attention. It was also their strong recommendation that jurisdictions be encouraged to complete their surveys online. This use of the Internet would streamline the process of data collection and management. One participant used the example of an online college application for comparison. Each jurisdiction could receive a

“pass code” that allows them to access the online version of the survey. They could then have the option of creating a password that would give them the ability to enter the survey environment. Users would not need to complete the survey during one session since their answers and progress would be saved. Upon completion, the survey could be reviewed and submitted to HUD. A key component of this online implementation, according to the focus group, is the creation of a single point of contact within each jurisdiction. When a jurisdiction enters the survey environment for the first time they would be required to enter the name and e-mail address of a point of contact in the community. This person would be responsible for entering the information into the online survey and could be contacted by HUD if the need arose.

Target Audience

A second critical component of the implementation effort is the communication framework. Who, in a jurisdiction, should receive the survey, and who should fill it out? Participants were asked to consider both of these questions and had suggestions for each of them. The focus group concluded that the survey would need to be sent to the “chief administrative officer” in a jurisdiction. The generic term of “chief administrative officer” was used to signify an official position that carried significance within a local government structure that could potentially be filled by several positions. According to the New Brunswick focus group, the best candidates for this role, in order, are municipal or county clerks, business administrators, and mayors.

The idea behind this thinking is that the survey recipient should have enough authority to ensure that the survey is completed. The group was adamant in its belief that the person receiving the survey would not be the person responsible for the actual entry of the survey data. Participants

suggested that the relevant chief administrative officer should be instructed to select the most appropriate personnel in his or her organization to complete the survey. Participants seemed to think that this approach would be effective in two respects: awareness of the survey effort would increase because a high-level official was notified, and the eventual survey respondent may feel compelled to complete a survey that they perceive as coming from their “boss.”

On the subject of who should fill out a survey of land-use regulations, the focus group followed a similar logic. They suggested that jurisdictions’ contacts be asked to forward the survey to the primary “land-use administrator” in their community. Again, this approach uses a general term to describe a role that may be played by different positions across jurisdictions, such as planning department personnel or a zoning official. This land-use administrator may need to consult with other people or departments in order to complete the survey, but the creation of a single point of contact was again suggested by the focus group.

Despite the support for this approach, participants identified some challenges to effecting it. A main obstacle to this strategy may be the efficient identification of each chief administrative officer across the various types of jurisdictions included in the national survey. Several sources of potentially helpful information were identified by the focus group. State universities may maintain information, possibly in the form of a government services center that lists helpful information on the governmental structure of municipalities within the state. Similarly, each office of the secretary of state may have current information on elected and appointed government officials for each jurisdiction in their state. Other sources of potentially useful information identified by the focus group are the National Association of Counties (NACo) and the International City/County Management Association (ICMA) *Municipal Yearbook*.

Encouraging Participation

The subject of how best to encourage local government participation came up during several sessions on various topics. These discussions touched only briefly on the subject of using incentives to entice jurisdictions to participate or imposing penalties on those who declined. The use of specific incentives, including financial awards or linking completion to the funding of Community Development Block Grants (CDBG), was largely dismissed. Most in the group thought that motivating local governments to participate in this study was one of the biggest challenges for HUD. The group appeared to agree that linking the survey to the goal of reducing regulatory barriers to affordable housing and partnering with reputable organizations would aid the survey effort; more thought needed to be given to this topic.

Alternate Surveys

Several times during the New Brunswick focus group, the idea of developing a complementary survey to be completed by members of the development community was discussed. Participants stated that local public officials may deal with only a segment of the residential development process and that surveying developers on some of these same topics would provide a more holistic view of land-use regulations and affordable housing. It was suggested that a survey of this type might serve as a “reality check” that could be used to compare and contrast the information provided by local governments. The example of a builder who receives the necessary local government approvals yet cannot begin construction on a project because of additional regional and state regulations was given. It was suggested that surveying developers would illuminate the post-approval process and possibly identify additional barriers to affordable housing.

Despite the potential benefits of this type of information, producing and implementing a

survey for developers and builders might require an effort similar to the production of the national survey of local land-use regulations. The survey as currently constructed is aimed at local government officials and is not immediately transferable to the development community. The development of a shorter survey focused on how a variety of regulations affects developers seems to be the preferred alternative. It was suggested that HUD could partner in this effort with the National Association of Home Builders to develop and distribute such a survey. Developers may be motivated to participate in a survey that they believe will highlight and possibly reduce the number of “obstacles” they face in the residential development process.

Participants identified the comparability of these findings with the results from the governmental survey as a major challenge. Developers, unlike municipalities, do not operate within a set of distinct jurisdictional boundaries. Similarly, despite their expertise in some areas, they may be unaware of some regulatory frameworks. These concerns raised issues about the extent to which information provided by developers could be compared to the information given by local governments and the degree to which it could perform as a means of validating a national survey of local land-use regulations.

3.2.7 Conclusion: Feasibility of a National Land Use Survey

As the pilot focus group, the New Brunswick meeting concluded that HUD was heading in the right direction with its national survey of local land-use regulations. Despite the criticisms and recommendations that appear in this report, participants lauded HUD’s intentions and thought that the survey would ultimately produce valuable results. Participants thought that the series of focus groups would undoubtedly refine the survey instrument further. The group believed, however,

that the implementation of the survey would remain a major obstacle to creating a reliable and useful database of land-use regulations.

Summary of Thoughts on Survey Instrument

Participants generally thought that Part One of the survey, containing the multiple-choice questions, was more developed than the Hypothetical Prototypes in Part Two. Some of the major suggestions of the New Brunswick group were to:

- Minimize the number of questions that require more than one person to obtain an answer by local governments.
- Expand the survey to include non-local regulations that affect the residential development. This idea was exemplified by suggestions to include relevant state regulations and develop an alternate survey for development professionals.
- Limit questions that could not be answered accurately even with some research. Certain survey questions should include an option that allows the jurisdiction to indicate that information is not available so that speculative answers are minimized.

- Standardize the use of preliminary and final development application approval so that the timing of the granting of development rights is correctly conveyed to respondents.
- Include a glossary of selected terms in the survey, particularly those that may be ambiguous or confusing to some respondents.
- Develop a clear method for distributing the hypothetical prototypes so they result in meaningful data.
- Improve the format and style of the survey throughout. This is especially a concern in Part Two of the survey, where many participants had difficulty understanding the sequence of questions.

Next Steps

The New Brunswick focus group was supportive of the focus group process. It was their belief that additional focus group meetings would provide a wider range of feedback, which would strengthen the survey instrument and provide a framework for implementing the survey. The development of a comprehensive implementation strategy is clearly the next step in the survey effort.



Early-morning commute to work, Portland.

Courtesy BigStockPhoto.com. © Lance Rudge.

4. SITE 1: PORTLAND

4.1 Summary: Portland

The first set of regular focus group sessions on the survey instruments convened at Portland State University in downtown Portland, Oregon, on October 26, 2006. Oregon is a state wherein counties and cities must develop, adopt, and amend comprehensive plans that comply with the state's Department of Land Conservation and Development. The most notable characteristic of this top-down approach to land-use management is that Oregon's cities must plan urban development within urban growth boundaries. Moreover, jurisdictions must quantify likely affordable housing needs and adopt codes that assure that those targets will be met.

While the focus group believed the survey instrument was delving into the right sorts of material, the participants also concurred that the survey was too long and that many sets of questions were insufficiently focused upon the objective—gathering information on land-use regulatory barriers to affordable housing. Thus, they advised that many peripheral questions be eliminated along with many of those requiring subjective responses. To encourage response by jurisdictions they suggested that an introductory

section be added to tell respondents what the survey is about and why they should answer it. Moreover, they concurred that a more professional-looking instrument with separating graphics would also help. A glossary of key terms was deemed a requirement.

A major theme throughout the day was that the survey was too heavily oriented toward regulations generated at the local level, at least for jurisdictions in Oregon. They also opined that the survey did not cover very well some alternative forms of affordable housing in the Portland metropolitan area—condominiums, community land trusts, housing co-ops, manufactured homes, and land-lease subdivisions (mobile home parks). They also believed the survey instrument was focused more on permit approvals rather than on non-approval, although information on the latter should be the prime concern, so a focus on it undoubtedly would yield salient information. The group further reiterated the concern expressed in New Brunswick about the clear greenfields tilt to the survey.

Portland participants were particularly concerned about the time that might be required to complete the second part of the survey. Moreover, they were also disenchanted with the concept of randomly assigning the hypothetical scenarios to a jurisdiction since some scenarios would be confusing (particularly in the case of smaller jurisdictions) to complete. Indeed, they placed a great deal of concern on the impact of the inclusion of this part of the survey on the response rate for the whole instrument. This was even before they tried to follow the path through a particular example scenario, which they found rather intractable.

In general, participants of the Portland focus group were quite skeptical about prospects for a nationwide survey of land-use regulations unless either incentives or penalties were used to force response. This opinion was based on a similar

survey experience undertaken in metropolitan Portland on land-use practice. They thought that even if carrots and/or sticks were used and if the survey could be completed online, many municipal offices still might need assistance to ultimately complete it. Hence, the focus group suggested that local HUD offices or similar bodies would be instrumental in facilitating responses. They also believed a pre-release marketing campaign, like that used prior to the recent decennial national censuses, would prove useful. Portland's difference from the pre-test in New Brunswick was the emphasis on the plan. In New Jersey, local zoning was the key land-use document. In Oregon, it was clearly the metropolitan plan.

4.2 Full Proceedings: Portland

4.2.1 Regional Context

Oregon's planning program has been in place for more than 30 years. Development is regulated at the state level and is coordinated by a state agency, the Department of Land Conservation and Development (DLCD). DLCD prepares the goals and guidelines for local governments to follow as they undertake planning activities. These goals cover a variety of topics, including citizen participation, urbanization, forestry, housing, recreation, and agriculture.

Each county and city in Oregon must develop, adopt, and amend comprehensive plans that comply with state land-use goals.² The urban growth boundary (UGB), intended to identify and separate urbanizable land from rural land and ensure compact development, is a critical component of the land-use planning system. DLCD's urbanization goal requires all Oregon

cities to define, adopt, and plan urban development within urban growth boundaries.³

Statewide Planning Goal 10 addresses housing in Oregon and provides guidelines for local governments to follow in developing their local comprehensive land-use plans and implementing policies. Goal 10 requires incorporated cities to complete an inventory of buildable residential lands and to encourage the availability of adequate numbers of housing units in price and rent ranges commensurate with the financial capabilities of its households. In other words, jurisdictions must attempt to quantify the expected amount of affordable housing that will be needed and then adopt zoning codes that will ensure that those targets are met.

Jurisdictions in the Portland metro area have additional requirements regarding planning for residential development. Metro, a regional planning agency with a directly elected council, oversees regional land-use issues in the Portland region. Metro is responsible for enacting the Metropolitan Housing Rule⁴ for the Portland region. It requires cities and counties within the regional urban growth boundary to meet regional standards for density and housing mix. Most jurisdictions must either designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be multifamily housing, or justify an alternative percentage based on changing circumstances.⁵ The Metropolitan Housing Rule also requires cities to develop to overall target densities that vary depending on the size and growth rate of the jurisdiction.

A recent HUD study on the connection between housing affordability, density, and

2. ORS 197.250, 255.

3. Oregon Administrative Rules (OAR) 660-015-0000(14).

4. OAR 660-007.

5. OAR 660-007-0030 through 660-007-0037; OAR 660-007-0045.

residential zoning code used the Portland region as a case study.⁶ The study found that housing prices have risen rapidly in the Portland region. Given the expected population growth in coming years, housing affordability will probably continue to be an important issue for regional decision makers to address for years to come.

While most agree that housing affordability is a problem in the Portland metro area, the impact that zoning has had on the development of multifamily and affordable housing in the region is less clear. No study has definitively answered the question of how Oregon's land-use planning system relates to housing prices. Some experts believe that zoning and land-use controls (especially the urban growth boundary) constrain land supply, causing increases in land costs and limiting the affordability of new housing. At the same time, most recognize that zoning laws have played at least some part in creating a region with a reputation for livability that is an attractive location for new development. Some feel that the livability of the region has increased the demand for housing of all types and is the real driver for price increases.

Regardless, the HUD study found that "Oregon's state policy framework makes it more difficult for jurisdictions to use zoning to intentionally limit multifamily development and zoning in the Portland study area. The effects that Portland's urban growth boundary may have on housing prices notwithstanding, zoning does more to encourage the development of multifamily housing units than to impede it."

4.2.2 Focus Group Approach and Composition

The Portland focus group was held at Portland State University in downtown Portland. To conduct this focus group, CUPR contracted

with ECONorthwest (ECO), an Oregon-based land-use planning consulting firm. ECO assisted in all stages of focus group organization, from identifying and inviting participants to facilitating and writing these focus group results. Based on the experience in New Jersey, ECO generated an extensive initial list of over 60 potential focus group participants with relevant experience in land-use regulation and affordable housing. They each were invited to participate via e-mail sent from CUPR staff that included a formal solicitation from Edwin Stromberg of HUD. ECO followed up on e-mail invitations that generated no immediate response. An additional set of ten individuals was also solicited to attend. Ultimately, nine professionals participated in the focus group. Robert W. Burchell, co-director of CUPR, facilitated the meeting with assistance from CUPR and ECO staff.

The focus group participants included practicing planners, developers, land-use attorneys, researchers, housing advocates, and members of local planning and zoning boards. The varied experiences that focus group participants have had with implementing the Oregon land-use planning system give them a unique perspective that is useful to HUD as it considers the local applicability of the survey.

After the New Brunswick, New Jersey, focus group meetings, it was determined that a few questions needed at least significant adjustments before they could be discussed readily in a focus group setting. In addition, participants in New Brunswick had suggested some semantic and other minor editorial changes to the language used in certain questions. As a result, the survey instrument was modified somewhat. The survey instrument discussed in Portland, Oregon, is presented in Appendix F.

6. *Zoning As a Barrier to Multi-Family Housing Development* (National Center for Smart Growth Research and Education with the American Planning Association and ECONorthwest, 2005). Report prepared for U.S. Department of Housing and Urban Development.

4.2.3 General Reaction to Project and Instrument

Nearly all focus group participants thought that a database of local land-use regulations could be helpful for researching solutions to the affordable housing development problems in the United States, and that the best way to develop such a database is to request information about regulations from the jurisdictions themselves.

The participants, however, had serious misgivings about the effectiveness of a survey tool for gathering that information. They described a similar effort undertaken in the Portland Metro region some years ago. The Metro government mailed a survey to area jurisdictions that was designed to gather information about the land-use regulations that guide local development. Local governments said they would not complete it because they did not have sufficient staff support to do so; the Metro effort failed because the response rate was so low. Portland and Oregon have a strong planning culture; participants were skeptical of the ability to get a comprehensive survey response nationally without strong incentives or sanctions.

Participants said the survey would need a clear plan for distribution and evaluation. It needs to have a clearly defined audience (who will fill it out?), an easy-to-follow logic and format, and a well-articulated explanation of why it is important to complete the survey (what benefits it will deliver, and to whom). Some form of incentive or inducement must be included, especially if the survey is not shortened significantly.

Participants generally thought that the survey is asking the right kind of questions, but that the questions are not focused enough on the goal of gathering information relevant to affordable housing production. They advised that HUD reassess the essential information needed to improve its abilities and those of local governments to help deliver affordable housing, and then to

ensure that questions in the survey probe for that information and only that information. Peripheral questions should be eliminated. More specific comments about the changes that participants suggested to the content of the survey are included later in this document.

The Portland focus group spent a fair amount of time discussing the format of the survey, which everyone agreed requires some attention as the survey is polished. Suggestions included adding graphics to improve the visual presentation, reducing question length or reformatting such that the survey could be a shorter document (under 10 pages), and creating the survey as a Web-based or downloadable document.

In particular, participants thought that the overall length of the survey was intimidating and would deter some respondents from completing it. Additionally, they asserted the need for an introductory section that sells the survey. They contended that such a section should highlight the problems local jurisdictions face with affordable housing provision and explain the possible connections to land-use regulations. It should explain why the data that the survey gathers are so important to addressing the problem. People may be motivated by the potential to help alleviate a problem that is more clearly defined.

Participants discussed the content of the survey in general terms before going to a specific, question-by-question review of the survey. The most important points were:

- The instrument assumes that the regulations are being generated at the local level, which is not always the case in Oregon. As examples, state law prohibits inclusionary zoning even if local governments were interested in affordable housing. The role of state and federal regulations (including environmental constraints) that affect affordability may need to be reviewed.

- The survey should explicitly define “affordable housing.” The survey authors’ definition may be different from that perceived by respondents and/or users of the survey data.

Other points of discussion regarding survey content in general included the following:

- Despite the connection between excessive land-use regulation and diminished affordable housing, the term “affordable housing” doesn’t show up until several pages into the survey. This immediately led some to wonder whether the questions were very well organized, given the stated goal of the survey.
- The survey often tries to capture how many projects/proposals were approved. Is it valuable to capture how many are denied, delayed or otherwise “go off the tracks,” as well as the possible reasons? There are many reasons that projects may stall (such as a developer financing falling through), and only some of them are true barriers.
- Perhaps questions should be included that ask for positive steps that are being taken by local governments to encourage the development of affordable housing. This may help motivate respondents as well as generate good ideas that can be shared nationwide.
- The survey is greenfields-oriented even though infill and redevelopment (including brownfields) are less of a regulatory consideration in the Northwest.
- The survey fails to capture the significance of condominiums (considered affordable housing in Portland) or other alternative forms of affordable housing, such as community land trusts and housing co-ops. Two trends that don’t appear in the survey: (1) mobile home parks being closed and converted to subdivisions, and (2) the conversion of rental units to market-rate condos.

In summary, there were many concerns about the applicability of the presented survey to local governments within Oregon. Further, participants were somewhat troubled about the prospects of implementing the survey—in particular, how to motivate local governments to respond to the instrument, especially given its extreme length and complexity. They also expressed some unease with the background material that accompanied the survey as well as the instrument’s unsophisticated appearance. Nonetheless, participants felt that, with some adjustments, the survey can accomplish its goals—but that HUD and the survey authors should focus more on issues associated with the opposing goals of adequate response rates and survey content before it is distributed.

4.2.4 Reaction to Individual Questions in Part One of the Survey Instrument

The Portland focus group dedicated two sessions to the examination of the multiple choice questions in Part One of the survey. Several recommendations and suggestions for individual questions were generated during these sessions. The discussion of these questions is organized by topic and summarized below. As in the case of this section of the report for the New Brunswick, New Jersey, focus group meetings, the subsection follows the general outline of Part One of the survey instrument, which runs as follows:

- Recent Redevelopment Activity
- Permit Processes
- Zoning
- Regulations to Manage Growth Rates, Locations, and Infrastructure Capacity
- Affordable Housing Mandates and Incentives
- Recent Rezoning Experience
- Controversy over Residential Development
- Other Constraints on Development

Recent Development Activity

The six questions in this section of the survey seek to measure the quantity and nature of recent development activity in a given jurisdiction. The discussion of this section focused primarily on the terminology that was needed to make these questions explicit yet applicable to a national audience. Specific suggestions for altering questions appear below.

Q1–Q3: Participants thought that the term “subdivision” might be too technical and literal a term to get at the information the question asks for. For example, in Oregon, condominiums aren’t a subdivision. Additionally, in the Northwest in general, subdivisions are only 5 lots or more; under 5 lots they are considered partitions or parcel maps. Focus group members suggested that a more generic phrase like “residential development” might better elicit the desired information from survey respondents.

Focus group members noted that small-scale development in Oregon is common (especially for infill projects) and that these smaller projects may be missed using the numeric breakouts in Q1 and Q2. Focus group members suggested adding a category that captures projects of less than 5 lots. Participants were confused over the use of the terms “units” and “lots” in Q1 through Q3. They suggested changing “unit” size in Q3 to “lot” size.

Focus group members found the term “approved” ambiguous. They noted that there are multiple stages of approval in Oregon, including the appeal process, and that each of these milestones is referred to as a “land-use decision” in Oregon. The use of the term “land-use decision” could clear up this ambiguity.

The group thought that the word “typical” is too ambiguous. They interpreted it to mean average or most common, and suggested clarifying the word.

These questions may be difficult for counties to answer. Focus group members noted that since Oregon has a multiple zones (rural, urban, and so on) and that what is typical in one zone will differ dramatically in another, some questions may be difficult for counties to answer. Changing questions to reflect this multi-zone reality might make county respondents’ answers more useful.

The group pointed out that an even smaller breakout may be needed in the response categories in Q3, as many lots in some parts of Oregon will fall below the 7,500-square-foot threshold.

Q4: Participants noted that this question asks about “proposed” projects when previous questions focused on “approved” projects. The group noted that the largest proposed project may be drastically different from the largest approved project. Additionally, the group noted that it is wrong to assume that local regulations are the sole reason that a project might be proposed but not approved.

Q5: Focus group members noted that in Oregon, 3 units or more is considered “multifamily.”

Q6: The group suggested that the list in Q6 should include condominiums.

Permit Process

The questions in this section deal with the process of obtaining various permitting approvals with special attention to the amount of time required. Again, word choice was the central focus during the discussion of these questions. Unique Oregon laws made terminology in many of the questions difficult for participants to understand and answer. More details follow.

Q7–Q12: These questions appear to be concerned with single-family homes only; if this is true, that terminology should be added to the questions.

Q7: In Oregon, preliminary approval is where most of the significant action occurs, but it is

important to note that each jurisdiction handles this process somewhat differently. This question should probably use preliminary approval. “Land-use hearings officer or body” should be added to the list of potential answers.

Q12: The “preapplication conference” should be the leading terminology here. In many instances preapplication may consist simply of a single meeting and not a process as implied in the follow-up question. Participants thought that the follow-up question is vague. Further, not every developer views these meetings as a timesaving device. In Portland, “neighborhood meetings” are regularly held and popularly believed to help speed the process. These meetings are combined with strong zoning power so there is not as much room for debate.

Q13: There was some confusion over the phrase “as of right.” In Oregon, state law allows no discretionary standards to be applied.

Q13–14: Are these questions redundant? Q13 asks about local government approval and Q14 asks about approvals from local officials or bodies. Does this topic justify 2 questions?

The focus group participants did not have any major concerns with Q8 through Q11, Q14, and Q15.

Zoning

The section on zoning in Part One of the survey asks respondents to describe zoning in their community as it relates to issues of jurisdiction and residential regulation. Participants pointed out that, in Oregon, jurisdictions are required to undertake comprehensive planning, which includes a plan map that may or may not regulate uses with something called “zoning.” The use of that term might confuse this section.

Q16: Participants suggested changing the wording to “. . . have its own zoning or other similar

provision for the regulation of land. . . .” to include places like Portland that don’t technically have zoning.

Q17–18: Participants noted that Q17 and Q18 generally are confusing and are a roundabout way of getting the information regarding whose zoning (the city or county) is dominant. Participants suggested rewording these two questions to make them more concise and less confusing, and making sure that the response categories include an appropriate range of subcounty units.

Q19: The group expressed concern over the fact that the maximum buildable density allowed may not be indicative of very much actual development, or may apply only to a very small portion of the jurisdiction. They added that a follow-up question may be useful: What percentage of your jurisdiction falls under this zoning category?

Participants noted that it may be important to break down the answer to Q19 into single-family and multifamily zoning types, and that the answer could contain two columns, one for single-family and one for multifamily, with the same answer categories.

Q20: Participants suggested adding “If your jurisdiction has zoning or a plan” (again for places like Portland) to the opening. They noted that the “If Yes” answer is purely opinion and probably won’t result in meaningful data. Additionally, the group noted that, technically, minimum density is not “designed” to guarantee multifamily construction; other zoning categories may also have minimums.

Q21: The group suggested distinguishing between mobile and manufactured homes. The group liked the idea of adding a follow-up question: “If so, are mobile/manufactured homes allowed only in existing mobile home parks?”

They suggested other follow-up questions: Is manufactured housing allowed in single-family

zones? Is it allowed in multifamily zones? And if so, what conditions are required of it: pitched roofs? attached garages? All of these factors may act as barriers. A separate survey targeted to developers might capture this information.

Q22: Participants said that the connection to affordable housing or barriers is vague on this question as most or all zoning categories have height limitations as part of their designation. Participants suggested that if height is being used as a proxy for increased density, the question may need to be reworked.

Residential Regulations

The four questions in this section ask respondents to describe regulations in their community dealing with residential growth rates, location, and infrastructure capacity.

Q23: Focus group members noted the need to distinguish between temporary and longer-term moratoriums. The question asks about annual limits but the answer choices include options that do not fit this time frame. The group noted that the question may benefit from breaking out the answer into both temporal and absolute categories.

Q24: Participants suggested that this question be rewritten or reformatted, noting that some of these developer contributions may not be a “precondition” and so may get lost in the counting. The group also had some discussion over whether there are too many categories of answers, noting that school districts/special districts may not deserve a separate section. Additionally, the group noted that these fees are not consistent across all projects: They will vary, and some are discretionary.

Q25: The group suggested changing the word “violated” to the phrase “that if not met.” This question seems to be related to Q23 (annual limits) and could be used to capture absolute limit types that are not considered on a yearly basis.

Q26: Focus group members noted the need to ask when a boundary was “originally” adopted, as land availability may change over time and a boundary readopted. The group suggested asking how often boundaries have changed and who determines the size of the boundary.

The group discussed whether Portland’s UGB has had a negative impact on affordability, noting that this question implies that UGBs have negative effects. Some participants took offense with this assumption. The group suggested including a direct question: “Does your boundary affect the supply and/or price of housing?”

In the last section, participants suggested that the survey distinguish between vacant land and vacant land that has access to urban services.

Participants noted that some UGBs (such as those in the Portland Metro area) are regional; some towns within them may have room to grow while others may not.

Affordable Housing

The questions in this section ask respondents to consider mandates and incentives that exist in their community to provide affordable housing.

Q27: Participants note that affordable housing will need to be defined. Does it matter if development provisions specify how long it must be maintained as an affordable unit? What about if it’s an affordable unit available only to a certain age category? Does it have to be multifamily?

The group noted that Oregon state law precludes inclusionary zoning, so an “If not, why” category may appease local governments and capture the real reason that affordable housing is not being provided.

Recent Rezoning Experience

The questions in this section deal with a community’s recent efforts to add residential development or increased density through rezoning.

Q30: Participants suggested that it might be useful to capture movement the other way—instances when residential land is used for nonresidential uses and taken out of supply.

Q31: The group said that respondents in Oregon would typically answer “never” for this question. Additionally, the group suggested that quantifying this answer may also help. For example, how much net acreage or units of housing are either gained or lost in a typical year?

Q32–Q33: The focus group noted that variances are not allowed in Oregon. Respondents here would answer “Never” or “Not permitted” on these questions.

Participants suggested that this question could include both rezoning and variance applications, as in: “In the past twelve months, how often have applications for rezoning or variances been requested?”

Residential Development Decisions

The three questions in this section seek to capture the reaction of builders and citizens to development proposals and residential regulations. Some in the group worried that these questions would discourage jurisdictions from participating in the survey. Additionally, participants felt that the questions and response choices presented are not always fair measures of level of controversy, but might instead suggest poor meeting administration or differences in the legal structure that guides the process of administering the land-use system. Since citizen involvement (often through appeal process and meetings) is viewed as positive in the Northwest, some in the group questioned why it is important for the survey to measure “controversy.”

Q34: The group noted that lawsuits are very rare in the Northwest and suggested the addition of the appeal option, which is much more common.

The group suggested the following wording instead of “Has your jurisdiction been sued?”—“Has a decision in your jurisdiction been subject to appeal or lawsuit....”

Q35: Participants noted that referenda don’t apply in Oregon and that interested parties may try to appeal a “land-use designation.” Participants said that controversy in Oregon may center on “annexation votes,” but most disputes are resolved through a series of compromises with the developer.

Q36: The group noted that the ending time of meetings is not necessarily indicative of controversy. They suggested a more direct question: “How controversial are meetings where new residential division projects are introduced?” Alternatively, the group suggested a question that seeks to capture how many appeals have occurred or what percentage of projects has been appealed.

Development Constraints

The final question in Part One of the survey attempts to summarize and consider additional obstacles to residential development in a community. The group suggested that the following new categories be added:

- Small lots require assemblage.
- Much of the undeveloped land is privately owned and not available for development.
- Not only is there no excess capacity, some vacant land has no capacity.
- Vacant land is in lower required density zone.

4.2.5 Reaction to the Hypothetical Prototypes in Part Two of the Instrument

The logic of randomly selecting hypothetical prototypes to which particular jurisdictions would respond was not clear to the Portland focus group. Participants also stressed that simply sending “denser” hypothetical questions to larger

jurisdictions may not work since the size of a city or town is not necessarily indicative of the character or speed of its development, which is key. It may also be difficult to pair these situations with relative market demand in jurisdictions. For example, some small towns next to growing metropolitan areas may be developing large subdivisions while larger built-out cities within metro areas may not be.

Focus group participants thought that, with proper staff support and time, most local governments would be able to complete this part of the survey, but the amount of time and effort required is daunting. HUD should think carefully about the value of this exercise from a research perspective, as including it in the survey could negatively affect response rates, and it is not clear that it provides enough new information to warrant that risk.

Portland focus group participants proposed that this part of the survey be organized differently: respondents should be asked to pick the highest-density situation that had a reasonable likelihood of being developed in their jurisdiction. One scenario would be selected from Set A and one from Set B. If the situations are used instead in their current format, the descriptions in both Set A and Set B could be consolidated because all the information contained within them is identical except for the relative density of the proposed development. Comments on specific questions follow below.

Q1: In general, this question is too long and is very difficult to follow. Some specific wording changes were suggested for the first set of “yes” responses:

- Permitted as of right, *subject to subdivision review*, under one or more zoning categories
- Only by discretionary permit (instead of “special” permit)

Also, the third section under “No” generated discussion. The group interpreted this question as

asking whether the project would be permitted if it was awarded a density bonus. This may or may not be the case, but the question needs to be clearer as to what it is asking. Either way, listing a specific percentage of affordable housing (20 percent) was distracting and appeared arbitrary. Participants suggested that no specific percentage be listed.

Q2: Participants noted that the temporal component required by these answers makes this an especially difficult question. Simply asking how much land is currently in the relevant zoning category is reasonable, but asking respondents to forecast demand as far as ten years out may be too complicated a request. Some of the participants are required to produce models predicting future development patterns and reported that they would have trouble answering this question. Focus group members suggested that perhaps the best solution is to ask how much land is currently available across several broad zoning categories. The answers could be compared against future responses.

Q3: The group had several problems with this question. They suggested adding the following language to the last line of the question: “How long would it take for your jurisdiction to approve the project if a rezoning/variance request were filed?” Participants noted that in Oregon, the answer would usually be “never.” If current zoning did not allow for it, the project would never be approved. The fact that soils and infrastructure pose no technical constraints did not seem relevant to the group and would have little bearing on the alternate land-use decision.

Q7: The group thought this question would be confusing and difficult to answer. A county may have restrictive and less-restrictive municipalities within its own boundaries and border other counties with a similar mix of municipalities. This inquiry raises the additional questions of

who survey respondents are supposed to compare themselves with in order to answer. Furthermore, the group noted that “restrictive” is a relative term, making it unclear whether the term refers to processing times or to density allowances or some combination of the two.

Focus group members suggested that an alternative would be a question that seeks to establish relative benchmarks for measuring restrictiveness rather than setting up a situation of peer comparison.

4.2.6 Implementation of a National Survey

In addition to evaluating the specific content of the draft survey instrument, members of the Portland focus group were asked to give suggestions on survey implementation. To ensure effective results, a national survey of this type requires a sampling technique that will provide a representative sample of the types of jurisdictions and range of regulations found within them. The discussion during this session focused on administering the survey, selecting respondents, and maximizing the response rate.

Survey Medium and Distribution

The first question participants asked when discussing the format and distribution of the survey was related to budget. Recognizing that the budget will most likely be limited, the group agreed that linking participation to some other sort of incentive that will maximize any budget available was important. Some possibilities the group considered follow.

- Select certain jurisdictions in each state and target their participation through the use of financial compensation. This would allow HUD to control the quality of response and assure representative responses. Possible obstacles to this method center on HUD’s ability to pay local jurisdictions for participation. It is unknown if HUD could “contract out this

work” and go through a subcontractor to achieve the same objective.

- Require completion of the survey as a prerequisite for participation in another HUD program. The CDBG program was mentioned but ultimately discarded as unrealistic, at least in part because not many Oregon communities receive CDBG grants. HUD has direct programmatic relationships with only the most urban jurisdictions.
- Work with the local HUD offices to solicit responses directly. Focus group participants thought that it could be particularly effective to have someone with an established relationship request the survey responses directly, and even lead respondents through the survey in a phone or in-person interview. Again, this method could be used to target certain jurisdictions to provide quality control on responses and assure a representative sample in the responses.
- Consider a Web-based survey. The survey will be easier to distribute, its results simpler to tabulate, and a Web-based format might make the length of the survey seem less daunting.

Target Audience

On the subject of who should receive the survey and who should fill it out, the group was in full agreement. The chief administrator (city manager) of a jurisdiction should receive the request and be allowed to pass it on to the relevant department/person. In all likelihood, the request will ultimately land on the desk of the planning department director or equivalent. The survey would be implemented by downloading it from a HUD site, filling it out electronically, and e-mailing it back to the originating organization or posting the completed questionnaire on the specific Web site.

The focus group participants felt that other voices should be included in some form.

Feedback from a variety of viewpoints, including the development community, housing advocates, and real estate professionals, can only enhance the overall knowledge base. These efforts would require a significant amount of work, including the creation of new survey instruments that target these audiences. If HUD were to attempt this, it is important to realize that it would have difficulty in getting developers to participate. An organization like the Urban Land Institute would be a good partner for working with the development community on a project of this nature.

Encouraging Participation

Ensuring an adequate response rate will be critically important to the successful implementation of this survey. Focus group participants discussed Metro's attempts at a similar survey of regional local governments; they found that most jurisdictions either did not respond or did not respond adequately due to resource and time constraints. The group discussed a number of ideas for encouraging participation:

- Shorter, simpler surveys are more likely to be filled out than longer, more complex ones. HUD should think about how it would use the data gathered from each question as it considers shortening the survey.
- People will be more likely to respond if they believe their jurisdiction will benefit from this type of data collection. It may be attractive to jurisdictions to be able to compare themselves with neighboring jurisdictions.
- Potential respondents will need to be prepared for this effort and made aware of its importance. A marketing campaign of some sort may be necessary before the survey is mailed, to ensure that people know why the survey is being sent and what type of information will be

requested. Paul Farmer, executive director and chief executive officer of the American Planning Association, was mentioned as someone with the ability to drive this process or provide guidance.

- The survey needs to be linked to something more significant than monetary compensation. Marketing it as a research tool to promote affordable housing could encourage some jurisdictions to fill it out.

Other Points about Implementation

The group pointed out that there is general cynicism toward HUD at this time, especially related to the current administration's perceived lack of commitment to affordable housing. Another concern was that municipalities in the most active land-use markets, and those in which HUD has the most interest, might be the least likely to respond.

- The purpose of the proposed database should be more fully explained to the jurisdiction filling out the survey. The benefits to the research community need to be stressed as well as assuring that the information will not be used punitively.
- The survey could potentially be used to build bridges with local governments.

4.2.7 Conclusion: Feasibility of a National Land Use Survey

Participants agreed that the connection between land-use regulation and housing affordability should be explored. Further, they concurred that research in this arena may suggest answers to affordable housing dilemmas faced in so many communities today. Thus, most participants agreed that a database of local land-use regulations would be a helpful first step in exploring that connection.

In concept, a survey of local land-use regulations is a logical tool for gathering the data that would populate such a database. In practice, however, it is extremely complicated to develop, administer, and evaluate a survey of that nature. The variations in local regulations—coupled with the web of state, regional, and federal rules that overlay the local regulations—suggest that the most accurate way to describe how land-use regulations impact housing development would be an in-depth review of land-use codes at every level of government. This obviously is not possible given the level of funding likely to be available for such an effort. For a survey to function as an adequate stand-in, participants felt that it must:

- *Be focused.* It must be short enough that people will fill it out but robust enough to be useful for its intended research purpose. Its questions must be understandable despite variations in local land-use vocabulary (an issue which came up frequently in the focus group).
- *Be well-formatted and clear.* The visual representation of the survey (whether on paper or Web-based) is important. It guides respondents through the process of completing the survey and encourages them to continue.
- *Encourage response (or penalize non-response).* Without some form of incentive, response rates will be too low to make administration of the survey a worthwhile endeavor. The resultant database will not be useful.

Next Steps

Portland focus group participants thought that the survey was not yet strong enough. While some questions were well-crafted and would provide useful information, others were vague and seemed to be likely to yield little valuable information. There was a consensus that the survey was too long and, therefore, would discourage all but the most dedicated respondents. Participants were highly skeptical that, administered as presented to the focus group, the survey would result in a database that could function as a research tool for those interested in housing affordability issues.

Participants offered quite a bit of advice about how to improve the survey—from rewording of specific questions to suggestions for an implementation plan that would raise response rates. With these changes (along with those suggested in focus groups in other parts of the country), participants were cautiously optimistic that the survey might meet its goals.



Downtown Atlanta skyline.

Courtesy BigStockPhoto.com. © Katherine Welles

5. SITE 2: ATLANTA

5.1 Summary: Atlanta

Focus group sessions were held at the Georgia State University's Law School on November 10, 2006. The Atlanta metropolitan area is distinct from other focus group regions in that it is surrounded by fairly densely populated rural areas that tend to have larger than normal shares of housing stock in the form of modular and manufactured housing. Because of the preponderance of this type of housing, a main theme throughout the day's events was the lack of sensitivity of the instrument to this type of housing.

While there was little negative reaction to the overall objectives of the survey effort, some participants did have such a reaction to HUD's affiliation with it. They believed that, because HUD is a federal agency concerned with national housing policy, some public leaders might perceive the survey as having little relevance to their jurisdiction, even prior to looking through it. Others were not at all sanguine about municipalities' willingness to respond to a survey about the effect of land use on housing affordability since it might be viewed instead as a federal probe to find jurisdictions applying

exclusionary zoning practices. In this vein, it was suggested that perhaps individual responses might somehow be aggregated or masked in a public release of the data set that resulted.

Participants reiterated the refrain on the lack of clarity about the purpose of the survey. Was it a national survey of land-use regulations or a data probe laying the groundwork for studies of exclusionary zoning? Or was it some combination of the two? It was believed that a well-articulated paragraph or so summarizing affordable housing issues and their link to land-use regulations would bolster survey response. More explanation of each of the sections of the survey was also thought to be possibly helpful in this regard. Others further recommended that the form should permit a way for municipalities to indicate who was to fill out particular questions and/or sections of the instrument.

One main concern in many of the early sections of the survey was the use of the term "preliminary" approval to signify the point in the permitting process where approval was perceived to be vested. The group also thought that not much was made of pre-approval meetings sometimes available to developers. They felt this quickened the permit application process considerably. They also believed that the survey did not sufficiently examine the roles of the following in making housing less affordable: property taxes, the integration of transportation issues and land use, environmental regulations, state statutes, and market forces.

It was also expressed that some questions were overly complex because of concerns with issues limited to one or two states. Others should be omitted because they would take too much time to answer since they ask for specific dollar amounts or for very well-defined numbers or other information that may not be readily accessed. Also, the term "use variance" is not a legally viable term and should be replaced. Some Georgia jurisdictions

employ material restrictions toward exclusion, and no question in the survey deals with that issue.

This group concurred with most participants of the two prior focus groups that the language and structure of Part Two of the survey greatly enhanced their perception of the survey's length. They were particularly perplexed that there were two series of development proposals and only one series of questions and answers. They also suggested that not distributing this second set of questions to all municipalities but rather to a random stratified sample of municipalities might yield some advantage to the entire survey effort.

The group reinforced many concepts also put forward by prior focus groups with regard to the survey's implementation: who to send it to, how it should be sent and completed, establishing help centers that could aid municipalities in completing the survey, the necessity for providing incentives to ensure response, and generating another survey for developers as a reality check.

Despite the many criticisms and recommendations made by the Atlanta group, participants lauded HUD's intentions and felt that the survey would ultimately produce valuable results.

5.2 Full Proceedings: Atlanta

5.2.1 Regional Context

Located in northern Georgia, Atlanta is part of the Metro Atlanta Consolidated Metropolitan Statistical Area (CMSA). With 3.9 million residents in 2006, the Metro Atlanta CMSA population has grown 14.5 percent since 2000. This metropolitan area is a diverse region with a wide variety of jurisdictional types. Atlanta continues to be the source of economic growth that affects its surrounding communities, resulting in rapid suburban development in and around the outlying counties. In Georgia, this development

is typified by low-density jurisdictions with increasingly strained transportation systems.

The affordable housing market in Metro Atlanta is increasing, but it may not be meeting the needs of a growing population with a per capita personal income of \$32,202 (according to the U.S. Bureau of Economic Analysis) and the rapidly rising costs in housing, transportation, and health care. The agency studying the housing shortage in Georgia as it relates to the overall living, working, and transportation patterns is the Atlanta Regional Commission (ARC). This agency has determined that the region "suffers from persistent lack of . . . workforce housing . . . [and this] is a key factor in the region's challenges in transportation, environmental quality, growth management, and community building."⁷ The difficulty in addressing the current housing need is apparent from the sheer number of studies commissioned by the ARC, the Georgia Department of Community Affairs, and various nonprofit groups. Finally, Atlanta is surrounded by fairly densely populated rural areas, which lend themselves to relatively heavy implementation of modular and manufactured housing.

The studies all contain different strategies as to how to achieve adequate housing, but the majority share the same general goals. The goals are to (1) shift the tax burden away from the renting population and onto the homeowners, to the extent that they share equally in the amount of their income that is taxed as it relates to their housing expenses; (2) create inclusionary zoning requirements that effectively require local jurisdictions to update and build new affordable housing; (3) establish an affordable housing trust fund with dependable, sustainable funding each year not dependent on the state legislature; (4) implement enterprise zones as they relate to affordable housing; and (5) implement tax

7. http://www.atlantaregional.com/cps/rde/xchg/SID-3F57FEE7-B38DE93/arc/hs.xsl/306_ENU_HTML.

allocation districts (TAD) that favor affordable housing. Most of these proposals have been achieved to some degree in other states and have backing by the ARC. Yet, the elected leaders of Georgia have to date shown little interest in steering these proposals into fruition.

The one notable exception to the politically unpopular proposals above is the Beltline project. The Beltline is a 22-mile transit loop surrounding the city of Atlanta, based on old and current railway paths, to be funded jointly with federal and state monies. The Beltline project includes a TAD, from which \$240 million will be used to build 5,600 workforce housing units. There is a high degree of optimism that because the Beltline will build Atlanta out of traffic congestion, taxpayers will be glad to fund other, less development-serving projects, such as increased green space, affordable housing, and housing rehabilitation. At the moment, the Beltline is still more of an idea than reality, but because it has powerful backers such as Atlanta Mayor Shirley Franklin, the Atlanta Development Authority, and the Central Atlanta Progress Foundation, it is moving forward and gaining traction within the state. Should the Beltline come into existence, it will assist with the building and maintaining of affordable housing not only by increasing the funding to build new housing but with the availability of transit alternatives for those individuals not able to afford motor vehicles, thereby making a larger selection of Metro Atlanta available for housing development.

5.2.2 Focus Group Approach and Composition

The Atlanta focus group was held in the Urban Life Building at Georgia State University College of Law. A list of more than 40 individuals with relevant experience was created by the local research team. Potential focus group members were identified based on their expertise in the realm of land-use regulation and affordable housing. Given the less-than-heavy participation

of potential candidates for the Portland, Oregon, focus group sessions, CUPR project staff thought it would be prudent to have the Georgia State team solicit participation from the list of focus group candidates and follow up with nonrespondents as well. The formal e-mailings, sent by Julian Juergensmeyer, included the now-standard formal letter of invitation from Edwin Stromberg of HUD. Ultimately, 19 candidates accepted the invitation, although 2 individuals cancelled at the last minute. The meeting was facilitated by Robert W. Burchell and Julian Juergensmeyer with assistance from Michael Lahr and Aaron Marks. The 17 participants comprising the group consisted of public and private practicing planners, developers, bankers, consultants, city government officials, land-use attorneys, and researchers, as well as members of local planning and zoning boards.

The focus group members' experience working in a state that has lagged its peers in addressing its severe affordable housing problems provides them with a unique perspective on land-use regulations. Acutely aware of the connection between regulation and housing prices, participants are on the leading edge of thinking with regard to land-use control. Furthermore, the focus group's location at the College of Law allowed for unique interaction between land-use practitioners and academic researchers who also practice in the field. This diversity of backgrounds ensured a comprehensive understanding of land-use regulations in the Georgia region at the local, county, and state levels.

Redrafting of the survey continued after the focus group sessions in Portland, Oregon. In particular, the CUPR team opted to fully reformat the instrument so that it had a more professional appearance. Also, the many questions were altered to reflect some of the suggestions consistent between the first two focus groups. Many of the changes were made to avoid having future groups reconsider the same fundamental issues that most certainly would wind up being changed

in the redrafted instrument that ultimately would be delivered to HUD. In fact, the concept was approved, if not embraced, by HUD since it meant that the new wording and/or questions could be discussed by the three pending focus groups. The survey instrument that ultimately was presented for discussion in Atlanta is displayed in Appendix G.

5.2.3 General Reaction to Project and Instrument

Several participants felt that the presence of HUD on the survey could discourage local government staffs from filling out the instrument, as public leaders may equate HUD with national, or federal, issues that have little relevance to their jurisdiction. Another thought was that HUD affiliation has become synonymous with opaque, bureaucratic government agencies and might be a disincentive for participation. While there was little negative reaction to this campaign, several individual concerns about the nature of the survey were voiced throughout the various sessions of the focus group. The bulk of the day was spent reviewing various multiple-choice questions, the hypothetical prototypes, and how the survey could best be administered.

The focus group made several recommendations regarding the multiple-choice and fill-in questions that make up Part One of the survey. These comments centered on word choice, question scope, and alternative areas for inquiry. While these specific reactions to individual questions are covered in more detail later in this report, it is worth noting that participants found this section to be the simplest way of gathering land-use regulation data and perhaps, ultimately, the source of most of the data that would emanate from the survey's application. The general sentiment was that it would be possible to craft a survey that could accurately describe land-use regulations in a reasonably accurate fashion and that pilot test focus groups are undoubtedly an effective means of improving the instrument.

The hypothetical questions posed in Section Two of the survey ask respondents to consider a variety of single and multifamily development scenarios and judge their suitability for a given jurisdiction. While the group thought these types of questions could add value to the survey data, the hypothetical questions received only mixed support due to the confusing organization of the section and the general method by which respondents were asked to evaluate each scenario. Also, there was some question about the general usefulness of the results of a set of questions that appear largely subjective in nature. Again, details on this discussion appear later in this report.

Despite being slated for a focus group session later in the day, the topic of implementing a survey on land-use regulations surfaced several times during the two parallel focus group sessions. In fact, from the start, when the two groups were gathered together, participants were curious about who would fill out the survey, how HUD could ensure that surveys would be completed, and how the survey would be administered. The point of the continual reference to these matters was that they intrinsically affected the manner and order in which the individual questions should be asked. Moreover, the survey's design and format are inextricably tied to its implementation and feasibility.

During the first joint session of the two Atlanta focus groups, participants were asked to comment on the overall organization and content of the survey. The very first suggestion was that the zoning section should be moved to the survey's start, since it is zoning that gives the framework for all other topics. While participants made many suggestions for modifying questions and including new ones within these topics, they generally opined that the set of categories at the start of the survey adequately framed the issues of land-use controls and regulations. Participants felt that replies at

their disposal on the questionnaire for some of the questions (“yes/no” answers without possibilities for “don’t know” or “depends”) limited their ability to accurately convey all likely responses. It was also clear that for Georgians, at least, the concepts of “single-family” and “multifamily” housing needed further clarification. In Georgia, “multifamily” denotes rental units exclusively; similarly, “single-family” housing denotes detached housing only. Thus, there needs to be more explicit identification of how to characterize the likes of condominiums and townhouses; otherwise, the questions will not be conveyed equally to all respondents or to researchers using the survey’s results. It was suggested, therefore, that the survey include a glossary of terms, either at its beginning or end.

Other discussion centered on the look and feel of the survey, particularly on how it could be improved. There was great concern about the effect on response rates of the total length of the survey instrument and how long it would take to complete. Thus, a short-form version was suggested for items of greatest interest and for which greatest response was desired. Participants also suggested that an estimate of the required time be explicitly shown on the introductory page or somewhere near the beginning of the instrument.

Participants were also asked to consider the degree to which the survey accurately reflects land-use procedures and terminology found in Georgia. Responses focused on the purpose of the survey, suggestions for making the survey easier to fill out, and the potential need to gather basic demographic and descriptive information from responding jurisdictions. Each of these topics is dealt with in turn below, while suggested adjustments to individual questions are included in the following section.

One of the themes that emerged during this session involved the purpose of the survey. Participants in the focus group stated they were not entirely clear about the purpose of the survey.

Many in the group stressed that the survey’s purpose should be explicitly stated at the beginning so that respondents are aware of what they are filling out and why they are being asked to do so. The prominent inclusion of “Affordable Housing” or “Barriers to Affordable Housing” in the title of the survey or its introductory materials could address some of these concerns. Other participants were less sanguine about municipalities’ willingness to respond to a survey about the effect of land-use regulations on housing affordability since it might be viewed instead that the survey is intended as a federal probe for finding jurisdictions that are involved in exclusionary practices.

Some participants suggested that a clearly worded, better-marketed enumeration of affordable housing issues and their link to land-use regulations would result in an increased willingness on the part of jurisdictions to fill out this survey. Others thought that the survey should recommend (to the recipient of a paper version of the survey) who is expected to fill out the instrument. This was based on the prevailing premise that the survey would largely be administered electronically, which might have the effect of circumventing some of the concerns about the survey’s perceived length. They also suggested that it would be prudent to have some place on the survey—either on each page or in each section—to indicate who within the responding organization filled out that part of the survey. They believed this wise since not every jurisdiction is likely to have just one person qualified to answer all questions.

In addition to a lack of clarity about the survey’s purpose, some members of the focus group had difficulty “navigating” the survey. These concerns were intertwined with concerns about the length and “feel” of the survey. As a result, participants expressed that more thought should be placed upon increasing the level of direction and description accompanying each category in Part One.

A third theme that emerged during this discussion of the structure and content of the survey was the potential need for the survey to gather basic jurisdictional information about the responding jurisdictions to supplement the land-use-regulation data that is being collected. It was suggested that HUD preface the survey with the statement that there are inherent differences across jurisdictions and that some incompatibilities in term of definitions and planning practice exist. Suggestions for the type of information that should be gathered ranged from qualitative to quantitative in nature. Participants thought it might be useful to ask respondents to characterize their community's character (urban, suburban, rural), level of development activity, amount of developable land, structure of government, and so on. Other framework data might include census-type information such as population, household types, and income statistics. While most in the group thought this information would be useful, some cautioned that asking jurisdictions to supply this type of information would introduce unnecessary errors so that cross-referencing and data-checking procedures would be needed. It was concluded that it would be best to have this information gathered independently using existing centralized databases. There remained a fear of the survey data being made publicly available and therefore usable in potential lawsuits against exclusionary practices.

Lastly, there was concern that the survey lacked coverage of manufactured housing issues. In Georgia, manufactured housing and the zoning that goes with it are a major source of contention and should be addressed by the survey. In that vein, questions should also be included dealing with maximum and minimum lot size in relation to affordability, street widths, and dispute resolution. Also, the survey would be better served if there was

an open-ended question concerning what the major obstacles to building affordable housing in the participant's jurisdiction are.

It is difficult to overemphasize this focus group's concern about the time investment that would be necessary for a participating jurisdiction to complete the survey of land-use regulations presented to this group. Participants agreed that answering the multiple-choice questions in Part One of the survey would require a substantial amount of time. This opinion was based on the perceived need to research several types of information, in some cases over a number of years. This may even involve consulting several different people and possibly several different departments. Despite such recognition by the focus group, they also realized that a lengthy survey will produce a more useful, comprehensive database. They also acknowledged that, in the end, the cumulative effect of implementing their suggestions undoubtedly would make the survey longer and not shorter.

The overall reaction to HUD's effort to create a national database of land-use regulations was relatively optimistic. Nonetheless, it was clear from this group (dominated by lawyers in the early going) that many challenges would be faced during the administration of a survey of this type—particularly with regard to motivating local governments to respond to the survey.

5.2.4 Reaction to Individual Questions in Part One of the Survey Instrument

The Atlanta focus group dedicated two sets of two sessions to examine the multiple-choice questions in Part One of the survey. Several recommendations and suggestions for individual questions were generated during these sessions. The discussion of these questions is organized by topic and summarized below.

Recent Development Activity

The six questions in this section of the survey seek to measure the quantity and nature of recent development activity in a given jurisdiction. The discussion of this section focused primarily on the terminology that was needed to make these questions explicit yet applicable to a national audience. Specific suggestions for altering questions appear below.

Q1: Respondents recommended that the term “were approved” is quite indefinite here and needs to be defined. Does it mean “for which permit issuance were approved,” “were ready for building,” “were built,” “were started”?

Q2: The answers for Q2 through Q5 are difficult to get. That is, they should all ask for the number of units by size. They should be as consistent as possible for comparison purposes.

Q3: In addition to the above concerns, the intervals presented in the answer choices needed to be amended so that there were no overlaps. Answer choices should be:

- Under 7,500 square feet
- 7,500 square feet to one-half acre
- More than one-half acre to one acre
- More than one acre to two acres
- More than two acres

Q5: The focus group found that “multifamily” was a word that needed defining. For instance, does multifamily include any structure of more than two units? It was unclear where townhouses and condominiums would fit into these questions. Townhouses are defined as single-family attached units; they are not “subdivided” as single-family detached units are.

Permit Process

The questions in this section deal with the process of obtaining various permitting approvals

with special attention to the amount of time required. Again, word choice was the central focus during the discussion of these questions. The most controversial element in these questions was the use of the term “final” approval to signify the most significant step in approval process. This issue occurs in questions 7, 8, and 10.

Q7: Preliminary approval is not the goal in Georgia; rather, final approval is. Perhaps the approval gained should be that specified for Q1—“preliminary platting approval.”

Q8: This might be better as a set of boxes with the names of specific bodies with a set of blank lines for any additions that may come to mind. What value is there to a count of the regulatory bodies anyway? Some “approval” mile markers aren’t bodies but rather actions, e.g., an EIS, environmental review, and the like.

Q9: What is the point of this section: “applications” or “approvals”? Data on applications are very difficult to get and may be meaningless. It may be better to have a finer-grained breakout at the low end of this scale: 0-25% should be 0-10% and 11-25%. In Georgia, such applications typically force a rezoning. Is this an essential question? If not, perhaps it could be dropped in favor of a briefer survey tool.

Q10: This is plat approval, not permit approval, which otherwise seems to be the topic of this section.

Q11: This question should be stricken. No one will be able to gather data quickly for the last five years. The data are likely to be unreliable and would have to be checked if solicited. A developers’ survey would get at the desired result.

Q12: The term “expedite” seems a bit out of place here. Again, this question could be stricken and/or reserved for a developers’ survey.

For Q13 through Q15, there is a set of conditions specified. In prior sections, this was all assumed. The fact that they are specified here raises all sorts of red flags. Why give the conditions? The term should be “conditional/special use.” Instead of “building permit,” perhaps this should be “land disturbance permit.”

Zoning

The Zoning section of Part One asks respondents to describe zoning in their community as it relates to issues of jurisdiction and residential regulation.

Q16: The “Perhaps” questions Q-16 to Q18 should be deleted. They are irrelevant to Georgia jurisdictions. In fact, probably only Florida and California have both jurisdictions and counties with zoning laws.

Q20: This is a quirky question and is likely only to deter people from answering the questionnaire. It should be dropped.

Q21: Eliminate “modular” as an option here since these units can look like any regular home. The term “mobile home parks” is obsolete. It should be labeled “lease lot subdivisions.” There should be a way to identify whether a local government allows for the expansion or increase in the number of lease lot subdivisions.

Q22: There is nothing in the instrument about space restrictions. The sizes 0–800, 801–1,000, 1,001–1,800, 1,801–2,500, and >2,500 square feet might work here.

Also, there is nothing in the survey about material restrictions. For example, some jurisdictions in Georgia apply zoning ordinances that require brick or stone exterior construction, which forces costs of housing to be higher than might otherwise prevail.

Residential Regulations

The questions in this section ask respondents to describe regulations in their community dealing

with residential growth rates, location, and infrastructure capacity.

Q23: The public facilities ordinance/requirement issue seems like a very different story from those that are designed specifically to restrain. It is all covered in Q25, anyway. This specific subtopic needs to be fleshed out a bit more.

Q24: It would be better to split conditions agreed upon from mandated requirements into separate questions. In some cases, it will be difficult to get the value of land donations and other in-kind transfers. For example, it may be that a local government will not know how much a traffic light cost the developer who donated it. It is not clear how such matters could be handled even if the government could identify what and how much of it was donated.

Q26: Drop the part of the question that asks “if yes, what year was the boundary originally adopted?”

Affordable Housing

The questions in this section ask respondents to consider mandates and incentives that exist in their community to provide affordable housing. While the group felt that the questions adequately frame affordable housing mandates, they questioned a lack of attention to certain types of financial incentives, such as tax abatements or tax credits, that may be provided to developers who follow certain guidelines. The original questions were kept.

Q27: The term “developer” should be switched to “builder.” Also, the phrase “as a condition to project approval” should be changed to “via inclusionary zoning.”

Q28: The term “developer” should be switched to “builder.”

Recent Rezoning Experience

The frequency of rezoning is rather high in Georgia—typically 10 to 20 petitions a month in larger jurisdictions where redevelopment takes place. So in Q30 and Q32, there probably should be more detail in the answers. The following should be added: “1-5 per month” and “6 or more per month.” Similarly, the answers for Q31 and Q33 need more detail, and there is no “don’t know” or “indeterminate” option in any of these.

Q30: This question could include both rezoning and variance applications, as in: “In the past twelve months, how often have applications for rezoning or variances been requested...” Another minor point was what the group felt was awkward word choice of “more seldom” in the final answering options. This could be changed to “less than once a year.”

Residential Development Decisions

Q34: Separate “appeal” and “lawsuit” into different questions. They represent very different forms of controversy severity.

Q35: Does this intend to mean “citizens” or just the set of “aggrieved persons”? Perhaps “mounted an appeal against” should be “contest” or “undertake legal action.” Moreover, rather than on a “land-use designation,” perhaps it should be “land-use decision.”

Q36a: Perhaps this should be split into two questions—one on large lot-size single-family developments and another on multifamily developments. They have very different implications and should not be mixed.

Development Constraints

Q37: No issues.

Summary of Additional Recommendations

One topic that some members of the focus group did not believe was addressed by the survey

was the availability of pre-application processes available to developers. The pre-application process provided by a municipality may include a pre-application conference, concept review, or “sketch plat” designed to expedite the development approval process. This aspect of the permit process may be worth measuring because it can streamline the approval process for some applications. A suggested version of this question, appearing in the Process Permit category, is:

Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite residential development approval?

- No
- Yes

If yes, how long does this pre-application or other conference last?

- One meeting
- Several meetings
- The number of meetings varies so much it is impossible to say

In addition to the specific suggestions on individual questions, the group made several recommendations on items or subject areas that could be included. One recurring suggestion was to include a glossary of terms that may not be readily understood or that may need clarification. Opinions varied on how this could be implemented, but the consensus seemed that the glossary could be placed at the end of the document. Terms that were to be included in this glossary could be specifically identified in the survey by appearing in italics or with an asterisk indicating that a definition has been provided. Candidates for inclusion in such a glossary include:

- ♦ Sub-county unit
- ♦ Single-family and multifamily; for example, does “multifamily” simply mean rentals or does it include condominiums?

- ♦ Affordable housing
- ♦ Inclusionary zoning
- ♦ Gross density and net density, with notes on how to calculate whichever measure is used
- ♦ Mobile home and manufactured housing
- ♦ Completeness requirement
- ♦ “As of right”
- ♦ Master plan
- ♦ PUD

Participants of the Atlanta focus group generally thought that Part One of the survey instrument does a good job of measuring land-use regulation at the local level. Nonetheless, some members believed that the survey did not do as good a job at measuring certain related aspects of residential development that may affect affordable housing. Some of these topics include the effect of property taxes on housing affordability, the integration of transportation issues and land use, environmental regulations, state statutes, and market forces. These factors may affect land-use decisions in a municipality but are beyond the reach of local policymakers. Some of these issues may warrant inclusion in this type of survey, while others may deserve entirely separate research efforts.

5.2.5 Reaction to the Hypothetical Prototypes in Part Two of the Instrument

The Atlanta focus group interpreted Part Two of the survey as a way of gauging the ease with which certain development schemes could be built in communities across the country. In this way, the section approaches land-use regulations from a different perspective and offers the opportunity to provide supplemental information to the answers received in Part One. Despite the potential value of this information, Section Two was viewed as significantly more problematic than the earlier

multiple-choice questions. Several potential obstacles to effectively carrying out these questions as well as some suggested remedies are discussed below.

Potential Impediments

As stated, the focus group did not understand the rationale for randomly distributing hypothetical prototypes to individual jurisdictions. Participants believed that randomly assigning prototypes for evaluation would hinder the usability of data collected because there were too many opportunities for spatial mismatches. An example of this type of mismatch would be a small rural community evaluating a proposal for 40 market-rate apartment units on one acre. In this case, the jurisdiction’s response that this type of development would probably not be approved fails to produce meaningful information. This response may be influenced more by the market factors and development character of a jurisdiction than by its land-use regulations. The group feared that a database comprised of these types of responses would confuse the issue of regulatory barriers to affordable housing.

The participants voiced concern over several aspects of the proposals and questions themselves. For example:

- The use of the word “accommodate” in the Set A descriptions may be vague. Stating that a vacant parcel could accommodate the proposed development may cause respondents to wonder if the parcel is simply the right size or if the parcel is currently zoned appropriately for the hypothetical project.
- The specific description of unit size, 1,500 square feet in Set A and 1,000 square feet in Set B, was seen as unnecessary and possibly distracting. The group did not feel that an answer to the second “No” follow-up question after Question 1 would depend on unit size.

These scenarios seem more interested in the density of each proposed development, so potentially extraneous information could be removed. Nothing was done to the questionnaire at this time.

- The second scenario in Set A—Single-family—may need to be revised. This hypothetical question calls for the construction of 50 single-family detached homes on a five-acre parcel, resulting in a density of 10 detached homes per acre. Participants seemed to think that this density was physically unrealistic for detached housing, specifically for a national audience.
- Referencing a specific percentage of affordable housing in Q1 may be problematic. Q1 asks respondents to evaluate if the given hypothetical would be allowed in the jurisdiction according to the existing zoning. If a respondent answers “No” they are directed to answer four follow-up questions. The third follow-up asks them to reconsider the project with the condition that 20 percent of its units were reserved for low- and moderate-income households. Some of the members of the focus group thought the figure of 20 percent was arbitrary. Hence, they suggested the question might be rephrased to:

“Would the project be permitted under the prevailing zoning if some percentage of its units were reserved for low- and moderate-income households?”
- Forecasting housing demand over the next several years was perceived to be too much to ask of survey respondents. Question 2 deals with the amount of land that is currently zoned for a proposed development and asks communities to respond in temporal terms, i.e., enough to satisfy medium-term demand (2 to 10 years). Participants thought that quantifying demand in this manner may be too speculative and variable to result in meaningful data.

- The scope of Q4 may need to be enlarged to include the multifamily proposal from Set B. Members of the focus group were unsure why this question directed respondents to consider only the case of detached homes and subdivision applications. The question should provide a different set of answer choices for Set A and Set B. In this way, multifamily housing and site plans could also be considered.
- Q7 may not generate enough useable information to warrant its inclusion in the survey. This question asks jurisdictions to compare themselves to neighboring jurisdictions in terms of their regulatory climate. The group thought that if this question was going to be answered at all by a community, the answer would be opinion- and not fact-based. Some in the group recommended dropping this question entirely, saying that this is the type of judgment a researcher could make after analyzing the results of this survey for a region.

Suggestions for Improvement

One sentiment that emerged about Part Two of the survey during the focus group was that it needed to be more concise and coherent than it was currently being structured. In its present form, some participants felt that the hypothetical questions might have the effect of making a lengthy survey feel dramatically longer. The discussion of this section included several ideas which, if implemented, might improve the presentation and effectiveness of the hypothetical prototype questions.

As described above, the randomness of the distribution of these prototypes was one of the main topics of conversation. The group briefly discussed the possibility of using some sort of stratified random sampling technique to ensure the statistical significance of any findings before turning their attention to alternative modes

of distribution. Several suggestions for better aligning the type of responding jurisdiction with development proposals were introduced. The proposals that communities are asked to evaluate could be pre-selected for a jurisdiction based on certain established criteria. The criteria could be a combination of size and character of development to ensure that jurisdictions are evaluating relevant proposals. Implementing this method could take three forms:

- HUD selects the most appropriate development proposal based on the relevant criteria and statistics and specifically directs a respondent to answer particular prototypes.
- The instructions could be more generally worded and invite a respondent to self-select the most appropriate proposal to evaluate. In this case, the directions could set up conditional responses. For example, “If you are a jurisdiction of this size and this type, please evaluate Prototype One from Set A and Prototype Two from Set B.”
- If the survey is ultimately to be administered electronically, via a Web site perhaps, the scenarios could be assigned to a jurisdiction based on the answers provided in earlier sections.

A variation on these methods involves clear definitions of the purpose of this set of questions. If, as some in the focus group believed, these questions were designed to identify a development threshold for a community, then jurisdictions might be asked to pick the highest-density development for which there was a chance of approval. In this way, the survey could provide an illustration of the upper bound of development intensity as well as information about what factors influence that boundary.

A more radical suggestion entailed breaking the current survey instrument into two separate

surveys. The questions in Part One would make up the first survey and perhaps some subset of responding jurisdictions could be selected to participate in the hypothetical prototype portion of the survey. The second survey then could be used to provide greater insight into a few regions or to spot-check results in areas with conflicting responses. In either case, respondents could be instructed to evaluate particular proposals based on the research goal. Another suggestion was to do away entirely with Part Two.

Finally, it is important to note that the Atlanta focus group felt strongly about the need to improve the formatting and “readability” of this section. That sentiment applies to whatever form the prototypes and questions ultimately take. Participants found the language and structure of this section to be confusing. Question 1, in particular, was singled out for criticism because of its length. Participants had a difficult time keeping track of which follow-up questions were linked to each of the general “Yes” and “No” answers. Formatting changes including the use of additional white space, and more pronounced indentations may alleviate some of these complaints. Another suggested improvement to the structure of this section involves modifying its layout. Respondents were confused by the presentation of two series of development proposals and only one series of questions. Arranging this section such that each set of prototypes is followed by its relevant questions is a simple remedy that may greatly improve the look and feel of Part Two.

5.2.6 Implementation of a National Survey

In addition to evaluating the specific content of the draft survey instrument, members of the Atlanta focus group were asked to comment on the implementation of a national survey of land-use regulations. The ambitious scope of this survey necessitates a sound plan for implementation and provides opportunity for innovation in the delivery

and collection of these surveys. A nationwide survey will need to select a sampling technique that provides a representative sample of the types of jurisdictions and range of regulations found within them. While the group did not consider the specifics of sampling techniques, participants were directed to approach this task with few limitations in order to encourage creative thinking about the subject. The discussion during this session focused on administering the survey, selecting respondents, maximizing the response rate, and considering alternate versions of the survey for related fields.

Survey Medium

The question of how to distribute a national survey invariably must include several factors. Chief among them is the decision about the form in which respondents will receive the survey. The focus group seemed to agree that using a combination of traditional and modern dissemination would work best. The traditional approach involves sending a paper or “hard copy” of the survey to each jurisdiction. Respondents would also be notified that a digital or electronic copy of the survey would be available via a HUD-sanctioned or -supported Web site.

This hybrid approach to distribution could have several benefits. A paper copy is likely to be viewed as a more formal document that must be completed, while electronic documents evoke a more informal air. If sent as hard copy, technological limitations would not hamper the completion of the survey in jurisdictions with a lack of information technology infrastructure. Alternatively, digital access to the survey would allow for jurisdictions comfortable with the Internet to complete and process their submissions in an efficient way.

The focus group suggested that hard copies of the survey may need to be sent by first-class mail so that they receive the proper attention. It was also their strong recommendation that jurisdictions

be encouraged to complete their surveys online. This use of the Internet would streamline the process of data collection and management. One participant used the example of an online college application for comparison. Each jurisdiction could receive a “pass code” that allowed them to access the online version of the survey. They could then have the option of creating a password that would give them the ability to enter the survey environment. Users would not need to complete the survey during one session since their answers and progress would be saved. Upon completion, the survey could be reviewed and submitted to HUD. A key component of this online implementation, according to the focus group, is the creation of a single point of contact within each jurisdiction. When a jurisdiction enters the survey environment for the first time, they would be required to enter the name and e-mail address of a point of contact in the community. This person would be responsible for entering the information into the online survey and could be contacted by HUD if the need arose.

Target Audience

A second critical component of the implementation effort is the communication framework. Who in a jurisdiction should receive the survey, and who should fill it out? Participants were asked to consider both of these questions and had suggestions for each of them. The focus group concluded that the survey would need to be sent to the “chief administrative officer” in a jurisdiction. The generic term of “chief administrative officer” was used to signify an official position that carried significance within a local government structure that could potentially be filled by several positions. According to the Atlanta focus group, the best candidates for this role, in order, were municipal or county clerks, business administrators, and mayors.

The idea behind this thinking is that the survey recipient should have enough authority to

ensure that the survey is completed. The group was confident in its belief that the person receiving the survey would not be the person responsible for the actual entry of the survey data. Participants suggested that the relevant chief administrative officer should be instructed to select the most appropriate personnel in his or her organization to complete the survey. Participants seemed to think this approach would be effective in two respects: (1) awareness of the survey effort would increase because a high-level official was notified, and (2) the eventual survey respondent might feel compelled to complete a survey that they perceive as coming from their “boss.”

On the subject of who should fill out a survey of land-use regulations, the focus group followed a similar logic. They suggested that jurisdictions’ contacts be asked to forward the survey to the primary “land-use administrator” in their community. Again, this approach uses a general term to describe a role that may be played by different positions across jurisdictions, such as planning department personnel or a zoning official. This land-use administrator may need to consult with other people or departments in order to complete the survey, but the creation of a single point of contact was again suggested by the focus group.

Despite the support for this approach, participants identified some challenges to effecting it. A main obstacle to this strategy may be the efficient identification of each chief administrative officer across the various types of jurisdictions included in the national survey. Several sources of potentially helpful information were identified by the focus group. State universities may maintain information, possibly in the form of a government services center, that lists helpful information on the governmental structure of municipalities within the state. Similarly, each office of the secretary of state may have current information on elected and appointed government officials for each jurisdiction

in their state. Other sources of potentially useful information that were identified by the focus group were the National Association of Counties (NACo) and the International City/County Management Association (ICMA) *Municipal Yearbook*.

Encouraging Participation

The subject of how best to encourage local government participation came up during several sessions on various topics. These discussions touched only briefly on the subject of using incentives to entice jurisdictions to participate or imposing penalties on those who chose not to. The use of specific incentives, including financial awards or linking completion to the funding of Community Development Block Grants (CDBG), was largely dismissed. Most in the group thought that motivating local governments to participate in this study was one of the biggest challenges for HUD. The group appeared to agree that linking the survey to the goal of reducing regulatory barriers to affordable housing and partnering with reputable organizations would aid the survey effort. More thought needs to be given to this topic.

Alternate Surveys

Several times during the Atlanta focus group, the idea of developing a complementary survey to be completed by members of the development community was discussed. Participants stated that local public officials may deal with only a segment of the residential development process and that surveying developers on some of these same topics would provide a more holistic view of land-use regulations and affordable housing. It was suggested that a survey of this type might serve as a “reality check” that could be used to compare and contrast the information provided by local governments. The example of a builder who receives the necessary local government approvals, yet cannot begin construction on a project because of additional regional and state regulations, was given.

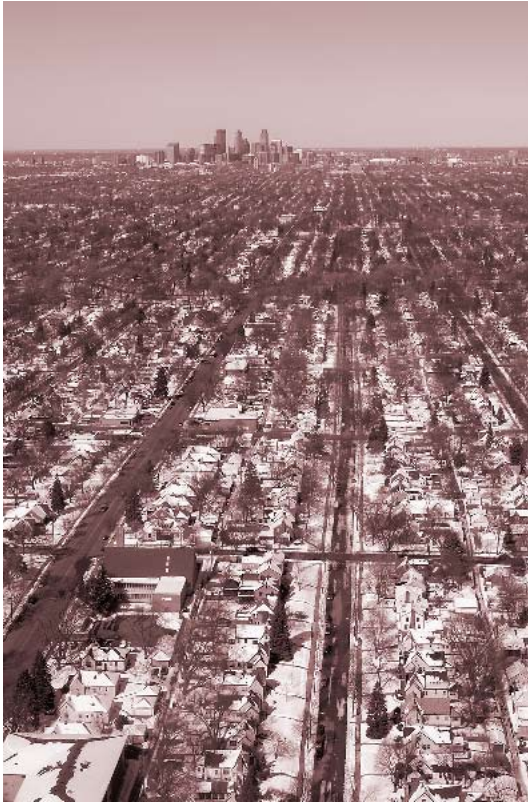
It was suggested that surveying developers would illuminate the post-approval process and possibly identify additional barriers to affordable housing.

Despite the potential benefits of this type of information, producing and implementing a survey for developers and builders might require an effort similar to the production of the national survey of local land-use regulations. The survey as currently constructed is aimed at local government officials and is not immediately transferable to the development community. The development of a shorter survey focused on how a variety of regulations affect developers seemed to be the preferred alternative. It was suggested that HUD could partner in this effort with the National Association of Home Builders to develop and distribute such a survey. Developers may be motivated to participate in a survey that they believe will highlight and possibly reduce the number of “obstacles” they face in the residential-development process.

Participants identified the comparability of these findings with the results from the governmental survey as a major challenge. Developers, unlike municipalities, do not operate within a set of distinct jurisdictional boundaries. Similarly, despite their expertise in some areas, they may be unaware of some regulatory frameworks. These concerns raised issues about the extent to which information provided by developers could be compared to the information given by local governments and the degree to which it could perform as a means of validating a national survey of local land-use regulations.

5.2.7 Conclusion: Feasibility of a National Survey of Local Land-Use Regulations

The Atlanta meeting concluded that HUD was heading in the right direction with its national survey of local land-use regulations. Despite the criticisms and recommendations that appear in this report, participants lauded HUD’s intentions and believed that the survey would ultimately produce valuable results. After all, the attendees opted to participate because they thought the entire concept of the survey was a worthy venture. Participants thought that the series of focus groups would undoubtedly refine the survey instrument further. The group believed, however, that the implementation of the survey would remain a major obstacle to creating a reliable and useful database of land-use regulations.



Bird's-eye view of Minneapolis.

Courtesy BigStockPhoto.com.

6. SITE 3: MINNEAPOLIS–ST. PAUL

6.1 Summary: Minneapolis–St. Paul

This focus group convened at the University of Minnesota Law School in Minneapolis on December 18, 2006. In Minnesota, land use is a regional concern, particularly in the Twin Cities region, where it is rather uniquely coordinated at the metropolitan level. Much planning and development performed by the Metropolitan Council has been embodied in regional comprehensive plans. Overall, the group liked the idea of a survey but was skeptical that it could be implemented in a meaningful way.

In light of the extreme length of the survey instrument, participants stressed that it might be

good for the survey to be filled out incrementally. This would be especially critical if the survey could be completed online and over time. Many felt that the questions were too detailed, would require too much research, and would “put off” potential respondents. As a result, some suggested that a short form that asked only readily answered questions should also be considered.

Participants encouraged the development of more introductory material for the survey instrument. They felt such material should not only tell respondents about the purpose of the survey and precisely how the data from it might be used, but it should also include something telling them why their jurisdiction should complete the survey. Indeed, the lack of possible incentives for smaller, faster-growing communities to participate in this exercise was deemed a special concern.

A very few participants were concerned that a city attorney might recommend a city not fill out the survey form since it could be used to identify exclusionary practices. Others attempted to disabuse the rest of the participants of this notion, at least within the confines of the Twin Cities metropolitan area, since most contents of the survey were reported to the Metropolitan Council on a regular basis. Indeed, because of this, there also was some concern about the overlap between the survey instrument and that used to complete the Consolidated Plan. Some of the questions are similar but not quite the same. Thus, there was concern that the similarity but lack of perfect match could induce inaccurate answering.

Participants believed some marketplace questions could be added, as could some to address a fee schedule, and whether community issues like bonding influence whether officials approve a plan or not. Other suggestions included probing for issues of income disparity; a general preference for raising children in suburbs; whether officials in partially developed communities face growing demand for restrictions on new development from

current residents who “moved out here to get away from high-density areas”; and possibly about the nature of interactions between the various levels of government.

The group repeatedly brought up issues about length and time. They felt that it would take between two and six hours to fill out the survey. A zoning administrator could answer the basic questions in about one hour, and the hypotheticals might take double this amount of time. While municipalities could employ interns to complete some of the survey, there was a concern that some responses might be given short shrift.

6.2 Full Proceedings: Minneapolis-St. Paul

6.2.1 Regional Context

Land-use control in Minnesota primarily focuses on the growth near the Twin Cities metropolitan area. Growth in the Twin Cities region is coordinated metropolitan-wide, one of the few such arrangements in the United States. The Minnesota Legislature created the Metropolitan Council in 1967 as “an administrative agency” with the purpose of coordinating “the planning and development of the metropolitan area....”⁸ The Legislature broadly endowed the Metropolitan Council with “all powers which may hereafter be imposed upon it by law.”⁹ A large part of the planning and development function of the Metropolitan Council is embodied in regional comprehensive plans.

In the Metropolitan Council’s nearly four decades of operation, it has undergone many changes. The most recent Metropolitan Council reorganization was in 1994, when the state further aligned the regional policymaking and operational functions of the Metropolitan Council by combining land use, transit, and waste disposal under one organization.

Metropolitan Livable Communities Act

The Metropolitan Council was expanded when the Minnesota Legislature passed the Metropolitan Livable Communities Act (LCA) in 1995.¹⁰ The LCA was enacted to create incentives for the metropolitan area to create and maintain affordable housing.¹¹ A completely voluntary initiative, the LCA allows for participating communities in the seven-county metropolitan area to receive grants for livable community projects including:

- Pollution cleanup for land redevelopment, new jobs and affordable housing,
- New development or redevelopment that demonstrates efficient land use, and
- Creation of additional affordable housing opportunities.¹²

Since its inception, the LCA has awarded more than \$144 million to over 30 communities and has life-cycle housing goals in place with 106 communities.¹³ If these goals are achieved, by 2010 the metropolitan region would add 43,000 additional rental housing units, 15,000 affordable

8. Minn. Stat. § 473.122 (1992). See also Brian W. Ohm, “Growth Management in Minnesota: The Metropolitan Land Planning Act,” 16 *Hamline L. Rev.* 359 (1993): 374; Robert H. Freilich and John W. Ragsdale, Jr., “Timing and Sequential Controls—The Essential Basis for Effective Regional Planning: An Analysis of the New Directions for Land Use Control in the Minneapolis-St. Paul Metropolitan Region,” 58 *Minn. L. Rev.* (1974): 1009, 1015-1016.

9. Minn. Stat. § 473.122 (1992), quoted in Brian W. Ohm, “Growth Management in Minnesota: The Metropolitan Land Planning Act,” 16 *Hamline L. Rev.* 359 (1993): 374.

10. Minn. Stat. 473.25 (1995).

11. Minn. Stat. 473.25 (1995).

12. Distributed through the Local Housing Incentive Account (LHIA).

13. Metropolitan Council, “Metropolitan Livable Communities Act Expected Results – Budgeted Funds 1996-2005” (last visited September 1, 2006).

rental units, and 86,000 affordable ownership units.¹⁴

Local and Regional Comprehensive Planning Processes

The Council is required to consider local government plans and their consistency with adopted policy and systems plans of the Council through the 1976 Minnesota Land Planning Act. If local plans are inconsistent with Council policies and systems plans, the Council can require the locality to modify its local plan. Once established, local governments are not allowed to adopt fiscal devices, zoning ordinances, or other official controls that would conflict with the established local comprehensive plan.¹⁵ The State of Minnesota also requires that the Council create a regional planning guide to which local comprehensive plans can be compared.¹⁶

The local planning process also includes school districts, which must devise capital improvement programs compatible with those of other jurisdictions, and the adopted plans and systems plans of the Council.¹⁷ Local units must review and update plans no less than once every ten years and within three years from the date upon which the Council establishes its system plans, which include transportation, water resources, and both parks and open space.¹⁸

The Council was given special legislative support for its concept of the Metropolitan Urban Service Area (MUSA) through the Metropolitan Agricultural Preserves Act of 1980, giving authority to the Council to designate agricultural land in non-urban parts of the seven-county

metropolitan area.¹⁹ The Minnesota Development Investment Framework gives systematic coherence to all Council plans—particularly for facilities such as sewers and highways—and proposes future land-use development patterns for the Twin Cities region.²⁰

As the Council moves forward, there are ongoing discussions as to whether its representatives should be elected. Hearings on this question are being held as this report is written. This is against a backdrop where the Council is often criticized for being ineffective at slowing rapid suburban sprawl and providing low-income housing. The future may hold more changes for the Metropolitan Council and Minnesota land-use planning.

6.2.2 Focus Group Approach and Composition

The Minneapolis focus group was held at the University of Minnesota Law School in Minneapolis. The Institute on Race & Poverty (IRP), which hosted the group, drew up a list of individuals with relevant experience in land-use regulation, real estate, and affordable housing. Ultimately, 16 professionals participated in the focus group. Robert W. Burchell, co-director of CUPR, facilitated the meeting with assistance from CUPR and IRP staff. Focus group participants included practicing planners, developers, land-use attorneys, researchers, housing advocates, and members of local planning and zoning boards. The variety of Minnesota-based experiences brought a unique perspective that should be useful to HUD as it considers the local applicability of the survey.

14. Metropolitan Council, "Metropolitan Livable Communities Act Expected Results – Budgeted Funds 1996-2005" (last visited September 1, 2006).

15. Cambridge Systematics, "Transportation Impacts of Smart Growth and Comprehensive Planning Initiatives" (2004), D-6.

16. The Metropolitan Council, *Local Planning Handbook* (2005), 1-2.

17. *Ibid.*, 1-6.

18. *Id.*, 1-7 to 1-8.

19. Arthur Naftalin, *Making One Community Out of Many: Perspectives on the Metropolitan Council of the Twin Cities Area* (1986), 24.

20. *Ibid.*, 32.

6.2.3 General Reaction to Project and Instrument

While the group generally liked the survey instrument, it did have some concerns. In particular, many thought the instrument was too long. It was suggested that both a short and a long version of the survey might be adopted, similar to those employed for the decennial census. In that way, most communities would receive only a short form with critical, yet readily answered questions such as: “Does your municipality provide density bonuses?” In light of the extreme length of the survey instrument, participants stressed that it would be good if the survey could be filled out in pieces. In this way, not only could multiple individuals be put to the task of completing the survey form, but also those assigned the task of completing the form would not be obliged to fill it out in one session, since most are likely also to be preoccupied with “real work.” Due to the appeal of this incremental approach, it was suggested that it would be helpful if the survey could be filled out online or if it could be downloaded, completed, and subsequently uploaded in pieces.

Another major concern was the need to motivate communities to complete the survey instrument. Would local governments be required to fill out the form? If so, would participation in the survey be linked to intergovernmental federal resources? The group thoroughly discussed that it could be tied to some sort of funding, similar to ISTEA, Livable Communities, Transportation Equity, State Aid, Parks, or Bike Trail Funds. CDBG funds were mentioned as a carrot, but it was also brought up that many smaller communities do not apply for or receive any CDBG funds. The lack of incentives for smaller communities to participate in this exercise was deemed problematic since some participants opined that it was undoubtedly most important to gather information about small, fast-growing communities, at least in and around the Twin Cities.

Some focus group members wondered about how the survey results would be used. Indeed, this was deemed to be potential key motivational information that presently was sorely lacking. Would the survey be purely for academic benefit, or was it something that municipalities could learn from? Participants in Minneapolis therefore encouraged the development of more introductory material for the survey instrument that would be plain and upfront about what the community would gain from filling it out. The group also asked if some selected survey results could be shared with participating communities. It was thought that in some cases sharing information with “similar” cities might provide enough of an incentive to ensure completion.

It was also thought that, for context, it would be important to have information on each jurisdiction’s general demographics, such as racial composition, income level, population, and recent rate of population change. Professor Burchell informed the group that it had been proposed in prior focus group meetings that information on housing market conditions and socio-demographics should be provided via standardized format using nationwide data sets. In this way, the various pieces of information could be merged with the survey data. A few participants echoed this sentiment, suggesting that it would be better if the data gathered from the survey could be linked even more broadly to other federal and state data sets using something like geographic place-based FIPS codes. This would assist researchers when they want to determine how places that are socio-demographically similar react to affordable housing provisions or how places with otherwise similar housing markets evolve differently due to local land-use provisions.

There was limited concern about the overlap between this survey and the Consolidated Plan. Some of the questions are quite duplicative, so there was a concern about whether some answers for the two surveys would have to match.

Dr. Burchell believed that the present survey would not duplicate any existing data sets, but he wanted to review the other instrument to ensure that this project's HUD principals were fully aware of that effort and that the present instrument would not "reinvent the wheel."

Group members also raised concerns about the confidentiality of the survey responses. It was stated that confidentiality was not yet ensured. Someone suggested that it may be that "fair use" provisions would apply to information gathered through this effort since it would be provided by governments, and not individuals or firms. A very few participants raised concerns that a city attorney might recommend a city not fill out the survey form. Others believed that confidentiality would not be much of a problem since most of the contents of the survey are already basically reported to the Metropolitan Council. As a result, a vast majority of the group concurred that the information should not be kept confidential, especially since it would benefit many.

There was some discussion about questions that should be added. People felt a need for a marketplace question and for something addressing a fee schedule, and whether community issues like bonding influence officials' approval of a plan or not. Other suggestions included questions about race and income disparity; the effects of lots of kids in growing suburbs; whether officials in partially developed communities faced growing demand for restrictions on new development from current residents who "moved out here to get away from high density areas"; and interactions with other levels of government, like the Metropolitan Council and the State.

6.2.4 Reaction to Individual Questions in Part One of the Survey Instrument

Recent Development Activity

Q1: Participants wondered if this question included mixed-use development: Would single-

family, detached housing that is part of mixed-use developments be counted? Should such housing be asked in a separate question? It was believed that single-family units in mixed use did count at present. There was some discussion about the apparently arbitrary use of five units as a cutoff point (Census's designation between minor and major developments). The general consensus was that the time period in the question was clear. A comment was made that if the survey wanted to focus on regulatory barriers, it should not contain questions about "how many units."

Q2-Q6: There was discussion that perhaps there was no need for Q2. It was further suggested that Q6 would suffice if respondents listed the number of units for all types of developments in their jurisdiction. It was suggested to switch the order of questions 3 and 4. Someone subsequently questioned whether the application of a table for Q6 would generate the information desired if number of units or number of projects was asked for. If the questions were subsequently reordered, Q2 could then be dropped to avoid redundancy.

Some people said that they consider a major development to be at least ten acres, or one city block. They wondered if the cutoff would be better if it were set to something more akin to that. It was stated that Minneapolis may not know the number of housing units but could report the acreage.

There was also discussion about the value of all of these questions. This may be particularly critical since most are likely to be painstaking and tedious to answer. Of course, it may be that some of the questions could be answered relatively easily, but most will take a while to complete since they ask for specific answers and may be a disincentive for filling out the instrument.

Permit Process

Q7: There was concern about wording this question. It was suggested to make sure the term

used (either “preliminary” or “final” or whatever) is somehow universally understood (across states). Members of the group felt that the “preliminary plat” approval was the crucial decision juncture for a development in Minnesota. Moreover, the fact that about 40 percent of development in Minneapolis’s suburbs is “wildcat” development may influence answers to this question.

Q8: “Apart from the body that grants preliminary plat approval of the single-family detached development application, how many other boards and/or regulatory bodies immediate to the local jurisdiction must grant permission or preliminary approval before the most common residential development is approved in your jurisdiction?” (If the local council must affirm the planning board’s decision, this counts as one. If they must also be approved by a local water management district, this counts as two.)

There was some concern whether this question would be construed correctly. A group member wondered about nonjurisdictional approval. Councils grant approval and get recommendations, but the planning commission makes recommendations. It could be construed differently. Hence, someone suggested the survey should make the term “jurisdiction” explicit in the question.

A number of regulatory layers could also apply. Hence, there should be a way to ask how many boards are regulatory. In this regard, there was some confusion about the intent of the question. Is it: How many groups look at the plat proposal? How many stops are there along the approval process? It may be unclear. In fact, don’t the types of regulatory body that intervene matter more than the number of them? It was suggested that the question could be changed to a check-box system with eight to ten groups. Some group members thought that this question will not get answered by smaller communities.

Q10: Some participants did not understand “preliminary approval.” It was decided to add the word “plat” to that phrase so it reads “preliminary plat approval.”

Q11: There was some confusion why “single-family (SF) detached” was differentiated from “residential development.” It was explained that it’s because that’s the largest type of development. It would be confusing if more were added. One group member felt that there are few single-family-only developments on greenfields anymore (“We want to encourage more infill”). When asked about hybrid developments, those dominated by single-family development, it was stated that there are many. This may need to be looked at again.

It was suggested to change “approval” to “plat” and to change “5 years” to “2-4 years.” One member stated, “I don’t see how you’ll use this, realistically. What will be done differently because of this Q&A? The answers will be predictable.”

Q12: One group member said that language like “speeds up/slows down” would be better than “benefits/hindrances” and was confused with what does “more than several meetings” mean?

Q13: One group member wondered why the language was not appointed “or elected”? Also, why delete “single-family” from this category? Add it. In Minnesota Board of Zoning Appeals, variances are a whole separate discussion. It was also stated that “use variances” are illegal in Minnesota.

Q14: One member again said to add single-family housing to this question. There was a question regarding whether appointed versus elected mattered, and also why “absolutely not”? Why not “never”? Another member thought that a single-family and multifamily combination may not be appropriate on these questions; the standards are so different. It is hard to answer if “single-family” is in there. It was also stated that even multifamily

and affordable multifamily housing have to meet different standards.

The group thought that Q13 and Q14 were unclear. They suggested that perhaps adding “site plan/subdivision regulations” would help.

Q15: No issues.

Zoning

Q16: No issues.

Q17: County zoning does not apply in Minnesota. Nonetheless, it seemed the word “unincorporated” would be best if applied here.

Q18: No issues.

Q19: The group wondered if the question referred to “residential” density. If so, the word “residential” should be added to the question. The group wondered about FAR (floor-area ratio) rather than units per acre. A FAR of 2 was stated to be the norm for typical suburban areas. But in Minnesota it is higher—more like 3 or 4 FAR.

Q19a: The group suggested that the authors should clarify that it is residential. They would also want one standard for the percentage of land. Maybe make a response table and break out the percentage across unit density.

Q20: There is a minimum required residential density in Minnesota of three units to the acre, per the Metropolitan Council. However, it’s not required acre by acre. Some communities turn the minimum into a ceiling. The group also stated that inside versus outside the MUSA (metro urban service area) matters.

Q21: Mobile homes are classified as manufactured housing in the Twin Cities region. It cannot be excluded if it meets the regulations. Add wording so that such housing is a minimum 20 feet wide.

Q22: It was suggested to refine the question language so the definition of town homes is

understood. Use language of 2 or more, 3 or more. Where do duplex, triplex, quad residences fall? Maybe there are too many variables here. The availability of parking garages in a development matters. Some felt the question, as written, was difficult to answer. Why does height matter? Is it useful?

Some thought that in mixed-use development, zoning matters. Parking matters most. Minimum standards for parking affect density for the project. Here height is a proxy for density, but it doesn’t include parking. Be careful: there could be good reasons for low heights. Don’t read too much into it. There is a bias toward tall buildings. Additionally, historic districts affect building heights for aesthetics.

Q22a: It was assumed that this question refers to building space, not the lot size. The group stated that they did have minimum square footage and that they have minimum-square-foot lot requirements, but not unit requirements for single-family homes, although minimum sizes do exist for multifamily units.

Residential Regulations

Q23: The group stated that there was a limit on construction: a cap on the number of lots that can be developed in a year and a cap on number of units per year in some areas (Woodbury). It was suggested to give more detail or less, use “an annual numeric limit” to simplify. Also it was stated that this doesn’t cover the whole community, just certain portions.

Q24: One member stated that there are no “impact fees” in Minnesota, though there are other similar fees. Minnesota defines impact fees differently. The question could say “impact fees or equivalent.” In Woodbury, on the urbanizing edge, there is a roadway area charge to get a PUD; this is not called an impact fee. There is a SAC (sewer access charge) in Minneapolis and

also an EAC (effluent access charge). And there can be park dedication fees. When asked if these could be quantified in dollars, the group said it was complicated. “It’s a controversial question in Minnesota, developers versus cities. The City has a perception of the land value, as does the developer. The Builder’s Association of the Twin Cities (BATC) and the Metropolitan Council did a joint study on land values.” The BATC report should be online.

Q26: The group talked about the regional boundary, the MUSA, and the fact that the Metropolitan Council does not consider the MUSA an urban growth boundary—albeit everyone else does. It’s a sociopolitical debate. MUSA functions like a UGB. It was never intended to be a UGB because the Metropolitan Council doesn’t control the land outside the MUSA. Also, many communities have internal growth boundaries. The group agreed that all four sub-questions are political questions. They stated that the MUSA limits development—but the end effect is good. The group suggested expanding the response categories by adding more possible answers: limits density, limits housing units, limits growth, also ask about state/regional/local growth limits. An example from Northfield: ask if the limits are self-imposed, or imposed by another jurisdiction.

Affordable Housing

Q27: Add “yes, but only if public subsidy involved.” There is also the question of how you define affordable workforce housing—80-120 percent of median income? Or is anything above 50 percent workforce housing? It’s not clear that “affordable” and “workforce” housing are different percentages.

Q28: The group found the last bullet to this question confusing. There is no requirement: the bonus means you can go from 3.5 to 4.5 maximum units per acre if you include affordable units. It’s the same with green space. The bullet assumes a density bonus.

Q29: How about frequency of use? The group also wondered if this implies it is within local discretion, i.e., by ordinance or negotiation.

Recent Rezoning Experience

Q30: Add and ask about changes in land use from agriculture to residential. Rezoning is not as important as Comprehensive Plan sewer requirements. Availability of public utilities matters. Some members thought this would not be useful data. Outlying areas are more likely to change from agricultural to residential. Commercial to residential/commercial mixed use adds many units.

Q32: Some thought the question was meaningless because it depends on the merits of the application. Consider taking out frequency. “Does your jurisdiction. . . .” with a yes/no answer may be better. It’s useful only if you get 30 applications a year and you don’t grant any.

Residential Development Decisions

Q34: What is a time frame on the question? One year? Last 5 years? A project was denied and developer sued, or a project was approved and neighbors sued? Those are very different situations. The question should ask about that: the reason or grounds for the suit. Does neighborhood opposition equal grounds for a suit?

Q35: What’s an appeal? Do you mean lawsuit? Should Q34 be in two parts—developer opposition versus neighborhood opposition? Have developers appealed a denial; have property owners appealed or sued? The answer will say more about the project than the city. What does HUD want to learn from the answer to this question? We already know lawsuits exist.

Q36: Will this question provide a good indication of the pace of development? The group generally suggested eliminating the question because it does

not get at the controversy. Woodbury meets twice a month because of the 60-day rule. It is one of the top jurisdictions. Alternative language: How many planning commission decisions are overturned by city council? How many are not unanimous? Or overturned? Yet, it's an easy question to answer as it is.

Q36a: Add a question on: if you're out in the third ring with no neighbors, is there less controversy? It's an odd phrase, "controversial meetings." Why not ask about the controversy surrounding residential decisions?

Development Constraints

Q37: Under the third bullet, add pollution or brownfields, water availability, townships around towns, council-imposed caps. What about a lack of appropriately zoned land, crime, or even socioeconomic reasons?

6.2.5 Reaction to the Hypothetical Prototypes in Part Two of the Instrument

Q1: The group noted "Under B, I'd answer yes for subdivision, but not for site plan review." The group suggested adding council and staff approval. Take 1,500 square feet out, because it will kick out those who would deny the plan. "Could accommodate" is unclear. Is it physically possible? Or zoned appropriately? "Approved" is better than "zoned."

Q2: It's not clear. What does "Would never allow it" mean? The group had general confusion on this question. What density could they do it at? What density would you allow? Maybe suggest a different density. Thirteen hundred (1,300) square feet pays its own way. If you said no at the beginning, you wouldn't get to this question. As for density: What is the maximum density you'll allow? And what minimum unit size would you allow?

Q4: Some thought there were Comp Plan concerns; changes in the Comp Plan are required to approve it.

Much discussion and asides ensued. The group had many questions, such as: Are you including a step for outside regulatory approval? This question mixes time duration and likelihood of approval. "Could not be granted" instead of "never" would be better. Or, "unlikely." The question assumes approval of the plan. Do the flip side; assume a project where zoning is the only constraint, and soils and infrastructure pose no constraints. How long to do a rezoning? Some in the group felt that one must make assumptions to answer the question; as a result, meaningless answers are likely to result.

How long does it take to do a rezoning? This is confusing because answers will be different depending on which hypothetical you choose.

Q7: This would be a difficult question for a typical government staffer or intern to answer. It suggests the jurisdiction is already predisposed.

By this point the group was a bit confused about the set of questions. The whole set of hypothetical questions needs some prefacing, as does each question, even when they are redundant. They should be more parallel in thought and structure between selection alternative and related questions. Many in the group felt it best to remove all such opinion questions.

The instrument was confusing to the fairly savvy group. A real concern, therefore, was what would happen if an intern were asked to complete the survey. It was also suggested not to have hypothetical questions because "In 18 years of working with HUD, HUD's stock answer is, 'We don't answer hypothetical questions because they're meaningless.' I suggest you dump the hypothetical." Eliminating the hypothetical questions might reduce complaints about the length of the survey instrument as well as about its vague, confusing nature.

6.2.6 Implementation of a National Survey

The group was interested in the possibility of a national land-use survey. Overall, there was a feeling that it was doable but that more work was needed. The group's concerns centered on the incentive that communities would be offered to complete the instrument, and that correct responses be ensured.

A recurrent theme concerned the length and time required to complete the survey, thought to be between 2 and 6 hours. A zoning administrator could answer three-quarters of it in about one hour. The rest of the survey would take about two hours. The group thought that interns could do some of the survey, but that raised concerns about the accuracy of the responses.

The group stressed that people will want to know about the time commitment, so they should be informed. Small communities may face a larger burden as it may take city administrators some time. It would be optimal if planners, administrators, or planning board chairs filled out the survey. Paid city staff would be ideal. If there is only one paid administrative person per jurisdiction, the survey should be sent to the chief administrative officer.

Another issue concerned the motivation there would be to complete the survey. Some city councils will not want staff to send information directly to HUD. It was suggested to send it just to the city administrator or chief administrative officer. An incentive of \$1,000 to each jurisdiction for survey completion was suggested.

The group also thought that housing redevelopment authorities (HRAs) could be an asset in raising responses to the survey. HRAs are required to affirmatively further fair housing. Further, HRAs have an incentive to get cities to complete the survey. The group also favored the idea of a short form (yes/no) and a sample for the long form; the Census is a good model.

The focus group wondered if this should be added to the Consolidated Plan requirements. It was stated that HRAs don't have the same reach as they used to; perhaps the survey should be made a state requirement. Tie it to park planning; link it to other funding. The link does not yet exist. The group suggested that HUD test it first in several counties as a pilot survey. Homestead credit or property tax reduction could be a good link.

It was argued that it would be important that the League of Cities encourage members to complete the survey. They would have to be sold on its worth to motivate cities to fill it out, and they were convinced of the need at this point.

6.2.7 Conclusion: Feasibility of a National Land Use Survey

Overall, most of the group supported the idea of a national land-use survey. Members were interested in what the results would be and had a desire to use the data for further study. Even though the group felt they would like to see a land-use survey completed, it is probably safe to say that they did not believe this instrument was ready to be used.

The length of the survey was a concern of attendees. Many felt that the questions were too detailed, would require too much research, and would put off potential respondents. To counter this, some members suggested a short form and a long form, similar to the U.S. Census.

Additionally, the group had concerns about what incentive a community would have to answer the survey. In order to ensure good responses, the group thought that meaningful incentives would need to be established.

There was also some concern about the use of the information. The survey should be clear and upfront with respondents to ensure honest, forthright answers. This would help to ensure a good response. Overall, the group liked the idea of a survey but remained skeptical as to whether it could be implemented in a meaningful way.



View of Boston's Back Bay

Courtesy BigStockPhoto.com. © Maureen Plainfield.

7. SITE 4: BOSTON

7.1 Summary: Boston

The Boston focus group was the last of five focus groups. It had more of a composition of academics than any other focus group, and it was more mainstream local land use-oriented than some of the previous locations. The Boston focus group viewed itself as the last stop before survey implementation. It received the longest and most altered survey instrument of any of the prior focus groups and was determined to render the instrument ready to be implemented. The mix of lawyers and academics made the group critical of the generic language agreed upon by professionals from the multiple sites. They thought that the questionnaire was difficult to answer and were unsure whether required information was to come from best recollection or from researched facts. Questions were made to be simple inquiries, and the instrument was rendered less cumbersome than the document that it had become. Boston was indeed a turning point, with progress ranging from getting more information and geographical clarity to acknowledging what is possible and how it can be implemented most efficiently. Whereas the other focus groups sought to add to and make the survey instrument more inclusive, the Boston focus group sought to peel the instrument back and get just enough information to understand basic differences in land use.

7.2 Full Proceedings: Boston

7.2.1 Regional Context

Massachusetts, Vermont, Rhode Island, Connecticut, and Maine have suburban and rural areas that implement zoning and subdivision control/site plan review at the local level. All of these jurisdictions are supported heavily by the property tax, so they favor overzoning for nonresidential uses and downzoning for residential uses. Inner suburbs are dense and threatened by fiscal degeneration; central cities are on the rebound but basically are not favorable sites for preferred development and are experiencing tax-base loss.

The high-growth state and most conservative in land use is New Hampshire, followed by Maine and Rhode Island. Vermont, Massachusetts, and Connecticut are more liberal. In the conservative land-use states, planning is less obvious, and fiscal zoning and impact fees more prevalent. In the liberal land-use states, planning is more prevalent, as are procedures for either inducing affordable housing or fighting its absence. In the conservative New England land-use states, multifamily construction is seldom available as of right; in the liberal New England land-use states, it can be obtained as a result of the variance process. In all New England states, suburban density is decreasing rather than increasing and, as a result, housing prices are becoming prohibitive. New England is not a location for timed development, growth management, or growth boundaries. This is, instead, a meat-and-potatoes zoning and subdivision region with little tolerance for planning, sophisticated growth controls, or methods to encourage affordable housing.

7.2.2 Focus Group Approach and Composition

By the time the last focus group was convened, some of the initial procedures for convening the focus groups had changed. The group continued to be drawn from a “snowball”

list of the land-use contacts of the regional principal investigator. Approximately 60 names were assembled from contacts of Jerold Kayden of Harvard University. These were drawn from academe, the legal profession, planners, real estate developers, and community development personnel. Rutgers University contacted these people by telephone and e-mail to solicit their participation. About 20 of the 60 contacts responded affirmatively, and approximately 18 applied for the focus group meeting.

As in the other focus groups, all had reviewed the survey instrument, but no one submitted questions about the instrument in advance of the meeting. The group, as a whole, concentrated primarily on Part One of the survey instrument and was interested in clarity of purpose of the information seeking. The group was less concerned with implementation and least concerned with the development hypotheticals.

7.2.3 General Reaction to Project and Instrument

The Boston focus group's reaction to the purpose of HUD funding a national survey of land-use regulations at the local level was extremely positive. As charged a reaction was expressed about the questionnaire but in a different direction. This had nothing to do with the type of questions on the questionnaire or their order; rather, it had to do with a perceived greenfields bias of the questionnaire. It appeared to the group that redevelopment was overlooked, community development was not mentioned, and that various procedures of urban development were not even considered. The latter included meetings with community boards, local versus community-wide development objectives, and the relationship of forthcoming development to CDBG, PILOT, TIF, and other types of urban development strategies. To this group, this is definitely not a questionnaire to be administered to a large urban place.

There were the standard reactions to necessity for anonymity of individual information but the necessary sharing of the data of the survey within and outside of those who were surveyed. There was also the familiar request for additional classificatory data to precede all gathering of data. As strong as the need to undertake such an effort was espoused by the group, so too was the need to trim and streamline the questionnaire. Development hypotheticals were also to be trimmed.

7.2.4 Reaction to Individual Questions in Part One of the Survey Instrument

Introduction

Clarify inconsistencies as to purpose of the land-use survey: The first paragraph says it is an inventory of land-use regulations. The second paragraph says that it seeks to determine the forces limiting affordable housing. The latter should probably be stricken from the purpose of the survey.

Pre-Introduction

There should be multiple statistical variables that enable responses to be put in a context of certain "place-defining" variables. These place-defining variables have been talked about since the pre-test, but nothing has happened. The variables should be put in place as part of the survey before it is rendered final.

Recent Development Activity

Changes in this section mainly involved scale changes to add to the choices underneath a particular question. Typically, this involved expanding the number of units in the most commonly sized development or the size choices of average lot size. In Question 6, affordable/workforce was changed to a percentage because it applied to, or could be part of, all previous choices.

Q1: No issues.

Q2: Change scale to add more units at upper end.

Q3: Change scale to add more acres at upper end.

Q4: No issues.

Q5: No issues.

Q6: Change affordable/workforce question to a percentage of the above.

Permit Process

Changes in this section involved adding the word “plan” after preliminary “plat” to coincide with local terminology. It included adding “elected” to “appointed” citizen boards. It also involved adding choices to Question 11 as to why approval time has increased: Was this that projects were being developed on more marginal lands, or that they were more complex and might involve rezoning? It further involved adding language to Q13 to Q15 that these projects can be built “as of right.” Finally, minor wording refinement included replacing “they” with “developments.”

Q7: Add “plan” after “plat”; change citizen board from “appointed” to “appointed or elected”; take out “elected” from “legislative body.”

Q8: Add “plan” after “plat.”

Q9: No issues.

Q10: Add “plan” after “plat.”

Q11: Add “plan” after “plat”; add “Projects are more complex and may involve rezoning”; add “Projects are being developed on marginal lands with more environmental issues and site constraints.”

Q12: Remove “If yes, how does this service affect application approval?”

Zoning

Changes in this section involved removing Question 17 on whether lands have simultaneous local and county zoning. This had been confusing from the beginning, and the group believed it applied to too narrow a locus of places. Question 19(a) was also removed because it called for judgments on the part of the respondent. Questions 22, 22(a) and 22(b) were simplified to eliminate the “chart-like” appearance of the survey. The focus group thought that filling in these “charts” interrupted the flow of the questionnaire and actually had the effect of causing the respondent to stop preparing answers to the questions. Other minor wording changes were made to Questions 18–21.

Q16: No issues.

Q17: Eliminate due to confusion at multiple focus groups.

Q19(a): Eliminate due to confusion at multiple focus groups.

Q19(b): Add “developable” before “residential.”

Q20: Add “zones” after “any” for clarification.

Q21: Add “mobile or manufactured homes” as a replacement for pronouns in first, third, and fourth bullet items; add bullet item, “Are mobile homes taxed as personal property?”

Q22: Simplify question to remove table and ask solely about single-family development.

Q22(a): Simplify question to remove table and ask solely about single-family development.

Q22(b): Simplify question to remove table and ask solely about single-family development.

Residential Regulations

Questions 23–26 were deemed to be too long, regardless of how much “good” information would be forthcoming. Too much information had to be seriously researched, and the derivative information was so specific to jurisdictions and had so many caveats that cross-comparison would have been impossible. Each of the “fleshing out” sections of these questions was removed. The focus group believed that unless this was done, the questionnaire would not be completed.

Q23: Simplify question and create a fill-in.

Q24: Simplify question and create a fill-in.

Q25: Simplify question and create a fill-in.

Q26: Simplify question and create a fill-in; eliminate judgment about how long for land to be developed; add “incentivize.”

Affordable Housing

This section of three questions and parts of questions was simplified by removing the questions’ “fleshing out” parts. A question was added to specify which incentive measure was used most frequently.

Q27: Simplify and restructure question.

Q28: Simplify question.

Q29: Simplify question.

Q29(a): Clarify language of question.

Q29(aa): Add question.

Q29(b): Clarify language of question.

Controversy over Rezoning

This section involved some streamlining of wording relative to rezonings and zoning amendment and structural nesting of follow-up questions.

Q30: Just use terms “rezoning” and “zoning amendment.”

Q31: Nest follow-up question rather than separate question.

Q32: Just use terms “rezoning” and “zoning amendment.”

Q33: Nest follow-up question rather than separate question.

Residential Development Decisions

Two of three questions in this section involved elimination of follow-up questions. Other portions of questions underwent wording clarifications.

Q34: Simplify question and create a fill-in.

Q35: Clarify language of question.

Q36: No issues.

Q36(a): Eliminate due to confusion at multiple focus groups.

Development Constraints

Two choices were eliminated from the single question found under this section because they did not represent national development constraints. The words “or potentially redevelopable” were added to expand the modifier “undeveloped” before the word “land.”

Q37: Add “potentially redevelopable” to question.

7.2.5 Reaction to Hypothetical Prototypes in Part Two of the Instrument

Again, there was confusion with the purpose and role of the hypotheticals. Rather than eliminate the hypotheticals altogether or apply them to a smaller sample set, it was decided to eliminate Q4 and Q5 from the hypothetical response.

The hypotheticals would be simplified. There would be two types: single-family (two choices) or multifamily (three choices), wherein the respondent would pick from each the highest-density example that would be allowed locally. If either or both had choices that were viable locally, Q1 and Q3 would be answered for each. If no choice existed under either single-family or multifamily, the respondent was instructed to answer Q2 and Q3 under both the single-family and multifamily examples. Thus, the hypothetical was again simplified.

7.2.6 Implementation of a National Survey

The Boston focus group believed that a streamlined questionnaire available from HUD's Web site could be downloaded, parts distributed to other co-participants, and answers assembled and uploaded to complete participation. The confidentiality of individual responses had to be protected, but aggregate results could be released first to those who participated and then to the general public. A planner working with a zoning officer or building official would complete the questionnaire. The mayor and city attorney would be aware that the document was being completed and could possibly review it before release. Incentives or requirements would be necessary accompaniments for the document to receive alterations. The ability to go through the survey directly and quickly was deemed critical. The 75-minute completion time was viewed as unrealistic.

7.2.7 Conclusion: Feasibility of a National Land-Use Survey

The Boston focus group believed that the concept of a national land-use survey was something that was currently not available yet necessary. The group emphasized the clarity of the survey instrument and the importance of

availability of mutually shared information to accomplish this. This was something that was desired by the Boston focus group. The Boston group nonetheless had the harshest view of the "greenfields" bias of the survey and the toughest approach to the amount of material that a respondent could tolerate.

8. CONSOLIDATED FINDINGS AND RECOMMENDATIONS

The following represents the consolidated findings and recommendations of the four focus groups and pre-test sites. It is necessarily general, as specific findings and recommendations are contained in the individual write-ups of the focus group sites.



Attached housing complex.

Courtesy BigStockPhoto.com. © Scott Rothstein.

8.1 Introductory Material (Instructions on Cover Sheet)

At the beginning of the survey, there should be a simple and non-conflicting rationale for why the survey is being undertaken. It should state what the survey would be used for, what the survey is about, and how long it would take to complete.

8.2 Contextual Information (Data To Be Obtained by HUD)

Fifteen or so variables, easily obtained from the Census at the community/county level, should be used to help classify and put in context the findings of the survey. This data would be gathered and analyzed by HUD.

8.3 Glossary of Terms

A glossary of terms should be included that explains land-use terms that may not be familiar outside specific regions of the country. This should be placed at the end of the questionnaire.

8.4 Part One Inventory Questions

8.4.1 Recent Development Activity

This section should start the questionnaire. It should be preceded by the community's contextual information gathered from Census. This section should query the amount, type, and pace of residential construction in the most recent year. Questions should be simply and clearly phrased, with a number of choices to classify responses.

8.4.2 Permit Process

This is an important section that should contain more questions than the first section and should not start the survey. (This section was moved back and forth during initial focus groups.) It should seek information on development processing up to the point of vesting which, in most cases, is preliminary plat/plan approval. It should seek information on time of processing developments currently and relative to the past. This should exclusively involve "as of right" single-family and townhouse/multifamily development processing times.

8.4.3 Zoning

This section should include a significant number of questions that establish whether a community has zoning and, within that zoning, what is the maximum residential density allowed locally. There should also be questions that enable one to obtain a sense of how prevalent developable land is within this highest density category. This section should also determine whether mobile/manufactured homes would be allowed locally and whether there are associated regulations limiting height or calling for significant off-street parking, or larger as opposed to smaller structures. These should be Yes/No or fill-in questions and not probes designed to create the equivalent of zoning tables or charts.

8.4.4 Residential Regulations

This section should simply ask whether there is a type of growth control that exists locally. This could involve such mechanisms as building permit caps, adequate public facilities ordinances, and urban growth boundaries. These categories should be clearly differentiated. One must be careful here not to get too detailed in terms of fleshing out answers and not ask opinion-type questions such as "Has the growth boundary limited growth?"

8.4.5 Affordable Housing

This section should contain a few simple questions that are designed to determine whether the community's own development regulations encourage affordable housing. There should also be some questions asked as to whether these are required without incentives or whether incentives are provided. Some idea should also be obtained of how often affordable housing is an accompaniment of local development. Questions should be short and simple.

8.4.6 Controversy over Rezoning

This is an important section for redeveloping as opposed to developing communities. It should include queries about the two primary types of rezoning: from nonresidential to residential, and from less-intensive residential to more-intensive residential. Further, it should include questions on the frequency of such rezoning applications.

8.4.7 Residential Development Decisions

This section should provide some indication of property owners' reaction to increasing the intensity of development locally. It should also include some indication of how often the planning board meets to consider development applications.

8.4.8 Development Constraints

This section should contain a limited number of choices about constraints on development locally that characterize the development atmosphere of the jurisdiction. This should exclude any choices concerning citizens' or boards' actions limiting development.

8.5 Development Hypotheticals

Development hypotheticals should be scaled back when presented to the survey respondent. If offered choices for both single-family and multifamily development, they should be asked to select the highest-density choice of each that would be considered locally. Single-family and multifamily development hypotheticals should be considered separately. Only a very few questions should accompany either the choice or rejection of a particular development hypothetical. This is a chance to provide some quantitative information on a very limited number of data items.

8.6 Land-Use Survey Implementation

Survey implementation should be accompanied by both requirements and incentives. Participation should be linked to continued

Community Development Block Grant (CDBG) funding directly or through the state and, as well, to the availability of additional small Planning Assistance Grants. The survey should not be mailed but rather should be downloaded from the HUD Web site. When completed at the local level, it should be uploaded to the same site.

8.7 Future Directions—Short Run

The next step is to field test the survey in a sample of local and county jurisdictions. This next step should proceed. The survey instrument is ready to be taken to the field for implementation.

8.8 Future Directions—Long Term

If the national survey of local land-use regulations is to reach fruition, the data-gathering instruments must be easy to use and accepted by the field. Ease of implementation and potential response rates will be issues that continually detract from project success. These must be individually and collectively addressed for the survey to succeed. At various points, compromises will be sought that may take the form of opting for a one-time research study as opposed to a recurring survey. While this is tempting, there is a need for a national land-use survey, and that must be the goal that efforts are directed toward.

8.9 Land-Use Regulations and Affordable Housing

This is a substantive area that HUD should support. The research community needs information on land use. HUD has provided this information with its Regulatory Barriers efforts, and it should continue this pursuit with the national survey of local land-use regulations. HUD should provide enough information that private or public research entities can produce, on a regular basis, "The State of the Nation's Land Use"—and it should be undertaken using the national survey of local land-use regulations as its primary data source.

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10. A National Symposium on Reaction to the Focus Group Testing (I): Prelude to the Discussion of Reactions

The purpose of the National Symposium on Reaction to the Focus Group Testing was to convene those who had drawn up the original land-use survey with those who pilot tested the land-use survey to convey the authors' intent and then to respond with the reaction of the testers. This was done in a setting that brought together land-use and housing professionals who were to provide additional input to the discussion. It was the first face-to-face meeting of those who drew up the survey and those who pilot tested it in five locations. The Symposium began with remarks from the research sponsor (HUD), continued with the presentation of two papers (by Rolf Pendall and Larry A. Rosenthal) reacting to the pilot testing, and concluded with reaction to the authors' ideas as well as directions for the future.

**THE NATIONAL REGULATORY BARRIERS
DATABASE INITIATIVE: THE NEXT STEPS**
—
WASHINGTON, D.C.—JUNE 15, 2007

**Darlene Williams, HUD Assistant Secretary for
Policy Development and Research:**

The discussion that we will have today is part of HUD's continuing effort to highlight regulations that build walls to the development of affordable housing in this nation. As everyone knows, in more and more regions of our country the supply of affordable housing is dwindling. Low- to middle-income service workers, including teachers, first responders, and others, in many cases can no longer live in or near the cities in which they work. This must change. The supply of affordable housing, both owned and rented, must increase. The place to begin is in removing barriers to affordability built by the regulatory process.

We must look to the local communities and people who live in them. The key to removing local barriers to affordable housing lies in decisions made by people at the community level, for two reasons: first, because the barriers are different from one community to another—there is no one solution that fits every region. Second, because the federal government doesn't have the authority to force a national solution on a local problem, and HUD should never be America's zoning board.

Nor does HUD want to be. Local residents themselves must decide how to balance their neighborhood concerns and interests. But their decisions should be informed ones, and that's where HUD can be of help, with tools such as America's Affordable Communities Initiative, our Regulatory Barriers Clearinghouse Web site, and conferences such as this one.

HUD sponsors research that encourages policy changes for reducing regulatory barriers. PD&R's efforts have been fruitful. PD&R recently did studies on topics such as local zoning practices, subdivision and site development standards, brownfields remediation, and market impediments to technological innovation. These studies have contributed much to our understanding of the impact of government regulations on housing markets and, as well, on how housing markets respond to needs and demands.

Today's meeting continues these efforts to assist the research and policy communities. A survey instrument has been developed to identify and quantify the impact of regulatory barriers on housing and the planning process. A pilot test of this measure was carried out in several cities, including New Brunswick, New Jersey; Portland, Oregon; Atlanta; Minneapolis; and Boston. Prominent members of these communities met to critique the survey and suggest how it might be better adapted to their unique planning needs. We are fortunate to have some of these participants with us today. They will provide a useful overview of the testing efforts that took place

in their regions. Today, we are looking to you to offer your own thinking on next steps for this national survey on regulatory barriers.

Edwin Stromberg, HUD Office of Policy Development and Research:

Four years ago, HUD announced the American Affordable Communities Initiative, a Department-wide effort to address the issue of various types of regulatory barriers to affordable housing. PD&R, as part of the initiative, was given the assignment of developing a research agenda on this issue. The Office thought that the best way to launch the effort would be to put together a research conference and enlist the support of the research community to give us some guidance on how best to set up and carry out a research agenda on the issue. For this purpose, we engaged Michael Schill, who was then Professor of Planning and Law at New York University, to help us organize and carry out the conference. He did a magnificent job, and whatever success I think we had is attributable to his substantive and organizational efforts.

Our objective, establishing a research agenda, was a call to action to the research community to get more involved, more engaged in doing research in this area. We realized that if we wanted to have a meaningful impact on regulatory barriers throughout the country, it would have to be done on a scale that's far beyond the limited resources that we would have.

As a result, the most persistent and vocal call from the conference was that the data issue would have to be addressed. Basically, we were told there that we didn't have good data. We would have to create a database on regulatory barriers and land use.

So this was taken very seriously. Six months later, in September of 2004, we convened a smaller research group—again, with Michael Schill, Rolf Pendall, Larry Rosenthal, Vicki Bean, and others, to look at the feasibility of creating such a database.

Subsequently, we commissioned a smaller research group—Rolf Pendall, Richard Green, Steve Malpezzi, and Larry Rosenthal—to actually begin drafting survey instruments as well as a strategy to carry the survey out.

A year later, in September 2005, with the generous support of the MacArthur Foundation, we held a meeting in Chicago to critique that effort.

After the instruments were critiqued, we moved

on to the current phase of the initiative where, through our support contractor, DNR, we selected another research team. This is the very able research team from Rutgers, led by Robert W. Burchell and Michael Lahr. The task was to take the instruments and focus group-test them in four areas of the country. We are here today to discuss the results of these focus groups.

I have a few observations and thoughts on the whole process to date. First, I believe that it is very, very difficult to deliver an appropriate, valid, and workable instrument to survey local governments. That is why we are here today: to try to work through some of these issues found in the field.

Second, this initiative started almost four years ago. It has been painstakingly slow for me. I would have preferred to see it go much faster, given the fact that there is really an urgent need to do more research in this area here. But that's sort of the budgetary and contractual system that is in place, and I don't see any change taking place in the near future.

Third, many people have said, "What are your real objectives? Why don't you focus on the issues of regulatory barriers and focus it in communities where these might be a problem?" If we were to really focus and prejudge what constitutes regulatory barriers issues, I'm concerned that we would compromise the utility of the survey. Further, if we were to, again, focus on regulatory barriers, there's a real possibility that it could be compromised at the local level, or it could be easily perceived as an effort to identify and target committees that have regulatory barriers. We are taking a very broad and inclusive survey/information-gathering approach at this point. I think this is the right direction, but that is something that could be discussed as well.

Finally, we have been very successful in tapping some of the finest thinkers and talents of the research community, academic community, working in this field. The roster of all the people we have consulted with looks like an all-star team of the research community on regulatory barriers and land use.

The whole initiative has been governed by two basic principles. One is that we are going to mobilize the best advice we can from the research community—and we've done a fairly decent job of doing that—and whatever emerges is going to be methodologically sound. Nothing will be done to cut corners. We have adhered to this, and we will continue to adhere to this.

11.

A National Symposium on Reaction to the Focus Group Testing (II): Papers Presented by Rolf Pendall and Larry A. Rosenthal

THE NATIONAL REGULATORY BARRIERS DATABASE SURVEY DESIGN EXPERIMENT

ORIGINS, EVOLUTION, OUTCOMES, AND RECOMMENDATIONS

Rolf Pendall, Associate Professor,
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In this paper, I discuss the decision to develop a new survey instrument on local land-use regulations in 2004; review the design decisions that were made and delayed between then and 2006; and provide a critique of the outcome. Because of unresolved differences among the survey's developers about what subjects are most important to cover, the survey instrument was too long and complex to use as a self-administered survey even when the focus groups began. During the focus-group process, the survey grew even longer.¹ Even with that lengthening, it remains too generic and narrow to be sufficient as an instrument for studying the landscape and implementation of regulations within one metropolitan area or even one state.

Despite the remaining problems, the experiment has been tremendously useful in exposing the many facets and purposes of studying local land-use regulation. Further progress remains quite feasible, but we need more clarity about the survey's purposes and more realism about the reliability and completeness of returns for a long and complicated instrument.

Building on the experience of the focus groups and my own experience in conducting national surveys of land-use regulations, I recommend a strategy with three components. First, a representative national survey (stratified) of local

governments would be taken every five years to identify a very short list of regulations currently on the books, with no effort to determine how and whether these are implemented. The goal of this survey would be to identify between-region or between-county differences in regulations (example: U.S.D.A. National Resources Inventory), not to learn about within-region differences. Second, in-depth analyses of a limited number of metropolitan areas would be undertaken each year using mixed methods and relying on a broad range of informants. These analyses would provide knowledge about differences within regions in the finer points of regulations and demonstrate how regulations are implemented and which ones matter. Third, the annual Census building permit survey would be modified to include questions about recent development activity.

Early History: The Origins of the Survey

In April 2004, HUD convened a conference in Washington, D.C., about the state of the art in research on the impact of regulations on housing affordability. HUD commissioned six papers for the conference, with separate studies on building codes, environmental regulations, land-use controls and zoning, impact fees, and administrative processes. Michael Schill authored an overview paper that contained the somewhat surprising statement:

One of the most consistent findings of the papers is how little we know about the subject [of regulatory effects on housing affordability]. For some regulations, such as building codes and environmental regulations, the literature barely exists. For

1. Then, as I was writing this evaluation (two weeks before the symposium!), a new, streamlined version appeared.

others, such as land use regulations and impact fees, many studies exist, but the results are often contradictory and difficult to interpret. (Schill 2004, 6)

When HUD convened the conference, one of their principal questions was, "What should HUD's Office of Regulatory Barriers do to advance the state of knowledge about this topic?" The group endorsed the conclusion reached in Schill's paper:

HUD's money would best be invested in data gathering. The single most important reason for the absence of research on the impact of regulations on housing development is the lack of systematic and consistent data on local regulatory practices. This absence of data was mentioned in each of the papers prepared for this conference. To fill this gap in our knowledge and spur additional research, HUD could support a census of regulatory practices throughout the nation. The data collected would include both objective data about regulation in each municipality (e.g., amount of land zoned for multi-family housing, whether certain cost-saving technologies are permitted), as well as data from interviews on the average time it takes to obtain approvals and certifications. (Schill 2004, 18)

Following on this recommendation, HUD convened a smaller group of experts in November 2004 in Silver Spring. This meeting included presentations by researchers who had developed their own surveys in the past or used surveys from other sources. Richard Green discussed his surveys in Madison, Wisconsin; The Glickfeld-Levine survey (California League of Cities) also received some discussion. Several people discussed using the Wharton (Penn) survey; and Pendall discussed his survey. At the end of this meeting, the assembled participants affirmed the value of developing a new national survey, but the precise contents were still undecided.

In the intervening months, we (Rosenthal and Pendall) worked with Steve Malpezzi and Richard

Green to develop what we hoped would be a short enough version of the survey to pilot. Malpezzi had used the Wharton survey, and Green had developed his own survey instruments to use in Madison. We worked together to develop a comprehensive list of important topics and questions to cover, then cut back that list until we had questions that were roughly what appeared in the instrument that was tested by the Rutgers (CUPR) team in regional focus groups. In September 2005, a third meeting was convened in Chicago with the sponsorship of the MacArthur Foundation, including those involved in the first survey as well as others. At this meeting, Anita Summers, Steve Raphael, and Larry Rosenthal and Rolf Pendall made extensive presentations about their work. This group knew a lot about the subject and the details, and some of us had substantial hours and thought invested in developing our own surveys or using instruments others had developed. The meeting did not point toward easy solutions to the problem that the draft survey instrument was already getting too long.

The differences of opinion and emphasis included three major areas. First, how should emphasis in the survey be divided among an inventory of local regulations, questions about implementation (the development approvals process), and questions about recent development activity? Second, who should be surveyed? Third, should the effort attempt to be broad and shallow or intensive? These questions continue unresolved to this day; since the length of the revised survey instrument and the regional variations in the revised instrument result directly from this lack of resolution, it's worth some time reviewing perspectives on the questions.²

Inventories, Implementation, and Development Activity

The first point of contention concerns what the mix should be among questions about regulations on the books, implementation of those regulations, and recent development activity in

2. My own work has been broad (national) but shallow national surveys aiming almost exclusively at getting an inventory of local regulations. I tend to think that any national survey or census should take this form, and that implementation surveys are impractical and/or untrustworthy at the national scale.

these jurisdictions. Regulatory inventory questions³ include, for example: Do you have zoning? What is the maximum permitted residential density? Have you imposed a development moratorium in the past five years? Do you have an inclusionary zoning ordinance? Implementation questions, by contrast, ask such questions as: How long does it take to approve a typical complete subdivision plat? How often are planning board decisions appealed to the legislative body? How close are approved densities to densities permitted by zoning? Development activity questions ask for information on how many projects and housing units of various kinds have been approved in the preceding years.

Most people recognize that the implementation of land-use regulations matters for housing affordability at least as much as, if not more than, the regulations on the books. Lack of predictability and long delays can increase holding costs and cause developers to miss the market, resulting in long-term supply shortages. An inventory approach does not reveal the level of predictability or the length of the approval process. Unpredictability and delay probably associate with certain regulations (e.g., environmental impact assessment, building-permit caps). Jurisdictions without such regulations, however, can also be quite unpredictable. In the September 2005 meeting, for example, one participant (maybe Chris Nelson) discussed a comparative study of Montgomery County, Maryland, and Fairfax County, Virginia; even though Montgomery County's regulations are quite complex, he reports that its approval process is predictable and usually faster than that in Fairfax, which has a less complex regulatory environment. Of course, Montgomery County isn't known for low housing prices—in fact, Fairfax County's prices are lower—but rather for a vast supply of open space, high-density and mixed-use development, and inclusionary zoning, suggesting that predictable implementation doesn't always associate with low prices.

Development activity questions can be important both as control variables and as outcome variables; there are many of these questions in the draft survey. We need to know about what kind of development a jurisdiction typically sees, because its regulations and their implementation will be in part a consequence of builder demand. At the same time, builders will apply to build, and succeed in building, what the local regulations permit. In my view, however, most of the people who would be the “first responders” to questions about regulations on the books have only a very general idea of the level of development activity.

Inventory questions offer key advantages when compared with implementation questions. Most importantly, we can more easily tell whether a jurisdiction has an ordinance or requirement than how that measure works in practice. Respondents will therefore more likely answer inventory questions. Responses to implementation questions can require more research or knowledge than the respondent has (e.g., “How much time does it take to process a subdivision in your jurisdiction?”). They can also require subjective judgment (e.g., “How serious a constraint to development are [fill in a long list here]?”) and recall (“Is the approval process more or less complicated now than 10 years ago?”). Respondents may perceive inventory questions as “neutral” questions of fact, increasing the likelihood that they will respond. It also may be easier to disclose inventory information without strong concerns about respondent or jurisdiction confidentiality. In addition, speculatively, variation in the response rates and accuracy might be non-random with implementation questions, with (for example) small jurisdictions with limited staff capacity having more errors and missing values than larger jurisdictions.

Inventory questions tell only a partial story, though. For instance, the zoning ordinance might not have a residential category that allows high-density development, but some other provision of

3. A second kind of inventory question is about land supply compared to demand. These questions are also questions of fact, but many local governments don't know the answers to them. While they're ultimately important, asking them directly is a difficult way to get at the answers.

the local code might permit apartments. This was the issue that led me to develop the “affordable housing prototype” in my last survey, a subject to which I return below. Alternatively, the ordinance might allow high-density development in theory, but no land is currently designated for such development; this possibility leads naturally to the idea of including land-inventory questions, a concept that received much support in the Chicago meeting. I included a land inventory question in my 1994 survey but dropped it in 2003 exactly because that question received lower and more peculiar responses than any other; perhaps if it were asked in a general way—as tested on the current instrument—rather than in terms of acreage, it would work better.

Who Should Be Surveyed?

A second key difference that emerged in the Chicago meeting, and one that also came up in at least two of the focus groups (Portland and Atlanta), was that local government isn’t the only and perhaps not the first group that ought to be surveyed. The most obvious additional universe for the survey would be residential builders, both for- and non-profit, but in addition, attorneys and consulting civil engineers might be logical candidates. This parallel survey of builders, attorneys, or other local experts could identify major constraints to development in their areas and potentially name jurisdictions or subregions that most or least restrict affordable housing construction. A parallel effort by Quigley and Raphael began in 2004–05 to conduct interviews about the development approval process with developers in the San Francisco Bay Area.

This difference of opinion doesn’t really affect the revised instrument we see today, but it’s still important to discuss it. Clearly, developers are important in the survey process regardless of who the audience will be. The Wharton survey, for example, is based partly on the responses of major developers to survey drafts, and I’ve developed my own surveys with some responses from developers, though planners have been more important to mine. In my survey and those by Wharton and the

League of California Cities, local governments are the ultimate respondents. Other publications in the past have used surveys of developers to identify the most- and least-constrained metropolitan areas.

Broad and Shallow versus Deep and Intensive

The third point of difference complements the other two: Given limited resources, should efforts to identify how regulations influence housing affordability work from a national census or sample, or should they investigate residential development policies and practices in a few regions at a time? Assuming both would be desirable but that resources remain limited, where should the work begin? The Chicago meeting reflected these differences.

Many of the attendees were eager to arrive at a list of “10 questions” for a national survey of as many local governments as possible. (I don’t know whether that “top 10” list ever emerged subsequently, but we didn’t get there in this survey draft, and the focus group only made the list longer.) Such a national inventory would facilitate cross-regional comparisons and econometric studies, allowing researchers to characterize the regulatory environment at the scale of housing markets and then to identify which regulatory regimes associate with a variety of outcomes—most importantly to this project, housing affordability.

Others, and in fact sometimes the very same people, wanted much more information and appeared willing to forgo breadth for depth. In a deeper study of a limited number of regions, a mix of methods could be used, including focus groups; in-person interviews; reviews of development projects as case studies; collection and GIS analysis of zoning ordinances and maps; and reviews of the state statutes and case law that so influence the adoption of regulations. The result would be a more multidimensional view of the inventory and implementation of regulations, land inventories and recent development histories, affordable housing activity, and many other issues. It’s likely that such deep and intensive research would produce more fruitful reform recommendations than would econometric studies of the impact of particular regulations.

The “Inventory” Instrument and Its Evolution: Discussion, Critique, and Evaluation

Among the three major questions about content, sample frame, and scope, the second and third were resolved: We would design a survey instrument for local governments throughout the United States. The first question, however, was not resolved; instead, all three areas (inventory, implementation, and development activity) remained in play.

In summer 2005, Larry Rosenthal, Richard Green, Steve Malpezzi and I began to draft the survey instrument that eventually went to CUPR for further development and focus group testing. We brought our own biases to this effort but also the variety of opinions about “what mattered” that had characterized the discussion all along. We also had a strong sense that most respondents wouldn’t answer a long survey with very detailed questions, and that we needed to exert a lot of self-discipline to restrict the potential responses. We also began working on the “prototype,” but for clarity, that discussion is restricted to the next major section. I call the results the GRMP (“grumpy”) survey, for Green, Rosenthal, Malpezzi, and Pendall, though any of the others can disavow it if they wish.

Even before the survey took shape (at least as early as the Chicago meeting), it was clear that more testing and development would be necessary before it could be sent out to a national audience. My own experience showed important regional differences even in basic questions (e.g., Ohio townships don’t adopt zoning “ordinances” but rather “resolutions”); also, most of us agreed that the prototypes needed to be tested in different housing markets. Hence, the instrument was developed with the expectation that it would be taken into the field and tested. We didn’t expect that a completely new player (one who hadn’t been involved even in the 2004 conference) would introduce new ideas into the survey, or that fundamentally different survey instruments would be tested in the five focus group test areas (New Brunswick, Atlanta, Minneapolis-St. Paul, Portland, and Boston).

Original Instrument: Rationale and Discussion

As discussed above, the process of developing a long list of “what matters” in local regulations revealed a great number of opinions and categories. Our categories were Recent Development Activity; Permit Processes; Zoning; Regulations to Manage Residential Growth Rates, Locations, and Infrastructure Capacity; Affordable Housing Mandates and Incentives; Recent Rezoning Experience; Controversy of Residential Development; and Other Constraints on Development.

The vast majority of local governments have zoning ordinances, but zoning varies enough from one place to another to merit inclusion of separate sections on both what’s on the books and how zoning influences development (or vice versa). In addition, the local expert on zoning might be someone other than the local expert on recent building activities or the subdivision approval process. Zoning questions logically constitute the plurality of what’s in a national survey.

Regulations to manage growth, by contrast, are more unusual; giving them their own section tells the respondent(s) that they may be able to skip most of these questions. The same could be said of regulations to encourage or require housing affordability. Either of these two sections could be developed in a modular fashion, with limited numbers of questions to be asked in a first round and perhaps a follow-up survey or long-form approach to get at some of the details in regions where such measures seem to be most common.

The sections on the permit process, recent zoning experience, and controversy (retitled “Residential Development Decisions” starting in the February 7, 2007, version of the CUPR survey) reflect the desire to know more about the implementation of regulations. These sections probably could have been brought together more coherently or at least arranged so that “Recent Zoning Experience” followed directly on the zoning section and the controversy section followed that on the permit process.

CONTENTS: "DATABASE SURVEY"		
Question Type	Section	Number of Potential Responses (maximum)
Activity	Recent Development Activity	10
Process	Permit Processes	8
Inventory	Zoning	13
Inventory	Rate, Location of Residential Growth	18
Inventory	Affordable Housing Mandates/Incentives	13
Process	Recent Rezoning Experience	4
Process	Controversy ("Residential Development Decisions")	3
Process	Constraints	5
TOTAL		74

The section on recent development activity reflected the desire to know more about what the jurisdiction was accustomed to processing. The section on constraints attempted to learn whether politics or topographic and environmental conditions also inhibit housing construction.

In all, there were 37 questions, but many of these questions had multiple possible responses. Counting liberally, 74 individual potential responses to these questions can be identified (see table above). The majority (44) of these potential responses were in the inventory questions (zoning, growth management, and affordable housing sections). The three process sections (permit processes, rezoning, controversy) accounted for 15 responses. Recent development activity and constraints accounted for 10 and 5 responses, respectively.

From the "Inventory" Instrument to the "Database Survey" Instrument

When the questionnaire was prepared, we did not envision that the instrument would change much after the focus group consultant team received it; we had argued hard over questions as it evolved, eliminating some and scaling others back. However, that, indeed, is what happened (see table at left). No fewer than three revised surveys were used in the different focus groups; those I have on file, which are used for this review, were finalized on December 12, 2006 and in 2007 on February 7 and May 31 (i.e., during the writing of this "originator paper").⁴

In the biggest possible picture, the perception might be that the survey instrument didn't change all that much over time. The titling of the instrument (or at least this part of it) changed from "inventory" to "database survey," which I consider a "friendly amendment" since it's more than an inventory; as mentioned above, the GRMP draft includes inventory, implementation, and development activity sections. The subject groupings remained roughly the same, though two changed a little in their titles; the section on "regulations to manage residential growth rates, locations, and infrastructure capacity" was retitled to remove "infrastructure capacity," and the one on "controversy of residential development" was retitled "residential development decisions." The number of questions, too, remained approximately the same (around 37, if you don't count the a's, aa's, and b's as new questions).

The biggest change came where it counts most: in the number of potential responses.⁵ Sub-questions and parts were added in the first two revisions, increasing the potential responses from

4. For this draft of my "originator paper," I have assumed that the drafts have been "revisions" rather than "regional instruments," i.e., that the latest version is the one closest to a final national instrument. If this isn't correct and instead there might be as many as four different instruments, I would have to question whether this defeats the purpose of a national survey.

5. I counted each potential response as a question, consistent with the protocols of Cornell's survey research institute. A yes-no question with one follow-up question to fill in, for example, would count as two potential responses. Each potential response on a "pick all that apply" question counts as one potential response. A "pick the best response" question counts as one response, regardless of the number of categories. Adding categories to such a "pick the best response" question wouldn't increase the number of potential responses. This did happen, however, more than doubling the total word count between the GRMP survey and Rutgers' February 7, 2007 document, a hidden factor in the expansion of the survey.

74 (GRMP survey) to 123 (December 12, 2006) and then to 150 (February 7, 2007). In the third revision, the number of responses fell to 110 (May 31, 2007).

This variation in content raises questions about the comparability of the findings among the focus groups and must pose an interesting challenge to the Rutgers consultant group. Would the Portland focus group have found the Boston version overly simplistic? Would the Boston group have responded differently (and with less sense of humor) to the Portland questionnaire? Would any of the groups have found the original survey as burdensome and time-consuming as they considered the revised versions?

The variation also makes it difficult to know which survey version to evaluate and discuss here. Since it's closest in length, I will compare here the GRMP survey to the May 31, 2007 survey, section by section.

The first section, Recent Development Activity, is similar. A question on the maximum project size was dropped. A new one on townhouse residential developments was added. In general, it may be a good idea to add a focus on townhouses in a national regulatory survey, but before doing so, it would be worth evaluating their relative importance in the housing stock.

The second section, Permit Processes, grew from eight to 19 possible responses. This growth is mainly a consequence of adding a prompt that asks the respondent to indicate why permit approval times increased. Respondents have up to seven closed-ended responses and one open-ended response. A new question was also added on the availability of pre-application conferences. In my view, these qualify as "long form" questions, i.e., questions that perhaps could be asked of a subset of respondents but not of all respondents.

In addition, and to me more important, several of the questions in the permit processes section shifted from being about multifamily housing only to being about "townhouse or multifamily" housing. I think this would prove problematic to answer and to interpret, especially in a jurisdiction that allows both townhouses and multifamily housing. If the

goal is to learn about townhouses, then the survey should ask about townhouses; if it's to learn about apartments, then the survey should ask about that. We did have a rationale for limiting the questions to single-family detached housing and apartments: they are the most common housing types, time is limited, and clarity is very important.

A final change in this section was subtle but probably important: how to measure the time required to process development applications. We had used "final map or plat," but the survey form changed to "preliminary plat." Preliminary approval is the deadline for "discretionary" action; if one had to pick either preliminary or final approval, it should be preliminary approval. But the time between preliminary and final approval can also be a serious problem, and it does relate to the complexity of the local regulatory process. I don't know how to fix this problem without lengthening the survey even more.

The Zoning section grew from 13 to 22 possible responses in this latest draft, having previously ballooned to 37 possible responses in the 2/7 draft. New questions appeared about parking requirements and minimum house size requirements; additional prompts and choices were added to the question on mobile and manufactured housing and on minimum density. Of all these, the questions on mobile and manufactured housing are truly necessary and welcome additions in a national survey, since this is the principal source of affordable home ownership in many regions. The other questions apply to only a few parts of the nation (minimum house size, minimum density) or are too detailed to ask everyone and should be consigned to a subsample or to investigation with alternate methods.

The first few questions of the zoning section are a mess, partly of my own making. We don't even have a clear first question: the wording, "zoning or other similar provisions," is too broad. In a complete design using an electronic form (online), a "no" answer on a simple yes-no on the zoning question could then bring up prompts ("Do you have something that works like zoning, for example?..."). Though I am reluctant to hint at

a new question, it may also be helpful to add, “Is land development in your jurisdiction regulated by zoning adopted at another level of government?” And I am still dissatisfied with the way Q18 works out; the revisions to this question lose the original purpose, which was to identify areas mostly in Midwestern states where counties and townships have overlapping, shared, or conflicting sovereignty over unincorporated land. Maybe it would even be apposite to consider a completely different survey structure for counties.

I also have reservations about other changes to this section. The question on maximum residential density added some categories (why so many?), and a new question on land availability was added; I’m skeptical about the utility of this question, especially since it isn’t about vacant land anyway. I also oppose open-ended responses (height limit question, garages, minimum square footage); respondents may fail to answer them because they find it difficult to provide a precise answer, and coders will have to spend more time coding them (assuming the survey is still done in hard copy).

The section on Growth Management has been modified more than any other section. It grew from 18, to 28, to 39 potential responses between the GRMP draft and the February 7, 2007 draft, and then plummeted back down to 17 potential responses on the May 31, 2007 draft. I don’t know whether any of these versions (including the GRMP version) has the right idea, but the May 31 version is definitely on the wrong track because of its extensive use of open-ended responses (at least one appears in each of the four questions in this section).

The first subject matter in this section is the *rate of growth*. The original question 23 asked, quite simply, whether the jurisdiction had any measure that would explicitly limit the rate of residential construction, either through a building permit cap, or through a moratorium imposed by the jurisdiction itself or a special district. As early as the first revised draft, this question was dismantled; the moratorium response was narrowed to “sewer moratorium” and moved to the section on infrastructure-related level of service standard. Two other options were inserted

in its place: “timed ordinance that may relate to development of certain portions of the community first” and “a cap on the number of zoning hearings.” While both of these issues may belong somewhere in the survey, this is the wrong place for them. The word “moratorium” doesn’t appear anywhere in the May 31 version even though moratoria are more common nationally than permit caps; instead, the latest version of Q23 has an open-ended response asking what kind of measure the jurisdiction has.

The next question/topic is *exactions*, a very large and tremendously important subject; about half of jurisdictions nationwide now use impact fees for off-site infrastructure, for example, and they have spread to all regions of the nation. The GRMP version grew too large for one question; at this point, I think separate questions should be asked on (a) impact fees or system charges, (b) negotiated contributions, and (c) other exactions. In all three, closed-ended ranges of dollar amounts of fees or acreages of land should be used rather than open-ended responses. The May 31 version is far too open-ended to produce consistent and useful national results. (Maybe this was because impact fees are uncommon in Boston.) I also think this question should be moved above the rate-of-growth question(s).

The next question concerns *adequate public facilities ordinances* (APFOs). It’s about the same, but now I think it ought to be asked more directly, with “adequate public facilities” in the main body of the question. This question could also use development since about 30 percent of jurisdictions use APFO’s nationally.

The final question concerns *urban containment*, which approximately 20 percent of jurisdictions in the 50 largest metro areas use. The GRMP group thought and talked about this question at length. We arrived at a short list of important questions. I would now change or eliminate two of those original ones, both of which involve personal judgment or speculation on the part of the respondent (questions about the ease of expanding the boundary and amount of land available for development if current growth trends persist). Interim revisions of the survey inserted even more

questions of judgment that we never would have included (e.g., “Has the boundary caused housing prices to rise?”). I think the interim question on the number of times the boundary has been modified in the past five years is better than the judgment question about how easy the boundary is to modify. Finally, I think it would be worthwhile to ask about infrastructure-related boundaries and timing/phasing ordinances in a question completely separate from the idea of urban growth boundaries or greenbelts.

The Affordable Housing Mandates and Incentives section grew from 13 to 24 questions. The source of this growth was the welcome addition of new options and sub-questions about the use of regulatory incentives to encourage affordable housing production; I would eliminate Q29aa (open-ended) but keep the others. There was also a shift in Q27 and Q28 (incentives and mandates for affordable housing) that results in some confusion. I think this part of the survey deserves some design-related fine-tuning, generally, to find out (a) whether the jurisdiction requires some/all development to include affordable housing, and (b) what kinds of incentives the jurisdiction offers to encourage affordability. Interim survey versions asked additional questions that were too detailed for a national survey.

The Recent Rezoning Experience section is pretty much the same, with one seemingly minor exception: the addition in Q32 of “conditional/special use permit.” Use permits are often, if not always, approved by the zoning board of appeals or the zoning administrator, not by the legislative body. Rezoning and zoning ordinance amendments, by contrast, must usually be approved by the legislative body. For the sake of consistency and to serve the underlying purposes of understanding how “sticky” zoning is across the country, I would suggest reserving the questions in this section for issues that rise to the level at which the legislative body has to approve them. This question may still be hard to interpret because some jurisdictions treat every PUD as a rezoning requiring approval by the legislative body.

The former Controversy section, now titled Recent Development Experience, has been so modified that I would suggest eliminating it. Questions on controversy may get the respondent into hot water and thus may reduce response rates (and in a biased manner, i.e., respondents in places with more controversy would answer less often), and those about appeals could be reconsidered and moved into the permit processes section. (I still like our question about late-night meetings, but I understand it may be too whimsical to ask in a government-sponsored national survey.)

The final question, on Constraints, grew by the addition of questions about costs and one about private corporate entities. I’m ambivalent about the cost-constraint questions, which seem like secondary impacts to me (infrastructure development may be cost-prohibitive because of any combination of low permitted density, physical constraints, and other barriers).

In summary, I think the most important additions to our original survey were questions on affordable housing incentives and mobile or manufactured homes, and the most appropriate modifications were in the Controversy section (though as noted, the revisions could be merged into the Permit Process section). The sections on exactions and urban growth boundaries never came out quite right. Otherwise, I still think the original GRMP survey is closer to what ought to be used in a national survey than any of the modified survey versions.

The Hypothetical Prototype Option: Discussion, Critique, and Evolution

When we developed the questions on hypothetical prototypes, we didn’t intend them as “section 2” of a national survey but rather as an alternative form that might be sent instead of the “database survey.” The idea of a prototype came to me when considering the results of my 1994 survey, which asked only about maximum permitted densities. The maximum residential density might appear to preclude a small-lot single-family or multifamily project, while in reality such a project could be built by exception or special

permits or in nonresidential or mixed-use zones. In the 2003 survey, I asked a question about whether one hypothetical prototype could be built anywhere in the jurisdiction by the terms of the current zoning ordinance: 40 units of two- to three-story apartments on five vacant acres, assuming such land was available somewhere in the jurisdiction. I gave respondents three simple choices: Yes, by right; Yes, by special permit or other discretionary process; and No.

When we presented this option to the group meeting in Chicago, many of the participants liked it; thus began the process of expansion that resulted in the situation that we have on our hands today. I still think one targeted question that asks for clear Yes–No answers about apartments (like mine from 2003) could be added to the national database section on zoning without too much trouble, especially with the addition of questions on manufactured housing as suggested by the redrafted survey. Otherwise, I think we should put the hypothetical prototype down as a dead end and reserve analysis of the specific attributes and outcomes of zoning for in-depth, region-specific analysis.

Evaluation of the Focus Group Process

Absent the results of the Boston focus group and the overall summary by the consultant, I am going to defer offering a final judgment on the focus group process. Overall it's been useful, but not without reservations. At the broadest level, all the focus groups agreed that a national survey would be both feasible and useful, though some participants believed that respondents wouldn't be candid even with a very neutral inventory-like survey. The experience identified common practices as well as some statutes, practices, and terminology that differed by region or state. The focus groups also highlighted certain areas that probably need to disappear from the survey (e.g., Controversy) and showed that it will be difficult if not impossible to design an entire survey around the hypothetical responses. On the other hand, the experience has resulted not in one revised—and streamlined, perhaps least-common-denominator—survey but rather in four instruments, some of which are too long.

Next Steps

The next step ought to be a careful reconsideration of the questions that were raised and not answered definitively in the Chicago meeting. Should a national survey or census of local governments ask inventory, implementation, or activity questions? My answer to this question, again, is that a national representative survey ought to be restricted to inventory questions because respondents have limited capacity to answer other questions. Ten responses are too few, but such a national survey could be limited to about 60 potential responses. A long-form version could be developed with up to, say, 100 responses, somewhere between GRMP and the shortest Rutgers version. The purpose of this survey should be to understand clearly the differences between U.S. regions, not to know about variations within regions, of residential development regulation. Every effort should be made to get a representative regional sample. Questions on zoning, growth-management, infrastructure-related, and affordable housing regulations should be included. Others should be dropped or included only on the long form.

For deeper knowledge about land-use regulations, representative regions across the country should be investigated in greater depth, perhaps four to six per year, in different states. There is no way that this sort of research would be feasible without going far beyond the research-related purposes for which the National Regulatory Barriers Database has been discussed to date; instead, it would be tied to state and regional planning processes, especially for transportation, air quality, water quality, and natural hazards, with funding sources thereby considerably broadened. The goal of the project would go beyond “regulatory barriers to affordable housing” and toward a sense of the benefits and costs of land-use regulations within a broader regional development context. A clear sense of “value added” would replace a sense of “unfunded mandate,” and both response rate and response quality would rise.

These investigations would begin with state-level research (statutory and case law review, key-informant interviews) about the planning

and regulatory framework. It would seek regional partners for the development and implementation of a longer-form survey of local governments, probably using in-person interviewing instead of self-administered surveying in as close to a census of jurisdictions as feasible. These regional partners would always include the MPOs, whose participation would be encouraged by the assistance of a national group of experts who could help them create standardized regional GIS layers of current land use and zoning. In a subset of faster-growing jurisdictions, additional research would be done to identify a sampling frame of residential development project sponsors; in-person interviews or focus groups would be conducted of these builders.

Finally, we need a better sense of the scale of land development in various parts of the country. I would suggest that this be pursued within the building permit and construction activity census rather than in a survey of land-use regulations. Alternatively, it may be possible to develop indicators of subdivision and building size based on other survey data. A national random sample could be taken one time only (or every 5 to 10 years) about subdivisions, townhouses, and apartments (like the questions asked in the “Recent Development Activity” section), and responses to these questions could be modeled as functions of building permit activity. Then one could make inferences about the scale and types of subdivisions, townhouse developments, and apartment buildings based on already available data from other sources.

THE NATIONAL REGULATORY BARRIERS DATABASE SURVEY DESIGN EXPERIMENT

*PROSPECT AND CHALLENGES:
WHERE TO FROM HERE?*

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Paper prepared June 2007

The HUD-sponsored effort to develop a survey-based National Regulatory Barriers Database (NRBD) proceeds from commendable intentions. Federal law recognizes that identifying the kinds of local regulation most inimical to low- and moderate-income housing development is a national priority.¹ At a minimum, the collection of baseline information on regulatory conditions can assist policy leaders in making judgments about the relative merits—and true social costs—of various local enactments and decisions. Reliable, current data on land-use practices will spur federal and regional efforts to ameliorate the undesirable effects of local constraints. Moreover, acquisition and publication of information on local practice is a sensible way to advance the national discourse on optimal paths towards reform.

Now, we address the first organized public response to this survey effort, in the form of focus groups piloting a draft survey instrument. Along with Rolf Pendall and others, I have assisted in the development of the survey and the design of the focus-group pilot task order. This work first got under way formally after the National Research Conference on Regulatory Barriers to Affordable Housing, convened by HUD April 22, 2004 in Washington, D.C.²

In this paper I provide some reactions to the focus-group reports I have reviewed, as well as the evolving survey itself. I take the latest revision of the survey (dated May 31, 2007) as an interesting specimen, inasmuch as it represents the focus-group team’s consolidation of the substantive

1. Removal of Regulatory Barriers to Affordable Housing Act, P.L. 102-550, title XII.

2. The proceedings of the April 2004 conference are compiled in a special 2005 volume of *Cityscape* (vol. 8, no. 1).

changes recommended in the pilot reviews. For better or worse, there appears among focus-group participants considerable uniformity of response to the draft survey, its strengths, its foibles, and its obvious room for improvement. In addition, the focus-group effort has made quite plain a number of vexing implementation challenges facing the NRBD survey as we move forward. On these too I offer some thoughts.

On prefatory matters summarizing the group's efforts to date, I will defer to the summary provided by my colleague Rolf Pendall in his originator's paper. Likewise, I will have little to say here about participants' reactions to the design of prototype hypothetical survey items. My attentions will be devoted to my reactions to remaining elements of the focus group results, including particulars on composition of the panels, thoughts on the survey's purpose and method, revisions of the draft instrument, and related issues.

Throughout this discussion I make reference to the four focus-group reports I have reviewed, by city initial (Atlanta, New Brunswick, Minneapolis, Portland) and page number. For example, a reference pointing to "NB18" would cite page 18 of the New Brunswick report. "Participants" is meant to refer to those populating the individual panels in each of the four cities.³ Survey items are referred to using the format Q#.

Plaudits Aplenty

It must be observed that the focus-group exercise has been quite productive in a number of respects. The effort engaged local and state leaders in the field across the country on matters of great interest and import regarding national housing policy.⁴ It is obvious that the meetings were handily organized and facilitated. Item-by-item constructive advice concerning elements of

wordsmithing and formatting the survey will prove invaluable.⁵ Participants' views regarding NRBD strategy, feasibility, and methodology yielded numerous insights. The glossary alone represents a wonderful value-added and a most welcome work-product. At the same time, the sheer necessity of a multi-page glossary accompanying a survey instrument already exceeding optimal length highlights the pesky nature of this enterprise (see discussion below).

The task-order group's hard work closed gaps on what had been blind spots for the survey designers. For example, the draft instrument paid too little direct attention to attached ownership housing like townhomes⁶ and condominiums. Likewise, critically important elements such as parking requirements and land cost were given too short shrift in the original document. Elsewhere, detail and clarity were enhanced in the following items, each such revision motivated by sound reasoning and strong focus-group support:

ENHANCEMENTS IN FORM AND CONTENT

Q4	Recent townhouse approvals
Q19b	Proportion of developable acreage in highest-density category
Q20	Dimension of minimum-density levels
Q25	Jurisdictional source of adequate public-facilities requirements
Q29	Detail on expedited review initiatives
Q37	Private/corporate ownership as constraint on land supply, prohibitive infrastructure cost, only source is small-parcel assembly

The NRBD project now likely faces an upcoming phase of demanding tactical choice and continuing

3. The report on the final focus group session conducted in Boston was not available in final form at the time of this writing.

4. The actual identities of participants are not known to me.

5. Focus groups yielded useful pointers on: order of topic areas [A7, NB7], insertion of "don't know"/"depends" choices [A7], provision of a time-estimate for survey completion [A7], survey length [A7, NB8], offering of survey "roadmap" [NB8], survey title including the words "affordable housing" and even "barriers" [NB8], statements as to survey purpose [A7, NB7], explanation of affordable housing issues and land-use linkages [A7, NB8], specifying whether one or many individuals may contribute to a jurisdiction's responses [A7], instructions inviting each section's respondent to identify him/herself on the answer sheet [A7], and enhancing look and feel, in order to make the survey more professional and user-friendly [NB8].

6. I note that currently the draft glossary lacks any entry for "townhouse" or the like.

budgetary uncertainty. The task-order focus-group exercise will be viewed as a time of evolution and ferment for our vision and approach, thanks in no small part to the task-order team's enthusiastic and thorough efforts on a difficult set of objectives. While its recommendations are not beyond debate by any means, the team has crafted a set of concrete alternatives regarding survey emphases and content. Further, they have managed to support their positions with specific evidence from the participants' responses. All of this provides fuel helping the project move forward.

Note on Survey Strategy and Method

I would remind those interested that the piloted instrument is one of a number of stratified approaches our working group has discussed with HUD. NRBD implementation would need to be creative, resourceful and multifaceted. The causes and consequences of local controls vary with the regulatory circumstances governing the region in which they operate. Baseline jurisdictional information needs to be coupled with data from broader sampling frames and contexts.

At least two tiers of data collection are contemplated: (1) a short-form survey⁷ made as general, concise, and brief as possible to provide information sufficient to develop national- and state-level estimates; and (2) a more detailed and in-depth long-form instrument, to be fielded across a sample of metropolitan statistical areas (MSAs) and all constituent jurisdictions within each. Optimally, a nationally sponsored census of local regulatory conditions would be conducted periodically to update this baseline. A comparable approach is taken in the *American Housing Survey*, in which regular biennial surveys of a broad national sample are complemented by less frequent but more intensive study of individual MSAs.

We had anticipated that the focus-grouped instrument would form the basis of the short-form survey composed of weighted national and state sampling coverages. It is not immediately clear

from the focus-group results that this point was adequately conveyed to the research team on the task order or to participants. Instead, it seems that participants believed the survey was a one-shot deal, required to be in one-size-fits-all condition in order to be feasible. Additionally, the inclusion of numerous, newly created items in the most recent revision of the survey suggests that the task-order team believed all items of some threshold level of curiosity would need to be included in this version of the survey, lest they be omitted permanently. Given our orientation toward development of longer-form editions of the survey, we never felt governed by any such use-it-or-lose-it mindset.

As our working group has already recommended to HUD, the short- and long-form, national, state and MSA elements of the NRBD program would need to be supplemented by a variety of parallel data development efforts. Compilation of *outcome measures* to be analyzed for varying regulatory effects across localities, regions, and states might include home-price and rent levels, land prices and supplies, new construction and rehabilitation of market-rate and below-market-rate units, information compiled from local tax-assessor data; and trends in the preservation and conversion of existing assisted units in the stock.

In order to facilitate measurement of *control variables*, compilation at the jurisdiction level of demographic, housing, and other pertinent indicators from the 2000 Census and several historical censuses is necessary. This is complicated by known differences among census geographies and those delineating the coverage of the respondent land-use authorities. Having nationally uniform demographic data for land-use authority geographies has obvious appeal. Of course, it would be ideal to augment base-level information of this kind with localized data on as many background economic and other indicators as possible.⁸ Finally (and not at all a trivial matter), the methodological quagmire of simultaneity in land-use outcome models—given

7. Short-form instruments were also recommended by participants as they considered the length of the survey draft [A7].

8. Each focus group appears to have recognized the need for companion demographic and other indicators, and the general inclination is to have this data amassed by survey staff outside the respondent community.

that causes and effects are no doubt endogenous—means the parallel data effort must also be ever on the lookout for instrumental variables thought to be not jointly correlated with influences and impacts.

It is quite possible that, had they been so prompted by focus-group facilitators, participants would have been happy to reserve additional data constructs for longer-form versions of the survey. It follows that some new items inserted into the current survey revision by the task-order team may well be candidates for such a reservation currently:

NEW SURVEY ITEMS: INCLUDE IN LONG-FORM SURVEY ONLY?	
Q4	Townhomes
Q6	Affordable/workforce programs
Q11	Options: Why subdivision approval times increase
Q12	Re: pre-application conferences, workouts
Q13	Why no additional approvals needed for as-of-right multifamily
Q18	Recent areas affected by incorporation
Q20	TOD and minimum-density levels
Q21	Mobile home regulation
Q22a	Garage requirements
Q22b	Minimum square footage/single-family development
Q26	New item on specifying growth boundary type
Q29a	Percentage of time more common expedited-review approach used, identification of most-prevalent approach, and detail on whether negotiated or imposed by ordinance
Q29aa	
Q29b	
Q35	Property owner appeals of regulatory action
Q36	How many meetings monthly for permit-granting entity; "Within how many days do you consider SFD applications?"

Participants in the pilot focus groups likewise contributed constructive ideas for topic areas which could fruitfully be made part of the NRBD's scope. These items relate in numerous ways to affordability, spatial integration by income and housing-stock characteristics, and a variety of other targeted outcomes. Applied policy research might well explore how each of the following pertain to affordability, construction, urban form and neighborhood composition:

- Property tax
- Transportation policy
- Environmental regulations
- State land-use statutes
- Market forces/business cycle (e.g., real estate, labor/industry, etc.)

The key point here is that, irrespective of our interest in these matters generally, they will hardly fit in a simplified, economical short-form instrument. Accordingly, they should be reserved for deployment in the MSA-level, in-depth, long-form studies.

Focus Group Composition

When the survey design group (Green, Malpezzi, Pendall and Rosenthal [GMPR]) concluded the initial phase of work in the summer of 2005, the group recommended that focus-group pilots comprise a diversity of professions, experiences, and perspectives on regulatory processes. It was envisioned that core members would supplement an initial group via a "snowball" process in each region, with key informants identified in a first round and then asked, "Who else should we talk to about the survey?" GMPR listed the following kinds of possible participants in the focus group effort, explaining the perceived utility of each:

- Low-income housing providers such as public housing authorities
- Market-rate homebuilders, who are finely attuned to questions of process and the impact of regulations on their bottom line
- Affordable housing developers and associations (especially nonprofits), who may identify issues that differ from production builders
- Manufactured housing associations
- Real estate professionals
- Advocates for low-income renters and first-time homebuyers
- American Planning Association state chapters, including chapter presidents and lobbyists; some APA chapters also have sections for geographic sub-areas
- Municipal leagues of cities, towns, and counties lobbying state legislatures and agencies; leaders

can identify knowledgeable elected officials from the local level to serve as expert advisors

- ❑ Associations of building officials, which may be helpful in identifying nondiscretionary regulatory barriers as well as procedural issues with approvals
- ❑ Special district and school district associations, which can instruct on questions about infrastructure capacity; they also may be helpful in determining whether separate surveys ought to be developed for special and school districts (We expect great institutional variety across states along this dimension.)
- ❑ State housing finance agencies and allocation entities that review tax credit applications and already interact with local governments concerning specific project proposals; their determinations depend strongly on local receptivity to affordable development, and they have both expertise on, and direct stakes in, local regulatory outcomes
- ❑ State departments of housing and community development that may govern small-city CDBG funding as well as executive-branch policymaking across gubernatorial administrations
- ❑ State departments of environmental protection, conservation, wildlife, and fish and game, which may help identify constraints affecting local regulatory policy
- ❑ State departments of local government affairs, who know municipal structure and can provide access to directories and information about who's who in local government; some states already do their own surveys of local regulations through such departments
- ❑ Attorneys in American Bar Association and state bar land-use sections
- ❑ Academics teaching in planning schools, public policy and administration programs, and law schools
- ❑ Smart growth organizations

In stark contrast, the focus groups considered in this paper encompassed decidedly narrower representation:

FOCUS GROUP COMPOSITION	
Atlanta	Planners (6), attorneys (6), developers (1), bankers (1), consultants (1), housers (1)
New Brunswick	Planners (9), attorneys (3), developers (1), housers (1)
Minneapolis	Planners, developers, attorneys, researchers, housers, planning/zoning board members (<i>numbers not reported</i>)
Portland	Planners (4), attorneys (2), developers (1), housers (2)

Perhaps if the actual identities, affiliations, and career paths of participants were revealed, greater diversity of representation would be indicated, but such a conclusion cannot be drawn from the bare statistics provided in the task-order reports.

Needless to say, composing focus groups and eliciting attendance can be a tricky affair, what with invitees' busyness, scheduling conflicts, and the like. In Rumsfeldian terms, perhaps one needs to go to battle with the focus groups one has, not the focus groups one desires (or needs). Nonetheless, it should be emphasized that the observable consistency, even near-verbatim repetitiveness in places, of the focus-group report materials perhaps reflects this departure from the kind of diverse representation originally envisioned for the activity.

Purpose of Effort

Focus-group participants and leaders expressed curiosity regarding the overall purpose of the survey and the uses to which the resulting database might be put. For many, inclusion of the motivations and justifications for the effort would best be stated clearly, otherwise respondents would be reluctant to participate [A7-8, NB7-8, M6, P7]. To a certain extent, this inquiry asks whether the bulk of statistical analysis will be descriptive or inferential, and interest among respondents in such predictions remains difficult to comprehend. The government invests in developing data as information, to be put to whatever uses research and politics might deem useful in the moment.

Inasmuch as the survey design and pilot exercise are born of a national concern regarding

excessive barriers to residential development, there can be little doubt that the overarching motivation is one which is essentially policy-analytic in nature. However, the survey generating the desired database should be neutral rather than partisan, and the responses sought should be descriptive and perceptual,⁹ not political or normative. There seems little point in scripting or constraining the ways NRBD data can be utilized by policy researchers, academic scholars, planners and other practitioners. No social science enterprise should have to justify itself to all interview subjects in order to secure their responses. Such an obligation imposes too diffuse a burden on what is, after all, a consciously multipurpose undertaking meant to support all manner of pertinent inquiry. Raw land-use data might potentially be used to predict or explain economic development, racial segregation, incidence of mortality and morbidity, and even prevalence of zoos and circuses.

At the same time, the GMPR group has recognized all along that a critical mass of buy-in among respondent groups would likely be necessary to ensure the long-term practicability of the NRBD schema. If there be consistent suspicion regarding untoward use of the data—or simply insufficient incentive to override respondent disinterest—appropriate strategies will have to be devised.

Questions on Feasibility and Methodology

From the standpoint of survey administration and logistics, the NRBD is obviously daunting. In the absence of genuine leadership and real financial resources dedicated by the federal government toward the enterprise (perhaps with state, nonprofit, and even international partners),

it is difficult to imagine it being sustained and regularized. The steep trajectory of ambition has been obvious to all involved from the outset.

A number of participants voiced concerns about how a sufficient response rate could be ensured and whether a regular cohort of equivalently trained, authorized and placed local-government respondents could ever be established. Here we confront two separable concerns involving (1) *survey penetration rates* and (2) *horizontal response capacity*.

Regarding methods for ensuring adequate response rates, participants questioned the use of specific incentives and penalties (e.g., linking completion of the survey with eligibility for federal aid) [A20, M6]. Others contemplated whether actual payments could be provided for data acquisition [P17]. Neither “carrots” nor “sticks” can be utilized easily across jurisdictions to induce completion of the survey. Most smaller jurisdictions have little direct relationship with HUD. It appears impractical to tie survey compliance with any form of federal grant eligibility or deprivation.

We had first envisioned that, once institutionalized, the NRBD surveys would become as routine as the building-permits surveys conducted by the Census Bureau (Form C-404). However, NRBD subject matter is at once more complex and politically sensitive than such ministerial information. A clear and simple approach for ascertaining baseline regulatory data in an economical and streamlined way with high response rates appears somewhat elusive at the present time.¹⁰

Regarding consistency of the actual respondent cohort across jurisdictions, some participants

9. The matter of respondent perceptions—as opposed to their conveyance of veritable fact—raises issues relating to subjective versus objective items in the instrument. Some participants questioned the usefulness of items seeking respondents’ subjective opinions, identifying the prototype questions as being particularly suspect in this regard [A6]. Others requested that respondents be provided an opportunity to opine at length regarding what they personally thought the severest regulatory obstacles to housing development in their localities and regions might be [A8]. There is a gilded tradition in land-use studies to use outside, expert opinion on restrictiveness instead of attempting to index practices and enactments. Such an open-ended “name the worst regulatory barriers” question was proposed by Steve Malpezzi of the GMPR group. It was included in early drafts and but was discarded from the version selected for the focus-group pilots, largely in an effort to reduce the survey’s length.

10. The Portland focus group generated some helpful suggestions including administering payments to those completing the survey and utilizing regional HUD offices to monitor and encourage response compliance [P17]. This report also emphasized the importance of marketing and promotion to heighten response [P18].

recommended the survey be addressed to a chief administrative officer (CAO), who would be treated as the responsible party by HUD's survey team. Ultimately, in these participants' view, the CAO would designate a responsible and knowledgeable land-use officer (LAO), who would be the actual source of information constituting that jurisdiction's submission [A19]. The lack of sufficient personnel and staff-hours to complete the survey is a constant issue in this context. In Portland, it is thought that Metro's survey efforts have failed in the past due to precisely this concern [P6].

No one involved in the survey design or task-order phase of this work believes the survey instrument should be onerous or intimidating for respondents to complete. A number of trade-offs lurk: between the depth of reasoned inquiry among knowledgeable experts, on the one hand, and the ease of access to streamlined information sources, on the other; between legitimate topics of national curiosity and lesser probabilities that any one individual in a respondent jurisdiction has all the necessary information readily available. The more hands the survey must pass through in each locality in order to be completed, the lower the likely response rate. The more time-consuming and burdensome a first go-round is to submit, the less likely that critical mass of buy-in will sustain itself over time, and future response rates will suffer as well. The plain fact is that NRBD areas of concern involve extremely complex social processes, legal and regulatory rules and procedures, interagency tugs of war, and sensitive areas of local policy choice. After all, if this data were easy to collect, no doubt it would already exist with greater coverage, replicability and access than it has to date.

Responder Perceptions and Willingness to Participate

Many participants voiced optimism and praised the survey effort, found the establishment of a national regulatory baseline relatively feasible, and believed the pilot tests would produce helpful information [A6]. Others voiced strong support for the project [NB5]. At the same time, planners participating in focus groups—contemplating their

reactions were they to receive the survey form—tended to wonder, “What’s in it for us?” [M6]. A number of participants requested that information be provided with the survey showing how respondents might benefit and how the data might come to assist them in their professional practice.

Participants thought the description of the survey as being national in scope, or its association with HUD, would undermine respondents' willingness to complete the survey candidly and truthfully [A5, P18]. Some referred to redundancy in the proposed instrument relative to information provided in Consolidated Plan applications for HUD funding [M7].

In particular, anything in a national survey obviously intended to identify exclusionary-zoning “culprits” would deter response by both jurisdictions actually guilty of such practices and those innocent localities that might be so perceived [A8, NB13]. The pilots identified sensitivity toward characterizing one's own regulations as “excessive” in any way [NB13], even in the context of reporting the basis of a lawsuit contesting some permitting decision. In this connection, were individual responses identifiable with specific jurisdictions, such material could possibly be utilized as evidence in litigation concerning questionable land-use enactments and rulings [A8]. In some instances, city attorneys might err on the side of caution and simply rule out anyone in City Hall ever completing the survey [M7]. Frankly, such adversarial legalism obstructing federally underwritten data collection never appeared the largest NRBD obstacle to our colleagues in survey design. Of course, depending on local conditions, such a scenario is certainly plausible.

Apart from such confidentiality concerns, numerous participants believed badly worded items could irk or offend respondents, such that they might decline to complete the survey as a result. Examples include rejection of any suggestion a jurisdiction may have “deliberate” anti-development or slow-growth policies [Q25] or “excessive” conditions for project approval [Q33: NB12, NB13]. Such fear of recalcitrance

or vindictiveness on the part of local planning and building officials may be a bit overblown. The function of the survey is to establish baseline, barometric readings of local regulatory conditions. Making sure respondents are left with a warm and fuzzy reaction would be a decidedly lesser priority. More importantly, fielding survey items clumsily phrased in an inappropriately passive and sketchy manner is not a path toward reliable findings. At the same time, careful judgments must be made regarding survey content and design, to reduce the likelihood that large numbers of respondents will be nonplused by the exercise.

The focus-group write-ups raised many questions regarding the biases of participants, particularly with respect to semantics. For example, the instrument's comprehensive division of housing-structure distinctions (e.g., single-family detached versus multifamily) raised questions in participants' minds concerning tenure (e.g., condominium owned versus rented) [A7]; it does not appear the task-order team delineated these items carefully to mollify participants' concerns. Elsewhere, participants in specific regions urged emphases due to their own experiences, which would upend the use of general, inclusive terminology understandable to a plurality of practitioners across regions (e.g., elevating "variance" to a separate title item [NB13] when zoning "change" or "exception" would deliver broader coverage). It is important that not all such quibbles be elevated to the status of important pilot findings. For example, it is of some concern to this originator that participants found a perfectly plain word like "typical" to be ambiguous [P9]. That a survey item may require respondents to engage in quite careful thinking—or even some hard work—makes its phrasing neither ambiguous nor particularly disagreeable from a survey-research standpoint. Survey design should not devolve into phraseological popularity contests.

Regional Emphases

Some participants warned that the survey instrument emphasized issues of concern to suburban and exurban development, with insufficient

treatment of vertical, mixed-use, and infill projects more likely to arise within urban centers and inner-ring suburbs [A13, P8]. This kind of selectivity was far from the GMPR group's intent. In point of fact, as reflected in numerous comments from participants, critical distinctions between vertical and horizontal forms of developments, as well as those between infill and greenfield projects, continued to frustrate our efforts to delineate any small set of generic survey questions having full item validity across the expected testbed.

Capturing the Counterfactual

It is indeed important to recognize that project denials may matter more than approvals, but that not all denials represent unreasonable barriers [P8]. The survey should attempt to ascertain basic information on permit applications, withdrawals, determinations, appeals, and completed construction. However, the means by which to elicit such information in a straightforward way are not immediately apparent.

Additionally, the survey should continue to explore not just impediments to residential development, but also promotion activities [P8]. The draft survey's attention to inclusionary zoning, density bonuses, and such represents just this kind of effort, and this area should be probed in greater detail in the long-form MSA-intensive studies.

Surveying Builders: Desirability versus Feasibility

Numerous participants and observers believe that a national survey of land-use regulators should be supplemented by surveys of builders—i.e., the land-use regulated. To work, such a survey should be limited to high-volume builders having distinct, multiple contacts with a wide range of jurisdictions. Otherwise, it will prove difficult to associate builder experience with the appropriate sample of regulatory sources.

Calibrating the State Regulatory Environment

Finally, the varying nature of state regulatory environments greatly complicates the NRBD effort. This aspect of the challenge was most pronounced in the Portland focus group, which pointedly identified the idiosyncrasies of studying

local practice in the context of comprehensive state-level regulation.

In general, the responses acquired from local land-use authorities cannot be adequately understood without capturing what the GMPR group termed “exogenous regulations and influences” on policy choice and project-level decision making. It remains necessary to consider supplementing the local-practice survey with development of a state-level taxonomy of the overall legal environment affecting residential development. This activity could well run parallel to the NRBD survey itself. However, to the extent the survey’s language, format, and coverage can thereby be more easily tailored to local conditions, the national typology of exogenous regulations and influences may well be best developed in advance of the NRBD survey’s first formal placement in the field. One result might be a “Pictures of State Regulatory Environments” data-set series that can be regularly compiled and updated by HUD.

Generating this catalog can be done largely through centralized legal research, perhaps augmented by interviews with a handful of experts in each state. Steps to determine exogenous constraints and influences might include conducting in-depth legal and public policy research, through Lexis and other Internet resources, generating national cross-sectional data covering the varying state regulatory and budgetary environments in which local land-use authorities operate. Also, HUD should consider regularly convening and/or participating in land-use regulation/affordable housing study groups at national conventions of state leadership entities, such as the National Governors Association, the National Council of State Housing Agencies, and the National Association of Housing and Redevelopment Officials, as well as meetings of such national organizations as the National Low-Income Housing Coalition and the National Housing Conference/Center for Housing Policy.

Closing: Where To from Here?

It will take some time to fully digest the significant lessons generated by the focus group exercise. Naturally, much of what follows in the near term will be dictated by the programmatic emphases delineated by HUD. Still, it makes good sense to craft a set of work products that would both engender progress toward shared NRDB goals and position the effort for bolder steps forward should national prerogative lead in that direction.

I close with a to-do list of some specific project areas that could be started immediately. Each could easily be taken on by two- or three-member subgroups within the larger community of NRBD consultants and scholars who have engaged with HUD in the broader conversation over the last few years:

1. **Parsing short- and long-form coverage.** Assuming consensus that an *American Housing Survey*-style arrangement is in the offing, important detail can now be sorted into the long-form-only category. An ever-more streamlined and user-friendly short-form may well emerge.
2. **Initiating “Pictures of State Regulatory Environments” project.** A template of exploratory coverage that would encompass all major areas of variation in “exogenous regulations and influences” should be drawn up and tested in a handful of states.
3. **Continued Focus-Group Testing on Evolving Short-Form Instrument.** At relatively low cost, focus groups can be convened at state and national conferences in a variety of professional settings (e.g., American Planning Association, Urban Land Institute, American Institute of Architects, nonprofit housing associations, state bar associations).

12.

A National Symposium on Reaction to the Focus Group Testing (III): Afterword to the Discussion of Reactions

Robert W. Burchell, Director, Center for Urban Policy Research, Rutgers University:

I feel like a 16-year-old who has been promised he could drive a car. He has gone through many nights of dreaming about a car, experienced the required instruction, and at the point where he's going for his license, someone says to him, "Driving is no good, it's not going to be good for you. Ride your bike. Or walk. But driving is too tough and as a result, the experiment is over. We're not going to let you take your test."

This is analogous to where we are with the local land-use survey. We have been brought up to where we are almost able to drive legally. Now we must take the test. Let's not say, "Oh no, it's a rough world out there, you get a lot of criticism, some people could be inconvenienced by the survey, we can do things as well by not undertaking it or by doing it in a different way." Instead, let's go forward and see how well we do.

We're at the point of taking the survey to the field for testing. Let's see if all of the things that have been predicted come true. In other words, (1) the survey won't be completed; (2) there will be confusion filling it out; (3) the hypotheticals won't be understood; (4) it will take too long; (5) people will be offended by it.

Let's see whether this is reality or not. Let us not prematurely say, "We need metro research; we need different local research; we need a short form; we need a long form; we need this kind of responding group; we need that kind of responding group; we can do it as a result of a sample instead of a full census, et cetera, et cetera."

We are at the next step. And I would agree that if we fail at this step, i.e. that all of the predictions that we've encountered in the focus

groups come true, then the field is absolutely right—there should not be a land-use inventory, and HUD has to do something else.

I believe we are at a point where testing is necessary before we go back to all of these convoluted ways of getting similar answers. The authors of the survey have reacted too quickly to the focus group findings. They have prejudged results. Let's go to the field, administer the improved survey, and see what the results are. Let's get a test of filling out this revised questionnaire, going through the development hypotheticals, and see if anything comes out of it. If nothing comes out of it, we have a very detailed alternative plan of getting similar information through a variety of different modes. I would definitely not drop the survey at this particular point.

Edwin Stromberg, HUD Office of Policy Development and Research:

I agree. HUD is the once and future Kingdom of Camelot. If one goes back to 1965 and looks at HUD's charter, you would say this is the kind of agency and department that we're looking for. This is an urban agency that has both a grand vision and comprehensive authority to look at all different aspects of urban and growing suburban life.

Fifty years later, I look at the charter and compare it to what we're attempting to do with this survey, and this is what we are. Fifty years ago, in the 701 Planning Program, there was money to do planning. Now there is less money but efforts must go forward. We have to look at next steps, and they are steps. They can be dealt with, one step at a time. Our expectation and vision were that we would take the results of this focus group testing and derive a next generation of survey instrument. This has been done. From our perspective, this

is part of the long-term plan. We are waiting and expecting to go to the field.

This is what we would like to see, this is what we have expected, and this is what we have been planning for. I cannot say exactly how we will go forward. The idea of testing the instrument in the field, at major conferences or group meetings, may work. This is something that I think we'd like to do—initiate a roadshow, one that would simultaneously provide feedback and mobilize support for the effort.

Regina Gray, HUD Special Research Affiliate:

I also agree with Dr. Burchell. The survey, maybe with slight modifications in certain areas, is ready to be field tested. Let's get it out there, let's see what we come up with, and let's see what kind of response and data we get back. Let's test the survey, let's learn what it is able to do, and we can go from there.

We would now like to open it up to discussion. We haven't heard from the rest of you yet on your thinking about the survey and how you think it ought to be implemented. Or, if you think it should even go out as is. We would be very happy to hear from you on what the next steps should be.

Paul Emrath, National Association of Home Builders (NAHB), Housing Policy Research:

I agree with what Dr. Burchell said. As a person who's been at NAHB for 14 years, and for about 13½ having wished I had more data on local regulations, I believe that the survey needs to go forward. As I look through the questionnaire, it appears to be surprisingly readable. It looks like it went through iterations and people put a lot of thought into the document. There is even judicious use of italics to make it more engaging and accessible. I'm like Pavlov's dog, just salivating, thinking about getting answers to these questions. I certainly would like to see the instrument field tested.

Regina Gray:

Would a homebuilder or someone you have worked with be able to answer these questions?

Paul Emrath:

To me, most of the questions look quite understandable. There are check boxes, which makes it easier. The open-ended questions don't look particularly onerous. You have the option of putting "other," and writing something in. That doesn't seem either troublesome or difficult.

Edwin Stromberg:

One of the things that was not discussed today was doing a developer/ homebuilder survey as part of the survey of local land-use regulations and conditions.

Paul Emrath:

My take on that is that I've seen surveys of developers where they were asked about local land-use regulations . . . what types of problems they encountered with them. These are okay. If, however, you're looking for something to really fill in the blanks where we really don't have necessary information, it is information from a survey of local jurisdictions. If you go back to the original premise of doing research in this area, it was lack of data. It is the answers to the survey questions. This seems like a very worthwhile exercise to me.

Chris Nelson, Professor of Urban Affairs and Planning, Virginia Tech:

We had a survey of developers, and it was a disaster. It's not their fault. It's that they are in such a different time frame, such a different experience than local government or academics, that we can't get the response rate or the accuracy that is necessary. Developers are going off to the next project; they forget about the one that's finished six months ago. That's their reality.

A totally different kind of survey would be needed for the development community. You have different developer types. You have the national builders, and you have the local and regional builders, and they have very different mentalities. I go around the country and I'm amazed that I see developers in the Dallas–Fort Worth region complaining about the development process—so

too in Florida, Oregon, Virginia; isn't any developer, anywhere on the planet, satisfied with the development process where they are? They don't have any cross-sectional experience. They just have their experience, and any time constraint is too long and usually complained about.

Laurel David, Dillard and Galloway LLC:

Our clients are developers. They are the ones who take the risk. They title it and then they sell the lots to the homebuilders. They certainly don't have time to fill out an entirely separate developer survey.

Chris Nelson:

Let's get to Dr. Burchell's idea. I agree, let's field test this survey instrument. Let's also field test an alternative . . . do a scientific comparative survey. Field test two surveys randomly and then look at comparative results. Even do some post-testing after you've done the original test, to get back to the individuals who did/did not respond and ask why they did not respond.

I'm skeptical about Rolf Pendall's idea of doing a short form-long form, depending on what answers you are looking for. My concern with doing a long form of a small subsample and trying to extrapolate from it is that it is not at all clear to me how you extrapolate from one subset of political jurisdictions to a larger set of political jurisdictions. It's one thing when the U.S. Census does this and they are assigning household weights based on some fairly basic socioeconomic information that they have from these households. Having looked at a universe of households within a metropolitan area, I couldn't tell you if I had done a subsample of 30 percent of the cities and towns in the area, much less how to impute or infer values for the individual jurisdictions. People and communities are different in lots of different ways; I don't think we know how to weight information appropriately.

So if we want to use Rolf Pendall's idea for case studies to get a sense of what some subset of jurisdictions are doing at a more detailed level, fine. However, I don't think we're going to be able

to do with these subsamples what you can do with an overall land-use survey. I think we should try the survey and see what happens.

There are a couple different ways that we can begin to get a feel for consistency. One is to have multiple people per jurisdiction fill out the survey and compare their answers to see how much they vary. Another check would be that in places where you field test it, request to obtain written regulations that are in place and have someone determine whether or not the answers reflect the regulations.

Rolf Pendall, Professor of City & Regional Planning, Cornell University:

My suggestion that we shift our thinking, or at least expand our thinking from just conceptualizing this as a research effort to thinking about it as a change effort, seems to have made zero impact. Am I right here?

Paul Emrath:

It is just that this approach introduces so many other research activities that would take so long, and there are so many questions that would have to be answered before it is effectuated, that the effort is not worthwhile. You have made a number of solid points, but it seems that we have moved a great deal forward and the purpose of the survey is to fill a data void that people feel is present. We are now at a point where we could test the survey to see if we could get this information. We should go forward.

Rolf Pendall:

I am the first person to say that we're ready to send a national survey about regulatory practices, because I've done it twice. I believe that it can and should be done. I also like the idea of the in-depth metro surveys to determine why situations are as they are. Ideas like collecting zoning ordinances, doing the analysis, getting the maps, and seeing where there are development constraints are important for in-depth evaluation.

The question is: Is there a different client for these in-depth metropolitan studies than there is

for the national study? I think the answer is yes. If it can be couched to fit in with metropolitan transportation planning, with metropolitan water quality and air quality planning, all these things that local governments, regional governments, counties, and states already do anyway, there is a client for in-depth analysis.

This type of analysis must also include commercial development, industrial development, the whole spectrum of local land occupancy. We need a complete and comprehensive picture to appreciate where regulations come from, what they do, how they evolve through time, what the interplay is between infrastructure and regulation, affordability, and density, and all of the variables that affect housing price or production.

Focusing on practice, focusing on reducing congestion, focusing on building more livability in metropolitan neighborhoods and so on, and wrapping housing availability and price in a broader agenda are avenues to pursue for these in-depth metropolitan studies while still undertaking the national survey, whether it is a 25-question or a 45-question survey.

All the research in the world is not going to change local practices. Anthony Downs is right. Downs says that suburban local governments are doing what they're doing because they have certain purposes, and because they have incentives to pursue the practices they invoke. No survey or econometric report is going to convince the state legislature to change its zoning laws. Coalition building and intensive work to determine the value of different regulatory structures are the way to go.

Robert Burchell:

Rolf, what Paul is saying is that everybody is just salivating for that first foray into land use and data gathering, and you are taking us in another direction. By the way, when one compares what's being delivered, or what the potential of the survey is relative to what has been done in the past, there's no relationship between the two. The survey is just so much better than what we currently have.

Michael Lahr, Research Professor, Center for Urban Policy Research:

Rolf, that doesn't mean people aren't backing what you're saying. They are just saying, "Do the survey!" Your ideas are important, but where the group is right now is that the survey should be undertaken at field sites.

Rolf Pendall:

I'm saying that if the survey is effective, it still will not be as effective as a strategy that uses different methods, one of which is much more bottom-up and involves a lot more constituents.

[SYMPOSIUM ADJOURNS]

APPENDIX A

—

ORIGINAL SURVEY INSTRUMENT

“Inventory” Survey Questions

Recent Development Activity

- How many residential subdivisions of at least 5 lots were approved by your jurisdiction in [the last calendar year]?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50-99
 - 100 or more

- What were the number of lots in the typical residential subdivision in your jurisdiction over the last twelve months?
 - Fewer than five
 - 5-19
 - 20-49
 - 50-99
 - 100 or more

- What is the lot size in the typical residential subdivision in your jurisdiction?
 - Under 7,500 square feet
 - 7,500 square feet to one-half acre
 - One-half to one acre
 - One to two acres
 - More than two acres

- What is the number of lots in the largest residential subdivision proposed in your jurisdiction last year?
 - Fewer than 20
 - 20-49
 - 50-99
 - 100 or more

- How many projects for multifamily residential development were approved by your jurisdiction over the last twelve months?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50 or more

- Please list the number of housing units granted building permits in your jurisdiction over the last twelve months, in each category:
 - Single-family detached ____
 - Row houses, townhomes, or other single-family attached ____
 - Duplexes ____
 - Small apartment buildings (3-9 units) ____
 - Large apartment buildings (10+ units) ____

Permit Processes

- Who is authorized to grant *final* approval of the typical subdivision application?
 - No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board, such as planning board or commission
 - Elected legislative body

- Apart from the body that grants final approval of the subdivision application, how many other boards and/or regulatory bodies must grant permission or approval before the typical subdivision is approved in your jurisdiction?
 - o None
 - o One or two
 - o Between three and five
 - o More than five
- What share of all subdivision applications opt for *flexible standards* for lot dimensions and size (e.g., cluster developments, planned developments, planned residential developments)?
 - o None
 - o 1-49 percent
 - o 50-75 percent
 - o Over 75 percent
- What is the average time to secure final approval for the typical subdivision application, starting from the time the application is deemed complete?
 - o Less than two months
 - o Two to six months
 - o Six months to one year
 - o Over one year
 - o The times vary so much that it is impossible to say
- Please compare current approval times with average times five years ago:
 - o It now takes more time to receive final approval for the typical subdivision
 - o It now takes about as much time as before
 - o It now takes less time than it did then
- For new multifamily projects on land needing *no rezoning or variance*, do applicants need to receive *any* local government approvals before receiving a building permit?
 - o Yes
 - o No
 - o Multifamily developments are not allowed in this jurisdiction
- Again, for new multifamily projects on land needing no rezoning or variance, must applicants obtain approval by an elected body?
 - o Always
 - o Sometimes
 - o Never
- Again, for new multifamily projects on land needing no rezoning or variance, what is the average time to secure final approval for the typical such multifamily application, starting from the time the application is deemed complete?
 - o Multifamily developments are not allowed in this jurisdiction
 - o Less than two months
 - o Two to six months
 - o Over six months to one year
 - o Over one year
 - o The times vary so much that it is impossible to say

Zoning

- Does your jurisdiction have its own zoning provisions (via ordinance, bylaw, resolution, or otherwise)?
 - o Yes
 - o No
- Is your jurisdiction a sub-county unit encompassing areas in which the county applies its own zoning provisions to new development?
 - o Yes
 - o No (*You may skip to the next question.*)
 - If so, how much land within your jurisdiction is governed at least in part by the jurisdiction's own zoning rather than the county's?
 - 100% of its land area

- Between half and almost all of its land area
 - Less than half of its land area
- Is your jurisdiction a county with zoning regulations that apply to development in jurisdictions within the county (e.g., townships or towns) that could also have their own zoning?
 - o Yes
 - o No (*you may skip to the next question*)
 - If so, what proportion of towns/townships in the county have adopted their own zoning that overrides or supplements the county's?
 - All of them
 - Most of them
 - Some of them
 - None of them
 - If so, overall what proportion of the county's land area is governed by the county's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
- If your jurisdiction has zoning, what is the maximum buildable density allowed by the highest-density category in your zoning ordinance? Please answer in dwellings per net acre (i.e., excluding streets and rights of way).
 - o Fewer than four dwellings per net acre
 - o Four to seven dwellings per net acre
 - o 8 to 15 dwellings per net acre
 - o 16 to 30 dwellings per net acre
 - o Over 30 dwellings per net acre
 - o The jurisdiction has no zoning
- If your jurisdiction has zoning, do its provisions contain any in which there is a *minimum* required residential density?
 - o Yes
 - o No
 - If yes, is this minimum density designed to guarantee construction of multifamily housing?
 - Yes
 - No
- Can mobile homes be sited in your jurisdiction?
 - o No
 - o Yes
 - Are single-wide mobile homes allowed?
 - Yes
 - No
- Does your jurisdiction impose height limits on residential development?
 - o No
 - o Yes, with maximum height:
 - Up to 35 feet
 - 36-50 feet
 - Over 50 feet

Regulations to Manage Residential Growth Rates, Locations, and Infrastructure Capacity

- Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?
 - o No
 - o Yes
 - An annual numeric limit (cap) on the number of residential building permits that may be issued
 - A residential building permit moratorium
 - Imposed by the jurisdiction itself
 - Imposed by another jurisdiction or special district

- Must residential developers in your jurisdiction contribute funds, land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a precondition to development? Please enter amounts in all applicable categories. (Please do not include requirements for affordable housing.)
 - o Development impact fees [system charges]
 - Required by the jurisdiction
 - Typical total fees per single-family lot: \$ ____
 - Typical total fees per multifamily unit: \$ ____
 - Required by all other jurisdictions/special districts/school districts:
 - Typical total fees per single-family lot: \$ ____
 - Typical total fees per multifamily unit: \$ ____
 - o Dedications of land, to this or any other jurisdiction:
 - Total land dedication per 100 residential units: ____ acres
 - Fees accepted in lieu of land dedication:
 - \$__ / single-family unit
 - \$__ / multifamily unit
 - o Project-specific negotiated contributions, to this or any jurisdiction:
 - Typical contribution per single-family lot: \$ ____
 - Typical contribution per multifamily unit: \$ ____

- Does your jurisdiction have measures with infrastructure-related level of service standards that, if violated, would preclude development (e.g., adequate public facilities ordinances)?
 - o No
 - o Yes

- Does your jurisdiction have a deliberate policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?
 - o No
 - o Yes
 - What year was the boundary adopted? ____
 - How big is the boundary now compared to when it was first adopted?
 - Much smaller
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150% of first adopted boundary)
 - How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Impossible
 - If development in the next 10 years occurs at the pace of the last five years, how soon do you estimate remaining vacant land within the boundary will be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - 10-25 years
 - More than 25 years or never

Affordable Housing Mandates and Incentives

- Does your jurisdiction require residential builders to provide affordable housing as a condition of project approval (e.g., via inclusionary zoning)?
 - o No
 - o Yes
 - Percentage of units that must be affordable in a typical project: ____%
 - May a builder pay fees in lieu of providing units?
 - Yes \$____/unit
 - No
 - The inclusionary requirement applies:
 - Throughout the jurisdiction
 - Only in certain areas

- Does your jurisdiction award density bonuses to builders who provide affordable housing?
 - o No
 - o Yes
 - Percentage of units that must be affordable to qualify: ___%
 - Density bonus provided: ___% above the maximum allowed
 - The bonus is available:
 - Throughout the jurisdiction
 - Only in certain areas
- Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable housing projects? (*Please check all that apply.*)
 - o Expedited permit review
 - o More permissive subdivision standards
 - o Lower permit fees
 - o Other mechanisms to reduce regulatory impacts

Recent Rezoning Experience

- How frequently does your jurisdiction receive applications for rezoning of land from nonresidential to residential use?
 - o Once or more per month
 - o Once or twice every six months
 - o Once a year
 - o More seldom than once a year
- How often have these requests been granted?
 - o Never
 - o Less than half the time
 - o More than half the time
- In the past twelve months, how often have applications for zoning variances been requested to allow construction of more housing units than the underlying zoning would permit?
 - o Once or more per month
 - o Once or twice every six months
 - o Once a year
 - o More seldom than once a year
- On the average, how often are such requests granted?
 - o Never
 - o Less than half the time
 - o More than half the time

Controversy of Residential Development

- Has your jurisdiction been sued by a residential builder in the past five years for denying a residential project or for imposing excessive conditions?
 - o No
 - o Yes
- Have citizens in your jurisdiction mounted a referendum campaign against any housing proposal in the past five years?
 - o No
 - o Yes
- How often do your planning board or planning commission meetings end after 11:30 P.M. over the past twelve months?
 - o Never
 - o Sometimes
 - o Most of the time

Other Constraints on Development

- Which of the following conditions imposes a serious constraint upon residential development in your jurisdiction? (*Please check all that apply.*)
 - o The jurisdiction has little or no undeveloped land.
 - o Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as high slope, exposure to natural hazards, wetlands, and protected habitat.

- o Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations.
- o The jurisdiction has little or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools.
- o The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals.

Survey Questions on Hypothetical Prototypes

Each survey answered should have one prototype from Set A and one from Set B.

Set A: Single-family

- “Please assume a builder wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”
- “Please assume a builder wants to subdivide a five-acre parcel into 50 lots for the construction of 50 market-rate single-family detached, attached, or zero-lot-line dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”

Set B: Multifamily

- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it.”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of two acres on which to build it. (Net density would thus be 20 dwellings per acre.)”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of one acre on which to build it. (Net density would therefore be 40 dwellings per acre.)”

Questions on Each Hypothetical Prototype

- Would this project be allowed somewhere in the jurisdiction, according to the governing zoning ordinance, bylaw, resolution?
 - o Yes
 - o No
 - *If No:* Might the project be allowed on a larger site?
 - No
 - Yes
 - ♦ How large would the site need to be in acres? ___ acres
 - Would the project be allowed if the units were larger?
 - No
 - Yes
 - ♦ How large would the units need to be in square feet? ___ sq. ft.
 - *If No:* Would the project be permitted under the prevailing zoning if at least 20 percent of its units were reserved for low- or moderate-income households?
 - No
 - Yes
 - If the applicant applies for a rezoning, zoning amendment or other necessary change so that such a project could be built in this jurisdiction, how long do you estimate it would take?
 - Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment or other change would not be allowed in this jurisdiction
 - *If Yes:* Under what conditions might the project be approved?
 - Permitted as of right under one or more zoning categories
 - Only by special permit, conditional use permit, PUD, or cluster provision

- Could such a project ever receive approval at the staff or administrative level?
 - Yes
 - No
- *If No:*
 - An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances
 - An elected body (city council, town board) must approve all such developments
 - Such developments must be approved in a town meeting or by referendum
- If a complete application were submitted to build this project, and the site were already zoned to accommodate it, how long on average would it take for the sponsor to receive a final decision?
 - Less than two months
 - Two to six months
 - Seven months to one year
 - More than one year
 - Impossible to predict
- How much land is currently in zoning categories that could accommodate this hypothetical development, assuming that demand in the next 10 years is about the same as in the past five years?
 - o None or practically none
 - o Enough to satisfy short-term demand (less than two years)
 - o Enough to satisfy medium-term demand (2-10 years)
 - o Enough to satisfy long-term demand (more than 10 years)
- Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no technical constraints. How long would it take for your jurisdiction to approve the project?
 - o Within three months
 - o Between three and six months
 - o Six months to a year
 - o Over a year, but eventually possible
 - o Never
- (*For detached/subdivision only*) Would this project have to be consistent with zoning before your jurisdiction would deem a subdivision application complete?
 - Yes
 - No
- Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
 - o It would be uncontroversial
 - o It would be controversial only in a few locations
 - o It would be controversial in many locations
 - o It would be controversial wherever proposed
- Generally speaking, how likely is it that a development like this could be built in your jurisdiction next year if it were proposed?
 - o Nearly certain to be approved
 - o At least a 50-50 chance of being rejected
 - o Nearly or completely certain to be rejected
 - o No developer would consider proposing it here because it is so certain to be rejected
- Compare your jurisdiction to adjacent ones.
 - o How many jurisdictions border yours? ____
 - o How many adjacent jurisdictions are *more restrictive than yours* regarding a development of this type? ____
 - o How many are *about as restrictive as yours* regarding a development of this type? ____
 - o How many are less restrictive than yours regarding a development of this type? ____

APPENDIX B

SAMPLE LETTER SENT TO CANDIDATE PARTICIPANTS

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-6000**

[HUD LOGO on original]

OFFICE OF THE ASSISTANT SECRETARY
FOR POLICY DEVELOPMENT AND RESEARCH

May 14, 2007

Dear ,

You are invited to participate in a focus group to evaluate the first steps in an important Department of Housing and Urban Development (HUD) research project on land-use regulatory practices (described below). This is an initial inquiry to a limited number of people in your area who have the knowledge and background to provide the thoughtful comments we need.

HUD is preparing a plan and strategy to develop a national database on state and local land-use regulatory practices. Development of the database is a key step in assessing the effect of land-use regulations on the affordability of housing, and in understanding land-use policies and trends. As part of this effort, HUD has prepared a draft survey instrument to be used in collecting information on state and local land-use regulations for residential development. A key component of this process is obtaining input from officials and professionals working in the fields of housing and residential development and tapping into their experience and expertise.

To evaluate the effectiveness of the survey instrument, HUD is sponsoring a series of focus group sessions in four locations across the country. The focus groups will be led by the Center for Urban Policy Research (CUPR), Rutgers University, with the assistance of a national land-use professional from each area. Each focus group will consist of a select group of experts who will evaluate the survey and make recommendations for refining it. The focus group session in your area will be held on Tuesday, May 22, 2007, from 9:00 A.M. to 2:30 P.M., at the Harvard University, Graduate School of Design, which is located at 48 Quincy Street, Cambridge, MA. The session will include ten to twenty participants, co-facilitated by Professors Jerold Kayden from Harvard University and Robert W. Burchell from Rutgers University. Lunch will be served.

The goal of the focus group is to:

1. Evaluate the suitability of the survey in obtaining basic information about state and local land-use regulations for residential development
2. Refine the instrument to ensure that it is responsive to regional and local variations in practice, terminology, and other factors
3. Recommend methods for administering the survey to maximize usable survey results
4. Identify additional types of information related to land use and development regulatory processes that should be included in the survey

For the focus groups to be successful, we need to get the right mix of professionals to attend. We will select focus group participants from among those who respond to this letter; those selected will receive a \$100 honorarium through the Center for Urban Policy Research. If you are interested in being a part of this important effort, please complete the attached response form and return it by Friday, May 18 to Professor Michael L. Lahr of the Center for Urban Policy Research at the following e-mail address: lahr@rci.rutgers.edu. If you are unable to attend, and know of other knowledgeable people who might be interested in participating in the event, please let CUPR know about them. This is the last of four focus groups and we think that the questionnaire is in good shape. We really need your help in determining whether this is true or not. We realize time is short, but please try to attend. Look forward to hearing from you.

Sincerely,

(signed)

Edwin A. Stromberg, Program Manager
Affordable Housing and Regulatory Barriers Research Program
Office of Policy Development and Research
U.S. Department of Housing and Urban Development

APPENDIX C
—
SAMPLE FACILITATOR'S GUIDE

**NATIONAL LAND-USE REGULATIONS
FOCUS GROUP FACILITATOR GUIDE**

1. INTRODUCTION

9:15 – 9:45 A.M.

1.1 Welcome: Moderator Introduces Self, Client, and the Project

Hello, my name is [], and I'll be the moderator for our discussion today. My role as the facilitator is to ask questions, to listen to what you say, and to make sure that we cover the main topics. Let me also introduce you to [], who will be assisting me by taking notes of the session and by keeping an eye on the recording machine. I want to start out by thanking each of you for taking time to come today. As you may know, the U.S. Department of Housing and Urban Development (HUD) is working on a process to identify barriers to affordable housing. It has been proposed that a national database on state and local land-use regulatory practices could assist this effort. Thus, HUD has funded the development of a survey instrument that may be used to collect information on state and local land-use regulations affecting residential development. The information gathered through the survey would ultimately become available to researchers and practitioners interested in such issues.

Now that the survey has been drafted, HUD has called for the draft survey instruments to be examined and refined. Focus groups, just like this, are meeting in four different metropolitan areas. If all goes as planned, the next step will be a pilot test of the survey instrument via a Web site posting participated in by a subset of public officials. Part of our discussion toward the end of the day will focus on the implementation plan for such a posting.

*1.2 Objectives and Agenda: Purpose of the Focus Group;
Session Length*

Our primary objective is to examine the survey and provide feedback to HUD on how well it captures information on barriers to affordable housing. To this end, we have gathered a group of people from the greater (Portland, Atlanta, Minneapolis/St. Paul, Boston) region with varied backgrounds and experience related to affordable housing and land-use regulations. The focus group sessions we have planned for today are structured to probe the viability of the survey in terms of its:

- suitability for obtaining basic information about pertinent land-use regulations
- responsiveness to regional and local conditions
- facility for administration and implementation
- breadth of content

Our day consists of several sessions designed to examine various aspects of the survey from general format to specific questions. As we proceed, please be mindful of issues of good survey design. We are interested in your perceptions of question relevance, sequence, ambiguity, and overall survey length.

1.3 Procedures: Ground Rules Encouraging Everyone to Participate

You may be familiar with the way focus groups work. Nonetheless, before we begin the discussion, let me go over a few basics.

- As I mentioned, an assistant is taking notes and the session is being audio-recorded. This allows me to focus on you and the survey, rather than making sure I jot down specific details about the discussion. Also, from time to time I suspect that my assistant will chime in to make sure we fully flesh out your thoughts. In any case, please speak in a voice as loud as mine so that the microphone can pick it up.

We plan to prepare a report using the notes and tapes. Our report will not make reference to any one of you by name. By assuring your anonymity, I hope that you will speak openly and honestly about today's topics.

- This will be an open discussion...so feel free to comment on each other's remarks. At the same time, please avoid side conversations while other participants are speaking.
- And, remember, there are no right or wrong answers. It's important that you are absolutely frank and candid, even if what you have to say is not positive. All comments will help us advise HUD on how to refine the survey instrument.

1.4 Participant Introductions

Now, I would like each of you to take a moment to introduce yourselves. In addition, please tell us your agency or organization of affiliation and describe your involvement in the fields of housing and residential development.

2. MORNING SESSION I**9:45 – 10:30 A.M.****2.1 Format and Organization**

By now, I hope that each of you has had the opportunity to examine the survey. The questionnaires some of you returned to us have been useful in highlighting certain areas of concern. This morning we'll start off by discussing the general format, flow, and content of the survey. Let me start the discussion by talking about the format and organization of the survey. Included in your folders is a copy of the current version of the survey instrument. At the front end of it is a general outline of the survey's contents. You may find this handy as we discuss the format and general content.

- Is the purpose of the survey adequately conveyed? What introductory materials would be helpful?
- Does the sequence of topics seem logical? (We'll examine individual questions within topics later on.)
- Should respondents provide certain baseline information on their jurisdiction (for example; population, growth rates, median housing prices, amount of developable land) when filling out the survey?
 - ♦ Would this information be most accurately filled out by jurisdiction or referenced independently?
- Is a glossary necessary for this type of survey? (This is something to keep in mind as we look at individual terminology later.)
- Is the length of the survey reasonable? What improvements to navigating the survey might be made to help people who are likely to complete the form (directions, style, etc.)?

2.2 Content

Turning now to the general content of the survey,

- Overall, how well do you think the survey measures state and local land-use regulations regarding residential development?
- Are there any questions on regulations or processes that are noticeably absent?
- Affordable housing is affected by more than just land-use regulations. Might this survey benefit by including questions on other factors affecting affordability?
- Does the survey reflect land-use procedures and terminology found in your region? (This will come up repeatedly during specific questions.)
- Do you think that the survey adequately addresses associated issues that pertain to infill developments?

BREAK**10:30 – 10:45 A.M.****BREAK-OUT SESSION:
SPECIFIC QUESTIONS****10:45 – 12:00 P.M.****3.1 Individual Questions**

The newest version of the survey has eliminated many of the specific issues raised by previous focus groups and survey questionnaires. We find that the best way to continue refining the survey is to briefly examine each question, raising individual issues as we go.

Section 1: Recent Development Activity

1. This first set of questions deals only with "approved" projects. Is it worthwhile to inquire about how many were actually built or how many were delayed for some reason?
- 2, 3. Will it be difficult for jurisdictions to define a "most common" or "typical development in terms of number of units or lot size?"
4. No issues at this time.
5. We define multifamily as 3 units or more. Where do condos and town houses fit into this discussion of single-family versus multifamily? We would assume multifamily-owned and single-family attached.
6. No issues at this time.

Section 2: Permit Process

- 7, 8. This set of questions deals with the stage of approval that municipalities and developers believe is most significant. This may be preliminary approval in some areas and final in others; how can we express this sentiment in a way that is understandable nationwide? We have chosen preliminary approval because it best captures the concept of vesting of development rights, which may be language that a respondent is most familiar with.
9. Flexible-standards terminology varies by region. Do we need more representative examples? Should these terms be defined?
10. Again, the issue of final versus preliminary arises here. Is "deemed complete" the right starting point, or is "filed" a better point of initiation?
- 11./11a. Is this question too difficult to answer? (Q-11A is a follow-up that has been added.)
12. Are pre-application processes important in this part of the country? Are they viewed as beneficial or as a hindrance?
- 13./14. These questions deal with the need to receive approvals from appointed versus elected bodies before obtaining building permits. How would people in this part of the country respond to this question?
15. No issues so far.

Section 3: Zoning

16. No issues so far.

17./18. These questions have been rewritten to determine and quantify how much zoning is regulated at the local level vs. the county level. Do they make sense?

19. This question originally asked for answers in net acreage. It has since been simplified.

Would repeating this question using floor area ratio (FAR) categories be helpful? FAR (building mass) may influence and limit development as much as density regulations. Again, limited support for adding a question like this.

How about another question on minimum parking space allotments per added unit? Is this a development-limiting factor?

19a. No issues so far.

20. No issues so far.

21. Are there terminology issues here concerning mobile homes? This question has recently been revised to include the term “lease lot subdivision.”

22. Is a question on height limits useful for their purposes? Can they be viewed as a barrier to affordable housing?

(22a. *This is a new question.*)

LUNCH 12:00 – 12:45 P.M.

**BREAK-OUT SESSION II:
SPECIFIC QUESTIONS (continued) 12:45 – 2:00 P.M.**

4.1 *Specific Questions*

Section 4: Regulations to Manage Residential Growth Rates, Locations, and Infrastructure Capacity

23. No issues at this time.

24. How difficult will this question be to answer? Do we need to clarify the meaning of the terms “impact fees” and “exactions”?

Is it hard to quantify costs on a per unit basis? Are some fees negotiated on a per project basis, or related to the number of bedrooms or square footage?

25. No issues at this time.

26. Recently, the question has been modified to explicitly ask if the growth boundary has had an impact on development and prices.

For the last piece, do we need to include language that considers the character of recent development, as in “if development occurs at the pace and style of the last five years”?

Section 5: Affordable Housing Mandates and Incentives

27. Are “affordable/workforce housing” and “inclusionary zoning” terms that need to be defined?

28. Do we need to consider other incentives to developers besides density bonuses?

- ♦ Is it clear what is being asked in second option under “Yes”?

“Density bonus provided: _____ % above the maximum allowed”

- ♦ Should we determine whether the bonus is mandated by the state, county, or city?

29. Do we need a “Does not apply” category? Should we consider other alternatives, such as financial incentives—tax abatements, tax credits, etc.?

Section 6: Recent Rezoning Experience

30. These questions deal with land changing from nonresidential to residential uses. Should we measure the amount of land that moves in the other direction, from residential to nonresidential?

31. Is rezoning or the granting of variances common in this region?

32. No issues so far.

33. No issues so far.

Section 7: Controversy over Residential Development

Is there any general issue with this section of the survey?

Do you think its presence may deter organizations from completing the survey?

34. Will jurisdictions be hesitant to answer questions about controversy in their community?

35. What is the best way to inquire about public opposition to housing proposals — i.e., the type of opposition that can be organized by citizens groups, public interest groups, or other objectors?

36. No issues so far.

Section 8: Other Constraints on Development

37. This question attempts to capture most other constraints that could impact development in a jurisdiction. Is this list as comprehensive as it needs to be?

Part Two: Questions on Hypothetical Procedures

Jurisdictions are instructed to answer the highest-density situation from each category (A: Single-family, and B: Multifamily) that has a reasonable chance of being approved in their jurisdiction. They will then answer the same set of questions for each scenario they pick. The situations presented differ in terms of the density of the proposed development.

What do you think of the overall organization of Part Two? Is it easy to follow?

1. Some confusion over the expression “as of right” in the answer choice to Q-1 A-1.
2. Is this question too difficult to answer? This question asks respondents to forecast demand over the next several years. Should we ask instead to focus only on how much land is currently available for this type of development?
7. Is this question useful? Will respondents be able to answer/speculate on this question?

BREAK **2:00 – 2:15 P.M.**

5. IMPLEMENTATION **2:15 – 3:00 P.M.**

5.1 Implementing the Survey

The last topic we ask you to consider on the questionnaire deals with administering the survey. We received feedback on problems and potential suggestions. I would like to discuss some of those now.

- Is the information asked for in this survey hard to get? Who would be qualified to answer these questions? How many people would need to contribute?
- Is there someone who should be specifically notified about the survey different from who actually fills it out?
- Because land regulation responsibilities vary across states, how can we ensure the surveys are filled out by the appropriate level of jurisdiction? Are there state- or nation-wide sources that can assist in identifying such jurisdictions and the ideal recipient within them?
- Should only public officials be asked to respond to a survey like this? Why or why not? Would a second version of this survey designed for the development community be useful? Who should be the target(s) of such a survey? Who could assist with such a survey (ULI, NAHB, APA)?
- The current thinking is that the survey will be made available online via a Web site. If so, should it also be mailed via conventional means?
- What, if any, incentives could be applied to maximize the survey's response rate and the amount of useful information generated?

6. CONCLUSION **3:00 – 4:00 P.M.**

6.1 Summary, Suggestions, Final Comments, Thanks

As I've mentioned, the goal of the group has been to identify ways in which HUD can increase the effectiveness of these surveys. At this time, I want to begin summarizing the main points of our discussions. I believe that the central themes coming out of this focus group are _____ (for Part One), _____ (for Part Two), and _____ (for Implementation). Is this correct? What should we take away from today's discussions?

That's all the time we have. Thank you for your participation on this important initiative. Your feedback is invaluable to us.

APPENDIX D

PRE-GROUP QUESTIONNAIRE ON THE SURVEY INSTRUMENT

After you look at the draft survey instrument, please take a moment to respond to the questions below. Your feedback will be read and play an important role in organizing the upcoming focus group meeting. Remember that the purpose of the survey is to assemble a national database of land-use regulations that can be used by policymakers and researchers. We have organized responses into the following sections:

- Comments on organization and format
- Comments on content
- Comments on specific questions
- Comments on implementing the survey

Please fax completed questionnaire forms to:
Mike Lahr (Fax: 732-932-2363)
at the Center for Urban Policy Research

COMMENTS ON ORGANIZATION AND FORMAT

- Is the sequence of topics and questions within topics well organized? What changes, if any, should be made to the survey's organization?
- Is the survey user-friendly? What changes, if any, should be made to the survey's format?

COMMENTS ON CONTENT

- Does the survey successfully measure state and local land-use regulations related to residential development in a way that is useful to research?
- What other types of information concerning land use and development regulatory processes should the survey include?
- Does the survey reflect the land-use procedures and terminology found in your region? If not, what changes do you recommend?
- Are any terms used that should be defined, or whose meaning could cause confusion?
- Other comments on content?

COMMENTS ON SPECIFIC QUESTIONS

- Please use this space to cite specific questions that you think need revision.

COMMENTS ON IMPLEMENTATION

- Is the information asked for in the survey hard to get? Who would be able to answer the questions? Could one person answer the questions?
- Should only public officials be included as respondents? Would a second version of this survey, designed for the development community, be useful?
- Knowing that land regulation responsibilities vary across states, how should survey respondents be selected?
- What methods do you recommend for administering the survey so as to maximize useable results?
- Should baseline questions on the respondents and/or their jurisdictions be included? If you think that some questions should be included, which of the following should be asked? (check all that apply)
 - Community size
 - Type of jurisdiction
 - Growth rate
 - Bodies with regulatory authority
 - Housing prices
 - Other _____

Your name _____

E-mail address _____

APPENDIX E

SURVEY INSTRUMENT DISCUSSED IN NEW BRUNSWICK, NEW JERSEY

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) is working on a process to develop a national database on state and local land-use regulatory practices. The databases will ultimately be made available to researchers. As part of this effort, HUD has prepared draft data collection instruments to be used in collecting information on state and local land-use regulations for residential development. The next step in the process calls for the draft survey instruments to be examined and refined by focus group participants in various metropolitan areas.

The purpose of the focus groups is to: (1) evaluate the general suitability of the surveys in obtaining basic, common information from communities across the country, (2) identify how the instruments can best be adapted so that they are responsive to regional and local variations in practice, terminology, and other factors, (3) recommend methods for administering the survey to maximize useable survey results, and (4) identify additional types of information related to land-use and development regulations that should be collected.

INSTRUCTIONS FOR FOCUS GROUP PARTICIPANTS

Please review the enclosed copy of the Draft Survey before your focus group is scheduled to meet. The survey will be discussed at length during the focus group and your familiarity with it will enhance the effectiveness of these meetings. The survey is currently organized in two sections. The first section contains multiple choice and fill-in questions on the following topics:

- *Recent Development Activity.* The quantity and nature of recent development activity in a given jurisdiction
- *Permit Process.* The process and time involved in various permitting approvals
- *Zoning.* Issues of jurisdiction and limitations imposed by zoning
- *Residential Regulations.* Regulations dealing with growth rates, locations, and infrastructure capacity
- *Affordable Housing.* Mandates and incentives to provide affordable housing
- *Recent Rezoning Experience.* Recent efforts to add residential development or increase density through rezoning
- *Controversy over Residential Development.* Reactions of builders and citizens to regulations and housing proposals
- *Other Constraints on Development.* Additional impediments to residential development that have not been covered

Section Two contains a series of questions based on hypothetical situations regarding single-family and multi-family development.

Once you have reviewed the survey, please take some time to answer the questionnaire form that accompanies it. This form solicits your initial comments on format, content, specific questions, and implementation of the survey and will be used to drive focus group discussion. Directions for submitting the questionnaire can be found on the form itself.

“Inventory” Survey Questions**Recent Development Activity**

1. How many residential subdivisions of at least 5 lots were approved by your jurisdiction in [the last calendar year]?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50-99
 - 100 or more

2. What were the number of lots in the typical residential subdivision in your jurisdiction over the last twelve months?
 - Fewer than five
 - 5-19
 - 20-49
 - 50-99
 - 100 or more

3. What is the lot size in the typical residential subdivision in your jurisdiction?
 - Under 7,500 square feet
 - 7,500 square feet to one-half acre
 - One-half to one acre
 - One to two acres
 - More than two acres

4. What is the number of lots in the largest residential subdivision proposed in your jurisdiction last year?
 - Fewer than 20
 - 20-49
 - 50-99
 - 100 or more

5. How many projects for multifamily residential development were approved by your jurisdiction over the last twelve months?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50 or more

6. Please list the number of housing units granted building permits in your jurisdiction over the last twelve months, in each category:
 - Single-family detached ____
 - Row houses, townhomes, or other single-family attached ____
 - Duplexes ____
 - Small apartment buildings (3-9 units) ____
 - Large apartment buildings (10+ units) ____

Permit Processes

7. Who is authorized to grant *final* approval of the typical subdivision application?
 - No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board, such as planning board or commission
 - Elected legislative body

8. Apart from the body that grants final approval of the subdivision application, how many other boards and/or regulatory bodies must grant permission or approval before the typical subdivision is approved in your jurisdiction?
 - None
 - One or two
 - Between three and five
 - More than five

9. What share of all subdivision applications opt for flexible standards for lot dimensions and size (e.g., cluster developments, planned developments, planned residential developments)?
 - None
 - Some, but less than 25 percent
 - 25–50 percent
 - 50–75 percent
 - Over 75 percent
10. What is the average time to secure final approval for the typical subdivision application, starting from the time the application is deemed complete?
 - Less than two months
 - Two to six months
 - Six months to one year
 - Over one year
 - The times vary so much that it is impossible to say
11. Please compare current approval times with average times five years ago:
 - It now takes more time to receive final approval for the typical subdivision
 - It now takes about as much time as before
 - It now takes less time than it did then
12. For new multifamily projects on land needing *no rezoning or variance*, do applicants need to receive *any* local government approvals before receiving a building permit?
 - Yes
 - No
 - Yes, as of right, multifamily developments must observe site plan approval requirements
 - No, as of right, multifamily developments to directly to construction permits
 - No, multifamily developments are not allowed in this jurisdiction
13. Again, for new multifamily projects on land needing no rezoning or variance, must applicants obtain approval by an elected body?
 - Always
 - Sometimes
 - Never
14. Again, for new multifamily projects on land needing no rezoning or variance, what is the average time to secure final approval for the typical such multifamily application, starting from the time the application is deemed complete?
 - Multifamily developments are not allowed in this jurisdiction
 - Less than three months
 - Three to six months
 - Over six months to one year
 - One year to two years
 - Over two years

Zoning

15. Does your jurisdiction have its own zoning provisions (via ordinance, bylaw, resolution, or otherwise)?
 - Yes
 - No
16. Is your jurisdiction a sub-county unit encompassing areas in which the county applies its own zoning provisions to new development?
 - Yes
 - No (*you may skip to the next question*)
 - If so, how much land within your jurisdiction is governed at least in part by the jurisdiction's own zoning rather than the county's?
 - 100% of its land area
 - More than half of its land area
 - Less than half of its land area
 - None at all

17. Is your jurisdiction a county with zoning regulations that apply to development in jurisdictions within the county (e.g., townships or towns) that could also have their own zoning?
- o Yes
 - o No (*you may skip to the next question*)
 - If so, what proportion of towns/townships in the county have adopted their own zoning that overrides or supplements the county's?
 - All of them
 - Most of them
 - Some of them
 - None of them
 - If so, overall what proportion of the county's land area is governed by the county's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area
18. If your jurisdiction has zoning, what is the maximum buildable density allowed by the highest-density category in your zoning ordinance? Please answer in dwellings per net acre (i.e., excluding streets and rights of way).
- o Less than one dwelling per net acre
 - o One to two dwellings per net acre
 - o Two to four dwellings per net acre
 - o Four to seven dwellings per net acre
 - o 8 to 15 dwellings per net acre
 - o 16 to 30 dwellings per net acre
 - o Over 30 dwellings per net acre
 - o The jurisdiction has no zoning
19. If your jurisdiction has zoning, do its provisions contain any in which there is a *minimum* required residential density?
- o Yes
 - o No
 - If yes, is this minimum density designed to guarantee construction of multifamily housing?
 - Yes
 - No
20. Can mobile homes be sited in your jurisdiction?
- o No
 - o Yes
 - Are single-wide mobile homes allowed?
 - Yes
 - No
21. Does your jurisdiction impose height limits on residential development?
- o No
 - o Yes, with maximum height:
 - Up to 35 feet
 - 36-50 feet
 - Over 50 feet

Regulations to Manage Residential Growth Rates, Locations, and Infrastructure Capacity

22. Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?
- o No
 - o Yes
 - An annual numeric limit (cap) on the number of residential building permits that may be issued
 - A residential building permit moratorium
 - Imposed by the jurisdiction itself
 - Imposed by another jurisdiction or special district

23. Must residential developers in your jurisdiction contribute funds, land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a precondition to development? Please enter amounts in all applicable categories. (Please do not include requirements for affordable housing.)

- o Development impact fees [system charges]
 - Required by the jurisdiction
 - Typical total fees per single-family lot: \$ ____
 - Typical total fees per multifamily unit: \$ ____
 - Required by all other jurisdictions/special districts/school districts:
 - Typical total fees per single-family lot: \$ ____
 - Typical total fees per multifamily unit: \$ ____
- o Dedications of land, to this or any other jurisdiction:
 - Total land dedication per 100 residential units: ____ acres
 - Fees accepted in lieu of land dedication:
 - \$____ / single-family unit
 - \$____ / multifamily unit
- o Project-specific negotiated contributions, to this or any jurisdiction:
 - Typical contribution per single-family lot: \$ ____
 - Typical contribution per multifamily unit: \$ ____
- o No contributions required

24. Does your jurisdiction have measures with infrastructure-related level of service standards that, if violated, would preclude development (e.g., adequate public facilities ordinances)?

- o No
- o Yes

25. Does your jurisdiction have a deliberate policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- o No
- o Yes
 - What year was the boundary adopted? ____
 - How big is the boundary now compared to when it was first adopted?
 - Much smaller
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150% of first adopted boundary)
 - How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Impossible
 - If development in the next 10 years occurs at the pace of the last five years, how soon do you estimate remaining vacant land within the boundary will be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - 10–25 years
 - More than 25 years or never

Affordable Housing Mandates and Incentives

26. Does your jurisdiction require residential builders to provide affordable housing as a condition of project approval (e.g., via inclusionary zoning)?

- o No
- o Yes
 - Percentage of units that must be affordable in a typical project: ____%
 - May a builder pay fees in lieu of providing units?
 - Yes \$____/unit
 - No
 - The inclusionary requirement applies:
 - Throughout the jurisdiction
 - Only in certain areas

27. Does your jurisdiction award density bonuses to builders who provide affordable housing?
- o No
 - o Yes
 - Percentage of units that must be affordable to qualify: ___%
 - Density bonus provided: ___% above the maximum allowed
 - The bonus is available:
 - Throughout the jurisdiction
 - Only in certain areas
28. Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable housing projects? (*Please check all that apply.*)
- o Expedited permit review
 - o More permissive subdivision standards
 - o Lower permit fees
 - o Other mechanisms to reduce regulatory impacts

Recent Rezoning Experience

29. How frequently does your jurisdiction receive applications for rezoning of land from nonresidential to residential use?
- o Once or more per month
 - o Once or twice every six months
 - o Once a year
 - o Less than once a year
30. How often have these requests been granted?
- o Never
 - o Less than half the time
 - o More than half the time
31. In the past twelve months, how often have applications for zoning variances been requested to allow construction of more housing units than the underlying zoning would permit?
- o Once or more per month
 - o Once or twice every six months
 - o Once a year
 - o More seldom than once a year
32. On the average, how often are such requests granted?
- o Never
 - o Less than half the time
 - o More than half the time

Controversy of Residential Development

33. Has your jurisdiction been sued by a residential builder in the past five years for denying a residential project or for imposing excessive conditions?
- o No
 - o Yes
 - If Yes, for what? (*Check all that apply*)
 - Denying a residential project
 - Delaying a residential project
 - Imposing excessive conditions for approval
 - Other
34. Have citizens in your jurisdiction mounted a referendum campaign against any housing proposal in the past five years?
- o No
 - o Yes
35. How often did your planning board or planning commission meetings end after 11:30 P.M. over the past twelve months?
- o Never
 - o Sometimes
 - o Most of the time

Other Constraints on Development

36. Which of the following conditions imposes a serious constraint upon residential development in your jurisdiction? *(Please check all that apply)*
- o The jurisdiction has little or no undeveloped land.
 - o Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as high slope, exposure to natural hazards, wetlands, and protected habitat.
 - o Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations.
 - o The jurisdiction has little or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools.
 - o The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals.

Survey Questions on Hypothetical Prototypes

Each survey answered will have one randomly selected hypothetical prototype from Set A and one from Set B. The respondent will then answer the series of questions that follow the hypothetical prototype descriptions.

Set A: Single-family

- “Please assume a builder wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”
- “Please assume a builder wants to subdivide a five-acre parcel into 50 lots for the construction of 50 market-rate single-family detached, attached, or zero-lot-line dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”

Set B: Multifamily

- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it.”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of two acres on which to build it. (Net density would thus be 20 dwellings per acre.)”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of one acre on which to build it. (Net density would therefore be 40 dwellings per acre.)”

Questions on Each Hypothetical Prototype

These are the questions on the hypothetical prototypes. For example:

1. Would this project be allowed somewhere in the jurisdiction, according to the governing zoning ordinance, bylaw, resolution?
 - o Yes
 - o No
 - If No: Might the project be allowed on a larger site?
 - No
 - Yes
 - ♦ How large would the site need to be in acres? ___ acres
 - Would the project be allowed if the units were larger?
 - No
 - Yes
 - ♦ How large would the units need to be in square feet? ___ sq. ft.

- Would the project be permitted under the prevailing zoning if at least 20 percent of its units were reserved for low- or moderate-income households?
 - No
 - Yes
 - If No: If the applicant applies for a rezoning, zoning amendment or other necessary change so that such a project could be built in this jurisdiction, how long do you estimate it would take?
 - Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment or other change would not be allowed in this jurisdiction
 - If Yes: Under what conditions might the project be approved?
 - Permitted as of right under one or more zoning categories
 - Only by special permit, conditional use permit, PUD, or cluster provision
 - Could such a project ever receive approval at the staff or administrative level?
 - Yes
 - No
 - If No:
 - An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances
 - An elected body (city council, town board) must approve all such developments
 - Such developments must be approved in a town meeting or by referendum
 - If a complete application were submitted to build this project, and the site were already zoned to accommodate it, how long on average would it take for the sponsor to receive a final decision?
 - Less than two months
 - Two to six months
 - Seven months to one year
 - More than one year
 - Impossible to predict
2. How much land is currently in zoning categories that could accommodate this hypothetical development, assuming that demand in the next 10 years is about the same as in the past five years?
 - o None or practically none
 - o Enough to satisfy short-term demand (less than two years)
 - o Enough to satisfy medium-term demand (2-10 years)
 - o Enough to satisfy long-term demand (more than 10 years)
 3. Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no technical constraints. How long would it take for your jurisdiction to approve the project?
 - o Within three months
 - o Between three and six months
 - o Six months to a year
 - o Over a year, but eventually possible
 - o Never
 4. (*For detached/subdivision only*) Would this project have to be consistent with zoning before your jurisdiction would deem a subdivision application complete?
 - Yes
 - No
 5. Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
 - o It would be uncontroversial
 - o It would be controversial only in a few locations
 - o It would be controversial in many locations
 - o It would be controversial wherever proposed

6. Generally speaking, how likely is it that a development like this could be built in your jurisdiction next year if it were proposed?

- o Nearly certain to be approved
- o At least a 50-50 chance of being rejected
- o Nearly or completely certain to be rejected
- o No developer would consider proposing it here because it is so certain to be rejected

7. Compare your jurisdiction to adjacent ones.

- o How many jurisdictions border yours? ____
- o How many adjacent jurisdictions are *more restrictive than yours* regarding a development of this type? ____
- o How many are *about as restrictive as yours* regarding a development of this type? ____
- o How many are less restrictive than yours regarding a development of this type? ____

APPENDIX F

SURVEY INSTRUMENT DISCUSSED IN PORTLAND, OREGON

**NATIONAL LAND-USE REGULATIONS
AND AFFORDABLE HOUSING:
DRAFT SURVEY INTRODUCTION**
BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) is working on a process to develop a national database on state and local land-use regulatory practices. As part of this effort, HUD has prepared a draft data collection instrument to be used in collecting information on state and local land-use regulations for residential development. The next step in the process calls for the draft survey instrument to be examined and refined by focus groups in four distinct metropolitan areas.

Purpose of the Survey

This survey seeks to effectively measure regulations applied toward residential development across the country and the effect of these regulations on housing affordability. HUD will use responses from the survey to develop a comprehensive database that can be used by researchers and practitioners seeking to document and overcome barriers to the provision of affordable housing.

Purpose of the Focus Groups

The purpose of the focus groups is to provide HUD with feedback on the draft survey instrument from people representing a wide array of experience and interests related to affordable housing. The focus groups are structured to: (1) evaluate the general suitability of the surveys in obtaining basic, common information from communities across the country, (2) identify how the instruments can best be adapted so that they are responsive to regional and local variations in practice, terminology, and other factors, (3) recommend methods for administering the survey to maximize useable survey results, and (4) identify additional types of information related to land-use and development regulations that should be collected.

Instructions for Focus Group Participants

Please review the enclosed copy of the Draft Survey before your focus group is scheduled to meet. The survey will be discussed at length during the focus group, and your familiarity with it will enhance the effectiveness of these meetings. As you read the survey, please analyze specific questions in terms of potential ambiguity and topical relevance. Another key factor to consider is the overall length of the survey and the amount of work that would go into filling it out.

The survey currently contains 44 questions and is organized in two sections. Part One, *Inventory Questions*, contains multiple-choice and fill-in questions on the following topics:

- *Recent Development Activity*. The quantity and nature of recent development activity in a given jurisdiction
- *Permit Process*. The process and time involved in various permitting approvals
- *Zoning*. Issues of jurisdiction and limitations imposed by zoning
- *Residential Regulations*. Regulations dealing with growth rates, locations, and infrastructure capacity
- *Affordable Housing*. Mandates and incentives to provide affordable housing
- *Recent Rezoning Experience*. Recent efforts to add residential development or increase density through rezoning
- *Controversy over Residential Development*. Reactions of builders and citizens to regulations and housing proposals
- *Other Constraints on Development*. Additional impediments to residential development that have not been covered

Part Two, *Hypothetical Prototypes*, contains a series of questions based on hypothetical situations regarding single-family and multifamily development.

Once you have reviewed the survey, please take some time to answer the questionnaire form that accompanies it. This form solicits your initial comments on format, content, specific questions, and implementation of the survey and will be used to drive focus group discussion. Directions for submitting the questionnaire can be found on the form itself.

PART ONE

“Inventory” Survey Questions

Recent Development Activity

1. How many residential subdivisions of at least 5 units were approved by your jurisdiction in the last 12 months?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50-99
 - 100 or more

2. What was the number of units in the typical single-family residential subdivision approved in your jurisdiction over the last 12 months?
 - Fewer than five
 - 5-19
 - 20-49
 - 50-99
 - 100 or more

3. What is the unit size in the typical single-family residential subdivision approved in your jurisdiction?
 - Under 7,500 square feet
 - 7,500 square feet to one-half acre
 - More than one-half to one acre
 - More than one acre to two acres
 - More than two acres

4. What is the number of lots in the largest single-family residential subdivision proposed in your jurisdiction last year?
 - Fewer than 20
 - 20-49
 - 50-99
 - 100 or more

5. How many projects for multifamily residential development were approved by your jurisdiction over the last 12 months?
 - Fewer than 10
 - 10-24
 - 25-49
 - 50 or more

6. Please list the number of housing units granted building permits in your jurisdiction over the last 12 months, in each category:
 - Single-family detached ____
 - Row houses, townhomes, or other single-family attached ____
 - Duplexes ____
 - Small apartment buildings (3-9 units) ____
 - Large apartment buildings (10+ units) ____

Permit Processes

7. Who is authorized to grant *final* approval of the typical subdivision application?
 - No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board, such as planning board or commission
 - Elected legislative body

8. Apart from the body that grants final approval of the subdivision application, how many other boards and/or regulatory bodies must grant permission or preliminary approval before the typical subdivision is approved in your jurisdiction?
- o None
 - o One or two
 - o Between three and five
 - o More than five
9. What share of all subdivision applications opt for *flexible standards* for lot dimensions and size (e.g., cluster developments, planned developments, planned residential developments, etc.)?
- o None
 - o Some, but less than 25 percent
 - o More than 25 percent to 50 percent
 - o More than 50 percent to 75 percent
 - o Over 75 percent
10. What is the average time to secure final approval for the typical subdivision application, starting from the time the application is deemed complete?
- o Less than two months
 - o Two to six months
 - o More than six months to one year
 - o More than one year
 - o The times vary so much that it is impossible to say
11. Please compare current approval times with average times five years ago:
- o It now takes more time to receive final approval for the typical subdivision
 - o It now takes about as much time as before
 - o It now takes less time than it did then
12. Does your jurisdiction offer sketch concept review, pre-application conferences, or similar measures designed to expedite the approval process?
- o No
 - o Yes
 - If yes, how long does this pre-application process typically last?
 - Less than two months
 - Two to six months
 - More than six months to one year
 - More than one year
 - The times vary so much it is impossible to say
13. For new multifamily projects on land needing *no rezoning or variance*, do applicants need to receive *any* local government approvals before receiving a building permit?
- o Yes, as of right, multifamily developments must observe site plan approval requirements
 - o No
 - If no, why not?
 - As of right, multifamily developments go directly to construction permits
 - Multifamily developments are not allowed in this jurisdiction
14. Again, for new multifamily projects on land needing no rezoning or variance, must applicants obtain approval by an elected official or body?
- o Always
 - o Sometimes
 - o Never
15. Again, for new multifamily projects on land needing no rezoning or variance, what is the average time to secure final approval for the typical such multifamily application, starting from the time the application is deemed complete?
- o Multifamily developments are not allowed in this jurisdiction
 - o Less than three months
 - o Three to six months
 - o Over six months to one year
 - o One year to two years
 - o Over two years

Zoning

16. Does your jurisdiction have its own zoning provisions (via ordinance, bylaw, resolution, or otherwise)?
- Yes
 - No
17. Is your jurisdiction a sub-county unit encompassing areas in which the county applies its own zoning provisions to new development?
- No (*You may skip to the next question*)
 - Yes
 - If so, how much land within your jurisdiction is governed at least in part by the jurisdiction's own zoning rather than the county's?
 - 100% of its land area
 - More than half of its land area
 - Less than half of its land area
 - None at all
18. Is your jurisdiction a county with zoning regulations that apply to development in jurisdictions within the county (e.g., townships or towns) that could also have their own zoning?
- No (*You may skip to the next question*)
 - Yes
 - If so, what proportion of towns/townships in the county have adopted their own zoning that overrides or supplements the county's?
 - All of them
 - Most of them
 - Some of them
 - None of them
 - If so, overall what proportion of the county's land area is governed by the county's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area
19. If your jurisdiction has zoning, what is the maximum buildable density allowed by the highest-density category in your zoning ordinance?
- Less than one dwelling per net acre
 - One to two dwellings per net acre
 - Three to four dwellings per net acre
 - Five to seven dwellings per net acre
 - 8 to 15 dwellings per net acre
 - 16 to 30 dwellings per net acre
 - Over 30 dwellings per net acre
 - The jurisdiction has no zoning
20. If your jurisdiction has zoning, do its provisions contain any in which there is a *minimum* required residential density?
- No
 - Yes
 - If yes, is this minimum density designed to guarantee construction of multifamily housing?
 - Yes
 - No
21. Can mobile homes be sited in your jurisdiction?
- No
 - Yes
 - Are single-wide mobile homes allowed?
 - Yes
 - No

22. Does your jurisdiction impose height limits on residential development?
- o No
 - o Yes, with maximum height:
 - Up to 35 feet
 - 36-50 feet
 - Over 50 feet

Regulations to Manage Residential Growth Rates, Locations, and Infrastructure Capacity

23. Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?

- o No
- o Yes
 - An annual numeric limit (cap) on the number of residential building permits that may be issued
 - A residential building permit moratorium
 - Imposed by the jurisdiction itself
 - Imposed by another jurisdiction or special district
 - A sewer moratorium
 - An adequate public facilities ordinance

24. Must residential developers in your jurisdiction contribute funds, land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a precondition to development? Please enter amounts in all applicable categories. (Please do not include requirements for affordable housing.)

- o Development impact fees [system charges]
 - Required by the jurisdiction
 - Typical total fees per single-family lot: \$___
 - Typical total fees per multifamily unit: \$___
 - Required by all other jurisdictions/special districts/school districts:
 - Typical total fees per single-family lot: \$___
 - Typical total fees per multifamily unit: \$___
- o Dedications of land, to this or any other jurisdiction:
 - Total land dedication per 100 residential units: ___ acres
 - Fees accepted in lieu of land dedication:
 - \$___ / single-family unit
 - \$___ / multifamily unit
- o Project-specific negotiated contributions, to this or any jurisdiction:
 - Typical contribution per single-family lot: \$___
 - Typical contribution per multifamily unit: \$___
- o No contributions required

25. Does your jurisdiction have measures with infrastructure-related level of service standards that, if violated, would preclude development (e.g., adequate public facilities ordinances)?

- o No
- o Yes

26. Is your jurisdiction subject to a policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- o No
- o Yes
 - What year was the boundary adopted? ____
 - How big is the boundary now compared to when it was first adopted?
 - Much smaller
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150 percent of first adopted boundary)
 - How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Impossible

- If development in the next 10 years occurs at the pace of the last five years, how soon do you estimate remaining vacant land within the boundary will be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - More than 10 years to 25 years
 - More than 25 years or never

Affordable Housing Mandates and Incentives

27. Does your jurisdiction require residential builders to provide affordable housing as a condition of project approval (e.g., via inclusionary zoning)?

- No
- Yes
 - Percentage of units that must be affordable in a typical project: ____%
 - May a builder pay fees in lieu of providing units?
 - Yes \$____/unit
 - No
 - The inclusionary requirement applies:
 - Throughout the jurisdiction
 - Only in certain areas

28. Does your jurisdiction award density bonuses to builders who provide affordable housing?

- No
- Yes
 - Percentage of units that must be affordable to qualify: ____%
 - Density bonus provided: ____% above the maximum allowed
 - The bonus is available:
 - Throughout the jurisdiction
 - Only in certain areas

29. Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable housing projects? (*Please check all that apply.*)

- Expedited or concurrent permit review
- More permissive subdivision standards
- Lower permit fees
- Other mechanisms to reduce regulatory impacts

Recent Rezoning Experience

30. How frequently does your jurisdiction receive applications for rezoning of land from nonresidential to residential use?

- Once or more per month
- Once or twice every six months
- Once a year
- Less than once a year

31. How often have these requests been granted?

- Never
- Less than half the time
- More than half the time

32. In the past twelve months, how often have applications for zoning variances been requested to allow construction of more housing units than the underlying zoning would permit?

- Once or more per month
- Once or twice every six months
- Once a year
- More seldom than once a year

33. On the average, how often are such requests granted?

- Never
- Less than half the time
- More than half the time

Controversy over Residential Development

34. Has your jurisdiction been sued by a residential builder in the past five years for denying a residential project or for imposing excessive conditions?
- o No
 - o Yes
 - If Yes, for what? (*Check all that apply*)
 - Denying a residential project
 - Delaying a residential project
 - Imposing excessive conditions for approval
 - Other
35. Have citizens in your jurisdiction mounted a referendum campaign against any housing proposal in the past five years?
- o No
 - o Yes
36. How often did your planning board or planning commission meetings end after 11:30 P.M. over the past twelve months?
- o Never
 - o Sometimes
 - o Most of the time

Other Constraints on Development

37. Which of the following conditions imposes a serious constraint upon residential development in your jurisdiction? (*Please check all that apply*)
- o The jurisdiction has little or no undeveloped land.
 - o Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as high slope, exposure to natural hazards, wetlands, and protected habitat.
 - o Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations.
 - o The jurisdiction has little or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools.
 - o The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals.

PART TWO

Survey Questions on Hypothetical Prototypes

Each survey answered will have one randomly selected hypothetical prototype from Set A and one from Set B. The respondent will then answer the series of questions that follow the hypothetical prototype descriptions.

Set A: Single-family

- “Please assume a builder wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”
- “Please assume a builder wants to subdivide a five-acre parcel into 50 lots for the construction of 50 market-rate single-family detached, attached, or zero-lot-line dwelling units of 1,500 square feet each. Please also assume there is a vacant parcel that could accommodate such a development.”

Set B: Multifamily

- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it.”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of two acres on which to build it. (Net density would thus be 20 dwellings per acre.)”
- “Please assume a builder wants to build 40 market-rate apartments of 1,000 square feet each, and has a vacant parcel of one acre on which to build it. (Net density would therefore be 40 dwellings per acre.)”

Questions on Each Hypothetical Prototype

These are the questions on the hypothetical prototypes. For example:

1. Would this project be allowed somewhere in the jurisdiction, according to the governing zoning ordinance, bylaw, resolution?
 - o Yes (If Yes, please answer the following questions)
 - Under what conditions might the project be approved?
 - Permitted as of right under one or more zoning categories
 - Only by special permit, conditional use permit, PUD, or cluster provision
 - Could such a project ever receive approval at the staff or administrative level?
 - Yes
 - No
 - If No:*
 - An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances
 - An elected body (city council, town board) must approve all such developments
 - Such developments must be approved in a town meeting or by referendum
 - If a complete application were submitted to build this project, and the site were already zoned to accommodate it, how long on average would it take for the sponsor to receive a final decision?
 - Less than two months
 - Two to six months
 - Seven months to one year
 - More than one year
 - Impossible to predict
 - o No (If No, please answer the following questions):
 - Might the project be allowed on a larger site?
 - No
 - Yes
 - ♦ How large would the site need to be in acres? ___ acres
 - Would the project be allowed if the units were larger?
 - No
 - Yes
 - ♦ How large would the units need to be in square feet? ___ sq. ft.
 - Would the project be permitted under the prevailing zoning if at least 20 percent of its units were reserved for low- or moderate-income households?
 - No
 - Yes
 - If the applicant applies for a rezoning, zoning amendment or other necessary change so that such a project could be built in this jurisdiction, how long do you estimate it would take?
 - Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment or other change would not be allowed in this jurisdiction

2. How much land is currently in zoning categories that could accommodate this hypothetical development?
 - o None or practically none
 - o Enough to satisfy short-term demand (less than two years)
 - o Enough to satisfy medium-term demand (2-10 years)
 - o Enough to satisfy long-term demand (more than 10 years)

3. Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no technical constraints. How long would it take for your jurisdiction to approve the project?
 - o Within three months
 - o Between three and six months
 - o Six months to a year
 - o Over a year, but eventually possible
 - o Never

4. (*For detached/subdivision only*) Would this project have to be consistent with zoning before your jurisdiction would deem a subdivision application complete?
 - Yes
 - No

5. Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
 - o It would be uncontroversial
 - o It would be controversial only in a few locations
 - o It would be controversial in many locations
 - o It would be controversial wherever proposed

6. Generally speaking, how likely is it that a development like this could be built in your jurisdiction next year if it were proposed?
 - o Nearly certain to be approved
 - o At least a 50-50 chance of being rejected
 - o Nearly or completely certain to be rejected
 - o No developer would consider proposing it here because it is so certain to be rejected

7. Compare your jurisdiction to adjacent ones.
 - o How many jurisdictions border yours? ____
 - o How many adjacent jurisdictions are *more restrictive than yours* regarding a development of this type? ____
 - o How many are *about as restrictive as yours* regarding a development of this type? ____
 - o How many are less restrictive than yours regarding a development of this type? ____

APPENDIX G

SURVEY INSTRUMENT DISCUSSED IN ATLANTA, GEORGIA

**HUD National Survey of
Land-Use Regulations**

Background

The U.S. Department of Housing and Urban Development (HUD) is engaged in an effort to develop a national database on state and local land-use regulatory practices. As part of this effort, HUD has prepared a data collection instrument to be used in collecting information about state and local land-use regulations on residential development.

Purpose of the Survey

The enclosed survey seeks to gauge the impact of local regulations affecting residential development and the impact of these regulations on housing supply and affordability. HUD will use responses from the survey to develop a comprehensive database that can be used by researchers and practitioners seeking to document and compare types of development regulations in locations throughout the United States.

Instructions for Respondents

Your jurisdiction has been selected to participate in this HUD survey of local land-use regulations. Part One of the survey consists of 37 multiple-choice questions dealing with land-use regulations in your jurisdiction. Part Two asks you to consider a single- and multifamily development scenario that might be developed in your community and to answer a set of questions based on these hypotheticals. Please download the survey from the HUD Web site and fill it out. Return it by uploading it to the same Web site. This will automatically document the participation of your jurisdiction.

PART ONE**Database Survey Questions**

First, we would like to ask you some questions about your community's recent development activity.

- Q1 How many single-family residential subdivisions of at least 5 lots were approved by your jurisdiction in the last 12 months?
- 0-9
 - 10-24
 - 25-49
 - 50-99
 - 100 or more
- Q2 What was the number of units in the most common single-family residential development approved in your jurisdiction in the last 12 months?
- 0-4
 - 5-19
 - 20-49
 - 50-99
 - 100 or more
- Q3 What is the lot size of the most common single-family residential subdivision approved in your jurisdiction during the aforementioned period?
- Under 5,000 square feet
 - 5,000 to 10,000 square feet
 - More than 10,000 square feet to one-half acre
 - More than one-half acre to one acre
 - More than one acre to two acres
 - More than two acres
- Q4 What is the number of units in the largest single-family residential development approved in your jurisdiction in the last 12 months?
- Fewer than 20
 - 20-49
 - 50-99
 - 100 or more
- Q5 How many multifamily (three units or more) residential developments were approved in your jurisdiction in the last 12 months?
- Fewer than 10
 - 10-24
 - 25-29
 - 30-49
 - 50 or more
- Q6 Please list the number of housing units granted building permits in your jurisdiction over the last 12 months, in each category (*specify by category*):
- Single-family detached ____
 - Row houses, town homes, or other single-family attached ____
 - Duplexes ____
 - Small multifamily rental buildings (3-9 units) ____
 - Large multifamily rental buildings (10+ units) ____
 - Condominiums ____
 - Units deemed affordable or workforce housing ____

Next, we would like to ask you about the permit process in your jurisdiction.

- Q7 Who is authorized to grant preliminary approval of the most common single-family residential development application?
- No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board (planning board or commission)
 - Elected legislative body
- Q8 Apart from the body that grants preliminary approval of the single-family development application, how many other boards and/or regulatory bodies must grant permission or preliminary approval before the most common residential development is approved in your jurisdiction?
- None
 - One or two
 - Between three and five
 - More than five
- Q9 What share of all single-family residential development applications opt for *flexible standards* for lot dimensions and size (cluster developments, planned-unit developments, planned residential developments, etc.)?
- None
 - Some, but less than 25%
 - More than 25% to 50%
 - More than 50% to 75%
 - Over 75%
- Q10 What is the average time to secure preliminary approval for the most common single-family residential development application, starting from the time the application is deemed complete?
- Less than two months
 - Two to six months
 - More than six months to one year
 - More than one year
 - The times vary so much that it is impossible to say
- Q11 Please compare current approval times with average times five years ago for single-family residential development:
- It now takes more time to receive preliminary approval for the most common development
 - It now takes about as much time as before
 - It now takes less time than it did then
- Q12 Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite residential development approval?
- No
 - Yes
 - If yes, how long does this pre-application or other conference last?
 - One meeting
 - Several meetings
 - More than several meetings
 - The number of meetings varies so much it is impossible to say
- Q13 For new multifamily developments on land needing no rezoning, zoning amendment, or use variance, do applicants need to receive any appointed body approvals before obtaining a building permit?
- Yes, as of right, multifamily developments must observe site plan approval requirements
 - No
 - If no, why not?
 - As of right, multifamily developments go directly to construction permits
 - Multifamily developments are not allowed in this jurisdiction
- Q14 Again for new multifamily developments on land needing no rezoning, zoning amendment, or use variance, must applicants obtain elected-body approval before receiving a building permit?
- Always
 - Sometimes
 - Never

- Q15 Finally, for new multifamily developments on land needing no rezoning, zoning amendment, or use variance, what is the average time to secure preliminary approval for the most common development, starting from the time the application is deemed complete?
- Multifamily developments are not allowed in this jurisdiction
 - Less than three months
 - Three to six months
 - Over six months to one year
 - One year to two years
 - Over two years

This section focuses on zoning in your jurisdiction.

- Q16 Does your jurisdiction have its own zoning or other similar provisions for the regulation of land (via ordinance, bylaw, resolution, or otherwise)?
- No
 - Yes
- Q17 Is your jurisdiction a sub-county unit (e.g., city, town, township, etc.) encompassing areas in which the county applies its own zoning provisions to new development?
- No (*You may skip to the next question*)
 - Yes
 - If so, how much land within your jurisdiction is governed at least in part by your jurisdiction's own zoning rather than the county's?
 - 100% of its land area
 - More than half of its land area
 - Less than half of its land area
 - None at all
- Q18 Is your jurisdiction a county with zoning regulations that apply to development in jurisdictions within the county (e.g., cities, towns, townships) that could also have their own zoning?
- No (*You may skip to the next question*)
 - Yes
 - If so, what proportion of cities/towns/townships in the county has adopted their own zoning that overrides or supplements the county's?
 - All of them
 - Most of them
 - Some of them
 - None of the them
 - If so, overall what proportion of the county's land area is governed by the county's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area
- Q19 If your jurisdiction has zoning, what is the maximum buildable density allowed by the highest-density category in your zoning ordinance?
- Less than one unit per net acre
 - One to two units per net acre
 - Three to four units per net acre
 - Five to seven units per net acre
 - Eight to 15 units per net acre
 - 16 to 30 units per net acre
 - Over 30 units per net acre
 - The jurisdiction has no zoning

- Q19a What percentage of your jurisdiction falls within the highest-density zoning category?
- More than 75%
 - 50-75%
 - 25-49%
 - 10-24%
 - 5-9%
 - 2-4%
 - 1% or less
- Q20 If your jurisdiction has zoning or a plan, do its provisions contain any in which there is minimum required residential density?
- No
 - Yes
 - If yes, is this minimum density designed to encourage the construction of multifamily housing?
 - No
 - Yes
- Q21 Can mobile, modular or manufactured homes be sited in your jurisdiction?
- No (*You may skip to the next question*)
 - Yes
 - Are they allowed in places other than existing parks?
 - No
 - Yes
 - Must they meet specific provisions such as pitched roofs, attached garages, etc.?
 - No
 - Yes
- Q22 Does your jurisdiction impose height limitations on residential development?
- No
 - Yes, with maximum height:
 - Up to 35 feet
 - 36-50 feet
 - Over 50 feet

Now we would like to ask about regulations designed to manage the rate and location of residential growth.

- Q23 Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?
- No
 - Yes, longer term
 - An annual numeric limit (cap) on the number of residential building permits that may be issued
 - A timed ordinance that may relate to development of certain portions of the community first
 - Yes, shorter term
 - A sewer moratorium
 - An adequate public facilities ordinance
 - Environmental constraints
- Q24 Must residential developers in your jurisdiction contribute funds, land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a condition to development? Please enter amounts in all applicable categories. (*Please do not include requirements for affordable housing.*)
- No, contributions are not required
 - Yes, contributions of the following types are required or expected:

DEVELOPMENT IMPACT FEES [SYSTEM CHARGES]

- Required by the jurisdiction or related jurisdiction (school district)
 Yes No
 - ♦ Typical total fees per single-family lot: \$ _____
 - ♦ Typical total fees per multifamily unit: \$ _____

DEDICATIONS OF LAND, TO THIS OR ANOTHER JURISDICTION

- Total land dedication per 100 residential units: ___ acres
- Fees accepted in lieu of land dedication:
 - ♦ \$___ / single-family unit
 - ♦ \$___ / multifamily unit

PROJECT-SPECIFIC NEGOTIATED CONTRIBUTIONS, TO THIS OR ANY JURISDICTION:

- Typical contribution per single-family lot: \$ ___
- Typical contribution per multifamily unit: \$ ___

Q25 Does your jurisdiction have infrastructure-related level of service standards that, if not met, would preclude development (e.g., adequate public facilities ordinances, etc.)?

- No
 Yes

Q26 Is your jurisdiction subject to a policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- No (*Skip to question 27*)
 Yes

- If Yes, what year was the boundary originally adopted? ____
- How many times since inception has the boundary been adjusted?
 - Never
 - Once
 - Two to five times
 - More than five times
- How big is the boundary now compared to when it was first adopted?
 - Much smaller
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150% of first adopted boundary)
- How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Almost impossible
- If development in the next 10 years occurs at the pace of the last five years, how soon do you estimate remaining vacant land within the boundary will be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - More than 10-25 years
 - More than 25 years or never

Next, we would like to ask you about affordable housing mandates and incentives in your jurisdiction.

Q27 Does your jurisdiction require or incentivize residential developers to provide affordable/workforce housing as a condition to project approval (via inclusionary zoning)?

- No, we do not do it (e.g., inclusionary zoning, etc.)
- No, state or other law prohibits
- Yes
 - ♦ Percentage of units that must be affordable in a typical project: ____%
 - ♦ May a builder pay fees in lieu of providing units?
 - Yes, \$ ____/unit
 - No
 - ♦ Does the affordable/workforce housing provision apply:
 - Throughout the jurisdiction
 - Only in certain areas
 - ♦ Is the affordable/workforce housing provision subject to a threshold (e.g., 10 units or more)?
 - Yes
 - No
 - ♦ Does the affordable/workforce housing provision include rental units?
 - Yes
 - No

Q28 Does your jurisdiction award density bonuses to developers who provide affordable/workforce housing?

- No
- Yes
 - ♦ Percentage of units that must be affordable/workforce to qualify: ____%
 - ♦ Density bonus provided: ____% above the maximum allowed
 - ♦ The bonus provision is available:
 - Throughout the jurisdiction
 - Only in certain areas

Q29 Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable/workforce housing projects? (*Please check all that apply.*)

- Expedited or concurrent permit review
- Lower permit fees
- Easing height requirements
- Lowering parking requirements
- Reducing transportation mitigation requirements

This section deals with your recent rezoning experience.

Q30 How often does your jurisdiction receive applications for rezoning, zoning amendment, or zoning variance of land from nonresidential to residential use?

- Once or more per month
- Once or twice every six months
- Once a year
- Less than once a year
- Never

Q31 On average, how often are such applications granted?

- Never
- Less than half the time
- More than half the time

Q32 How often does your jurisdiction receive applications for rezoning, zoning amendment, or zoning variance to allow for the construction of more housing units than the underlying zoning would permit?

- Once or more per month
- Once or twice every six months
- Once a year
- Less than once a year

Q33 On average, how often are such applications granted?

- Never
- Less than half the time
- More than half the time

Next, we would like to ask you about the controversy over residential development in your jurisdiction.

Q34 Has a decision in your jurisdiction been subject to appeal or lawsuit?

- No
- Yes
 - If yes, for what? (*Please check all that apply*)
 - Denying a residential project
 - Delaying a residential project
 - Imposing excessive conditions for approval
 - Other

Q35 Have citizens in your jurisdiction mounted an appeal against a land-use designation that would have encouraged more housing in the past five years?

- No
- Yes

Q36 How many times a month (including special meetings) does your planning board meet to consider development applications?

- One
- Two
- Three
- Four
- More than four

Q36a How controversial are meetings where new residential development projects are introduced?

- Not controversial at all
- Moderately controversial
- Very controversial

Now, please tell us about other constraints on development in your jurisdiction.

Q37 Which of the following conditions imposes a constraint on residential development in your jurisdiction? (*Please check all that apply*)

- The jurisdiction has little or no undeveloped land
- The jurisdiction has land available that can come only from the assemblage of small lots
- Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as steep slope, exposure to natural hazards, wetlands, and protected habitat
- Most or all undeveloped land in the jurisdiction is in the lower required density zones
- Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations and is not available for development
- Most or all undeveloped land in the jurisdiction is owned by private entities and is not available for development
- The jurisdiction has either no capacity or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools
- The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals

PART TWO**Survey Questions on Hypothetical Prototypes**

Instructions: Pick the highest-density situation (one from Set A and one from Set B) that has a reasonable likelihood of being approved in your jurisdiction. Not selecting any or selecting only one means that the other(s) would not be approved. Regardless of the number selected, even neither or none, all questions must be answered by the respondent at least once.

Set A: Single-family (Please check which applies)

- Assume a developer wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units of 1,500 square feet each. Also assume that there is a vacant parcel that could accommodate such a development. (*Net density: 4 units per acre*)
- Assume a developer wants to subdivide the same five-acre parcel into 50 lots. (*Net density: 10 units per acre*)
- Neither of the above would be approved.

Set B: Multifamily (Please check which applies)

- Assume a developer wants to build 40 market-rate apartments of 1,000 square feet each in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it. (*Net density: 8 units per acre*)
- Assume same development as above on two acres. (*Net density: 20 units per acre*)
- Assume same development as above on one acre. (*Net density: 40 units per acre*)
- None of the above would be approved.

Below are the questions for the hypothetical prototypes. [Questions must be answered for one development in Set A and/or one development in Set B or for a “neither” or “none” answer.]

Q1 Would this project be allowed somewhere in the jurisdiction, according to the governing zoning ordinance, bylaw, resolution?

A. “Yes” to either Set A or Set B, or both. (*Please answer the following questions*)

1. Under what conditions would the project be approved?
 - Permitted as of right subject to subdivision or site plan review
 - Permitted only by discretionary permit, conditional use permit, PUD, or cluster provision
2. Could such a project ever receive approval at the staff or administrative level?
 - Yes
 - No

If No:

- An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances.
- An elected body (city council, town board) must approve all such developments.
- Such developments must be approved in a town meeting or by citizen initiative

3. If a complete application was submitted to build this project, and the site was already zoned to accommodate it, how long on average would it take the developer to receive final approval?

If Yes to both Set A and Set B, skip to Question 2

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

B. "No" to either Set A or Set B, or both. (Please answer the following questions)

1. Might any of the projects be allowed on a larger site?

- No
- Yes, single-family
 - 4-unit density
 - 10-unit density
- Yes, multifamily
 - 8-unit density
 - 20-unit density
 - 40-unit density

If yes to the above, how large would the site need to be in acres?

- Single-family, 4-unit density ___
- Single-family, 10-unit density ___
- Multifamily, 8-unit density ___
- Multifamily, 20-unit density ___
- Multifamily, 40-unit density ___

2. Would either type of development be allowed if the unit sizes were larger?

- No
- Yes, single-family
 - ♦ How large would the unit need to be in square feet? ___ sq. ft.
- Yes, multifamily
 - ♦ How large would the unit need to be in square feet? ___ sq. ft.

3. Would either type of development be permitted under the prevailing zoning if at least 20% of the units were reserved for affordable/workforce housing?

- No
- Yes, single-family
- Yes, multifamily

4. If the applicant applied for a single-family rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?

- Less than six months
- Six months to one year
- Over one year, but it would eventually be allowed
- Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction

5. If the applicant applied for a multifamily rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?

- Less than six months
- Six months to one year
- Over one year, but it would eventually be allowed
- Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction

Q2 How much land is currently in zoning categories that could accommodate this type of hypothetical development?

- None or practically none
- Enough to satisfy short-term demand (less than two years)
- Enough to satisfy medium-term demand (2-10 years)
- Enough to satisfy long-term demand (more than 10 years)

Q3 Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no technical constraints. How long would it take for your jurisdiction to grant preliminary approval if a rezoning/variance request were filed?

- Within three months
- Between three and six months
- Six months to a year
- Over one year but less than two years
- Over two years, but eventually possible
- Never

- Q4 Must this project be consistent with local zoning before your jurisdiction moves to deem the subdivision/site plan application complete?
- Yes
 - No
- Q5 Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
- It would be uncontroversial
 - It would be controversial only in a few locations
 - It would be controversial in many locations
 - It would be controversial wherever proposed
- Q6 Generally speaking, how likely is it that a development like this could be built in your jurisdiction if it were proposed?
- Nearly certain to be approved
 - At least a 50-50 chance of being rejected
 - Nearly or completely certain to be rejected
 - No developer would consider proposing it here because it is so certain to be rejected
- Q7 Compare your jurisdiction to adjacent ones (if you are a county, answer in terms of counties; if you are a municipality, answer in terms of municipalities.)
- ♦ How many jurisdictions border yours? ____
 - ♦ How many adjacent jurisdictions have lower density requirements than yours regarding a development of this type? ____
 - ♦ How many have about the same density requirements as yours regarding a development of this type? ____
 - ♦ How many have higher density requirements than yours regarding a development of this type? ____

APPENDIX H**SURVEY INSTRUMENT DISCUSSED IN MINNEAPOLIS-ST. PAUL, MINNESOTA****HUD National Survey of
Land-Use Regulations****Background**

The U.S. Department of Housing and Urban Development (HUD) is engaged in an effort to develop a national database on state and local land-use regulatory practices. As part of this effort, HUD has prepared a data collection instrument to be used in collecting information about state and local land-use regulations on residential development.

Purpose of the Survey

The enclosed survey seeks to gauge the impact of local regulations affecting residential development and the impact of these regulations on housing supply and affordability. HUD will use responses from the survey to develop a comprehensive database that can be used by researchers and practitioners seeking to document and compare types of development regulations in locations throughout the United States.

Instructions for Respondents

Your jurisdiction has been selected to participate in this HUD survey of local land-use regulations. Part One of the survey consists of 37 multiple-choice questions dealing with land-use regulations in your jurisdiction. Part Two asks you to consider a single- and multifamily development scenario that might be developed in your community and to answer a set of questions based on these hypotheticals. Please download the survey from the HUD Web site and fill it out. Return it by uploading it to the same Web site. This will automatically document the participation of your jurisdiction.

PART ONE

Database Survey Questions

First, we would like to ask you some questions about your community's recent development activity.

- Q1 How many single-family detached developments of at least 5 units were approved (permitted) by your jurisdiction in 2006?
- 0-9
 - 10-24
 - 25-49
 - 50-99
 - 100 or more
- Q2 What was the average number of units in the most common single-family detached development approved in your jurisdiction in 2006?
- 0-4
 - 5-19
 - 20-49
 - 50-99
 - 100 or more
- Q3 What is the average lot size of the most common single-family detached development approved in your jurisdiction in 2006?
- Under 5,000 square feet
 - 5,000 to 10,000 square feet
 - More than 10,000 square feet to one-half acre
 - More than one-half acre to one acre
 - More than one acre to two acres
 - More than two acres
- Q4 What is the number of units in the largest single-family detached development approved in your jurisdiction in 2006?
- Fewer than 20
 - 20-49
 - 50-99
 - 100 or more
- Q4a How many townhouse residential developments (three or more single-family units attached) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-29
 - 30-49
 - 50 or more
- Q5 How many multifamily residential developments (three units or more, condominium or rental) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-29
 - 30-49
 - 50 or more
- Q6 Please list the number of housing units granted building permits in your jurisdiction during 2006 in each category (*specify by category and answer all that are applicable*):
- Single-family detached ____
 - Row houses, town homes, or other single-family attached ____
 - Duplexes ____

- Small multifamily rental buildings (3-9 units) ___
- Large multifamily rental buildings (10+ units) ___
- Condominiums ___
- Mobile or manufactured housing ___
- Units deemed affordable or workforce housing ___

Next, we would like to ask you about the permit process in your jurisdiction.

- Q7 Who is authorized to grant preliminary plat approval of the most common single-family detached development application?
- No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board (planning board or commission)
 - Elected legislative body
- Q8 Apart from the body that grants preliminary plat approval of the single-family detached development application, how many other boards and/or regulatory bodies must grant permission or preliminary approval before the most common residential development is approved in your jurisdiction?
- None
 - One or two
 - Between three and five
 - More than five
- Q9 What share of all single-family detached development applications opt for *flexible standards* for lot dimensions and size (cluster developments, planned-unit developments, planned residential developments, etc.)?
- None
 - Some, but less than 25%
 - More than 25% to 50%
 - More than 50% to 75%
 - Over 75%
- Q10 What is the average time to secure preliminary approval for the most common single-family detached development application, starting from the time the application is deemed complete?
- Less than two months
 - Two to six months
 - More than six months to one year
 - More than one year
 - The times vary so much that it is impossible to say
- Q11 Please compare current approval times with average times experienced five years ago for single-family detached development:
- It now takes about as much time as before (*Skip to Q12*)
 - It now takes less time than it did then (*Skip to Q12*)
 - It now takes more time to receive preliminary approval for the most common development
 - Why has the approval time increased? (*Check all applicable answers.*)
 - An increase in the number/stringency of enforced local regulations
 - Project is more complex
 - Less staff now available to process paperwork
 - More layers of government involved in the process
 - Public opposition more vocal/persistent
- Q12 Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite residential development approval?
- No
 - Yes
 - If yes, how long does this pre-application or other conference last?
 - One meeting
 - Several meetings
 - More than several meetings
 - The number of meetings varies so much it is impossible to say

- If yes, how does this service affect application approval?
 - It is a benefit
 - It is a hindrance
- Q13 For new townhouse or multifamily developments on land needing *no rezoning, zoning amendment, or conditional/special-use permit*, do applicants need to receive *any* appointed body approvals before obtaining a land-disturbance/building permit?
- Yes, as of right, townhouse or multifamily developments must observe site plan approval requirements
 - No
 - If no, why not?
 - As of right, townhouse or multifamily developments go directly to construction permits
 - Townhouse or multifamily developments are not allowed in this jurisdiction
- Q14 Again, for new townhouse or multifamily developments on land needing no rezoning, zoning amendment, or conditional/special-use permit, must applicants obtain elected-body approval before receiving a land-disturbance/building permit?
- Absolutely not
 - Sometimes
 - Always
- Q15 Finally, for new townhouse or multifamily developments on land needing no rezoning, zoning amendment, or conditional/special-use variance, what is the average time to secure preliminary approval for the most common development, starting from the time the application is deemed complete?
- Townhouse or multifamily developments are not allowed in this jurisdiction
 - Less than three months
 - Three to six months
 - Over six months to one year
 - One year to two years
 - Over two years

This section focuses on zoning in your jurisdiction.

- Q16 Does your jurisdiction have its own zoning or other similar provisions for the regulation of land (via ordinance, bylaw, resolution, or otherwise)?
- No
 - Yes
- Q17 Is your jurisdiction a city, town, borough, township, etc., wherein your own zoning provisions apply to new development?
- No (*You may skip to the next question*)
 - Yes
 - If so, is there any portion of your jurisdiction governed by county zoning?
 - None at all
 - A very small portion (less than 10% of its land area)
 - More than 10%, but less than 50% of its land area
 - Half of its land area or more
- Q18 Is your jurisdiction a county with zoning regulations that apply to development in unincorporated areas of the county?
- No (*You may skip to the next question*)
 - Yes
 - If so, over the past decade, what share of the county's unincorporated area has become incorporated and subsequently adopted its own zoning ordinances?
 - None of it
 - Some, but less than 10% of it
 - More than 10% of it but less than 20%
 - More than 20% of it but less than 50%
 - 50% or more

- If so, what proportion of the county's current land area is governed by the county's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area

Q19 If your jurisdiction has zoning, what is the maximum buildable density allowed by the highest-density category in your zoning ordinance?

- Less than one unit per acre
- One to two units per acre
- Three to four units per acre
- Five to seven units per acre
- Eight to 15 units per acre
- 16 to 30 units per acre
- Over 30 units per acre
- The jurisdiction has no zoning

Q19a What percentage of your jurisdiction falls within the highest-density zoning category?

- More than 75%
- 50–75%
- 25–49%
- 10–24%
- 5–9%
- 2–4%
- 1% or less

Q20 If your jurisdiction has zoning or a plan, do its provisions contain any in which there is minimum required residential density?

- No (*Skip to Q21*)
- Yes
 - If yes, is this minimum density designed to encourage the construction of multifamily housing?
 - No
 - Yes
 - If yes, is the minimum density designed to encourage transit-oriented development (TOD)?
 - No
 - Yes

Q21 Can mobile or manufactured homes be sited in your jurisdiction?

- No (*You may skip to the next question*)
- Yes
 - Are they allowed in places other than existing lease-lot subdivisions (mobile home parks)?
 - No
 - Yes
 - Can existing lease-lot subdivisions expand?
 - No
 - Yes
 - Must development meet specific provisions such as pitched roofs, attached garages, etc.?
 - No
 - Yes

Q22 Does your jurisdiction impose height limitations on residential development?

- No
- Yes, with a maximum height that is:

	<i>Single-family Detached</i>	<i>Townhouse</i>	<i>Multifamily Condo- minium or Rental</i>
<input type="checkbox"/> Up to 35 feet	_____	_____	_____
<input type="checkbox"/> 36–50 feet	_____	_____	_____
<input type="checkbox"/> Over 50 feet	_____	_____	_____

Q22a Does your jurisdiction impose a minimum square footage for any type of residential development?

- No
- Yes (*Specify type of development*)

-
- If yes, the minimum size is:
 - 0–800 square feet
 - 801–1,000 square feet
 - 1,001–1,800 square feet
 - 1,801–2,500 square feet
 - More than 2,500 square feet

Now we would like to ask about regulations designed to manage the rate and location of residential growth.

Q23 Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?

- No
- Yes, and it is subject to:
 - An annual numeric limit (cap) on the number of residential building permits that may be issued
 - A timed ordinance that may relate to development of certain portions of the community first
 - A cap on the number of zoning hearings

Q24 Must residential developers in your jurisdiction contribute funds, land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a condition to development? Please enter amounts in all applicable categories. (*Please do not include requirements for affordable housing*)

- No, contributions are not required
- Yes, contributions of the following types are required or expected:

DEVELOPMENT IMPACT FEES [SYSTEM CHARGES]

- Required by the jurisdiction or related jurisdiction (school district)

___ Yes ___ No

- ♦ Typical total fees per single-family lot: \$ _____
- ♦ Typical total fees per multifamily unit: \$ _____

DEDICATIONS OF LAND, TO THIS OR ANOTHER JURISDICTION

- Total land dedication per 100 residential units: ___ acres
- Fees accepted in lieu of land dedication:
 - ♦ \$___ / single-family unit
 - ♦ \$___ / multifamily unit

PROJECT-SPECIFIC NEGOTIATED CONTRIBUTIONS, TO THIS OR ANY JURISDICTION:

- Typical contribution per single-family lot: \$ ___
- Typical contribution per multifamily unit: \$ ___

Q25 Does your jurisdiction have infrastructure-related level of service standards that, if not met, would preclude development (e.g., adequate public facilities ordinances, etc.)?

- No
- Yes, in particular (*Mark all that apply*)
 - A sewer moratorium
 - An adequate public facilities ordinance
 - Community benefit agreement

Q26 Is your jurisdiction subject to a policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- No (*Skip to question 27*)
- Yes
 - If Yes, what year was the boundary originally adopted? ____
 - How many times since inception has the boundary been adjusted?
 - Never
 - Once
 - Two to five times
 - More than five times
 - How big is the boundary now compared to when it was first adopted?
 - Much smaller
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150% of first adopted boundary)
 - How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Almost impossible
 - If development in the next 10 years occurs at the pace of the last five years, how soon do you estimate remaining vacant land within the boundary will be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - More than 10-25 years
 - More than 25 years or never
 - Has the type of boundary limited development?
 - Yes
 - No
 - Don't know
 - Has the type of boundary caused housing prices to rise?
 - Yes
 - No
 - Don't know

Next, we would like to ask you about affordable housing mandates and incentives in your jurisdiction.

Q27 Does your jurisdiction require residential developers to provide affordable/workforce housing as a condition to project approval?

- No, we do not do it (e.g., inclusionary zoning, etc.)
- No, state or other law prohibits
- Yes
 - Percentage of units that must be affordable in a typical project: ____%
 - May a builder pay fees in lieu of providing units?
 - Yes, \$ ____/unit
 - No
 - Does the affordable/workforce housing provision apply:
 - Throughout the jurisdiction
 - Only in certain areas
 - Is the affordable/workforce housing provision subject to a threshold (e.g., 10 units or more)?
 - Yes
 - No

- Does the affordable/workforce housing provision include rental units?
 - Yes
 - No
- Does the affordable/workforce housing provision have a cap on the percentage that can be allocated as units for the elderly?
 - Yes
 - No

Q28 Does your jurisdiction award density bonuses to residential developers who provide affordable/workforce housing?

- No
- Yes
 - Percentage of units that must be affordable/workforce to qualify: ___%
 - Density bonus provided: ___% above the maximum allowed
 - The bonus provision is available:
 - Throughout the jurisdiction
 - Only in certain areas
 - Compared to your jurisdiction's overall inclusionary percentage, its overall density bonus is:
 - Greater
 - Smaller
 - The same

Q29 Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable/workforce housing projects? (*Please check all that apply.*)

- Expedited or concurrent permit review
- Lower permit fees
- Easing height requirements
- Lowering parking requirements
- Reducing transportation mitigation requirements
- Reducing impact fees or infrastructure financing requirements
- Other mechanisms to reduce regulatory impacts
 - Specify _____

This section deals with your recent rezoning experience.

Q30 How often does your jurisdiction receive applications for rezoning, zoning amendment, or zoning variance of land from nonresidential to residential use?

- More than twice per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year
- Never

Q31 On average, how often are such applications granted?

- Never
- Less than half the time
- More than half the time
- Almost all the time

Q32 How often does your jurisdiction receive applications for rezoning, zoning amendment, or zoning variance to allow for the construction of more housing units than the underlying zoning would permit?

- More than twice per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year

Q33 On average, how often are such applications granted?

- Never
- Less than half the time
- More than half the time
- Almost all of the time

Next, we would like to ask you about the controversy over residential development in your jurisdiction.

Q34 How many land-use decisions in your jurisdiction have been subject to appeal or lawsuit?

- None
- At least one
 - What was the dominant reason? *(Please check more than one if necessary)*
 - Denial of a residential project
 - Delay of a residential project
 - Imposition of excessive conditions for approval
 - Other *(specify)*: _____

Q35 Have property owners in your jurisdiction mounted an appeal against a land-use decision that would have encouraged more housing in the past five years?

- No
- Yes

Q36 How many times a month (including special meetings) does your planning board meet to consider development applications?

- One
- Two
- Three
- Four
- More than four

Q36a How controversial are meetings where new townhouse or multifamily residential development projects are introduced?

- Not controversial at all
- Moderately controversial
- Very controversial

Now, please tell us about other constraints on development in your jurisdiction.

Q37 Which of the following conditions imposes a constraint on residential development in your jurisdiction? *(Please check all that apply)*

- The jurisdiction has little or no undeveloped land
- The jurisdiction has land available that can come only from the assemblage of small lots
- Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as steep slope, exposure to natural hazards, wetlands, and protected habitat
- Most or all undeveloped land in the jurisdiction is in the lower required density zones
- Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations and is not available for development
- Most or all undeveloped land in the jurisdiction is owned by private entities (timber companies, electric utilities, etc.) and is not available for development
- The jurisdiction has either no capacity or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools
- The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals
- The cost of land makes it prohibitive
- The cost of developing the necessary infrastructure makes it prohibitive

PART TWO**Survey Questions on Hypothetical Prototypes**

Instructions: Pick the highest-density project from Set A that would be allowed somewhere in your jurisdiction and answer the following questions.

Set A: Single-family (Please check which applies)

Assume there is a vacant five-acre parcel in your jurisdiction that could accommodate the following developments:

- A developer wants to subdivide this five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units of 1,500 square feet each. (*Net density: 4 units per acre*)
- A developer wants to subdivide the same five-acre parcel into 50 lots. (*Net density: 10 units per acre*)
- Neither of the above would be approved. (**Skip to Q2**)

Q1 A. Under what conditions would the project be approved?

- Permitted as of right subject to subdivision or site plan review
- Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision

B. Could such a project ever receive approval at the staff or administrative level?

- Yes
- No

If No:

- An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances
- An elected body (city council, town board) must approve all such developments
- Such developments must be approved in a town meeting or by citizen initiative
- The size of the structure specified is too small

C. If a complete application was submitted to build this project, and the site was already zoned to accommodate it, how long on average would it take the developer to receive final approval?

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

(Please skip to Q3)

Q2 A. Might either of the projects be allowed on a larger site?

- No
- Yes, single-family
 - 4-unit density
 - 10-unit density

If yes to the above, how large would the site need to be in acres?

- Single-family, 4-unit density _____
- Single-family, 10-unit density _____

B. Would either type of development be allowed if the unit sizes were larger?

- No
- Yes, single-family
 - ♦ How large would the unit need to be in square feet? ____ sq. ft.

- C. Would either type of development be permitted under the prevailing zoning if some share of the units were reserved for affordable/workforce housing?
- No
 - Yes, single-family
- D. If the applicant applied for a single-family rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?
- Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction
- E. If the applicant applied for a multifamily rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?
- Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction
- Q3 How much undeveloped land is currently in zoning categories that could accommodate this type of hypothetical development?
- None or practically none
 - Enough to satisfy short-term demand (less than two years)
 - Enough to satisfy medium-term demand (2-10 years)
 - Enough to satisfy long-term demand (more than 10 years)
- Q4 Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no constraints. How long would it take for your jurisdiction to grant preliminary approval if a rezoning/variance request were filed?
- Within three months
 - Between three and six months
 - Six months to a year
 - Over one year but less than two years
 - Over two years, but eventually possible
 - Never
- Q6 Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
- It would be uncontroversial
 - It would be controversial only in a few locations
 - It would be controversial in many locations
 - It would be controversial wherever proposed
- Q7 Generally speaking, how likely is it that a development like this could be built in your jurisdiction if it were proposed?
- Nearly certain to be approved
 - At least a 50-50 chance of being rejected
 - Nearly or completely certain to be rejected
 - No developer would consider proposing it here because it is so certain to be rejected
- Q8 Draw your answers on the following from your knowledge of jurisdictions nearby.
- How many jurisdictions border yours? ____
 - How many adjacent jurisdictions have lower-density requirements than yours regarding a development of this type? ____
 - How many have about the same density requirements as yours regarding a development of this type? ____
 - How many have higher-density requirements than yours regarding a development of this type? ____

Instructions: Pick the highest-density project from Set B that would be allowed somewhere in your jurisdiction and answer the following questions.

Set B: Multifamily (Please check which applies)

- A developer wants to build 40 market-rate apartments of 1,000 square feet each in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it. (*Net density: 8 units per acre*)
- Assume same development as above on two acres. (*Net density: 20 units per acre*)
- Assume same development as above on one acre. (*Net density: 40 units per acre*)
- None of the above would be approved. (**Skip to Q2**)

Q1 A. Under what conditions would the project be approved?

- Permitted as of right subject to subdivision or site plan review
- Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision

B. Could such a project ever receive approval at the staff or administrative level?

- Yes
- No

If No:

- An appointed body (planning commission, planning board, etc.) may approve this kind of development under at least some circumstances
- An elected body (city council, town board) must approve all such developments
- Such developments must be approved in a town meeting or by citizen initiative
- The unit size is too small

C. If a complete application was submitted to build this project, and the site was already zoned to accommodate it, how long on average would it take the developer to receive final approval?

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

(Please skip to Q3)

Q2 A. Might any of the projects be allowed on a larger site?

- No
- Yes, multifamily
 - 8-unit density
 - 20-unit density
 - 40-unit density

If yes to the above, how large would the site need to be in acres?

- Multifamily, 8-unit density _____
- Multifamily, 20-unit density _____
- Multifamily, 40-unit density _____

B. Would any of the developments be allowed if the unit sizes were larger?

- No
- Yes, multifamily
 - ♦ How large would the unit need to be in square feet? ____ sq. ft.

C. Would either type of development be permitted under the prevailing zoning if some share of the units were reserved for affordable/workforce housing?

- No
- Yes, multifamily

D. If the applicant applied for a single-family rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?

- Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction
- E. If the applicant applied for a multifamily rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?
- Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction
- Q3 How much undeveloped land is currently in zoning categories that could accommodate this type of hypothetical development?
- None or practically none
 - Enough to satisfy short-term demand (less than two years)
 - Enough to satisfy medium-term demand (2-10 years)
 - Enough to satisfy long-term demand (more than 10 years)
- Q4 Assume the project would be sited on a parcel where zoning would not allow it but where the soils and infrastructure pose no constraints. How long would it take for your jurisdiction to grant preliminary approval if a rezoning/variance request were filed?
- Within three months
 - Between three and six months
 - Six months to a year
 - Over one year but less than two years
 - Over two years, but eventually possible
 - Never
- Q6 Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
- It would be uncontroversial
 - It would be controversial only in a few locations
 - It would be controversial in many locations
 - It would be controversial wherever proposed
- Q7 Generally speaking, how likely is it that a development like this could be built in your jurisdiction if it were proposed?
- Nearly certain to be approved
 - At least a 50-50 chance of being rejected
 - Nearly or completely certain to be rejected
 - No developer would consider proposing it here because it is so certain to be rejected
- Q8 Draw your answers on the following from your knowledge of jurisdictions nearby.
- How many jurisdictions border yours? ____
 - How many adjacent jurisdictions have lower-density requirements than yours regarding a development of this type? ____
 - How many have about the same density requirements as yours regarding a development of this type? ____
 - How many have higher-density requirements than yours regarding a development of this type? ____

APPENDIX I

SURVEY INSTRUMENT DISCUSSED IN BOSTON, MASSACHUSETTS

**HUD National Survey of
Land-Use Regulations**

Background

The U.S. Department of Housing and Urban Development (HUD) is engaged in an effort to develop a national database on state and local land-use regulatory practices. As part of this effort, HUD has prepared a data collection instrument to be used in collecting information about state and local land-use regulations on residential development.

Purpose of the Survey

The enclosed survey seeks to gauge the impact of local regulations on residential development and the impact of these regulations on housing supply and affordability. HUD will use responses from the survey to develop a comprehensive database that can be used by researchers and practitioners seeking to document and compare types of development regulations in locations throughout the United States.

Instructions for Respondents

Your jurisdiction has been selected to participate in this HUD survey of local land-use regulations. Part One of the survey consists of 37 questions dealing with land-use regulations in your jurisdiction. Part Two asks you to consider single-family (Set A) and multifamily (Set B) development hypotheticals that might be developed in your community and to answer a set of questions based on these development choices. Please download the survey from the HUD Web site and fill it out. If you and others know your jurisdiction well, this survey will take approximately 75 minutes. Return it by uploading it to the same Web site. This will automatically document the participation of your jurisdiction.

PART ONE**Database Survey Questions**

First, we would like to ask you some questions about your community's recent development activity.

- Q1 How many single-family detached developments of 5 or more units were approved (permitted) by your jurisdiction in 2006?
- 0-9
 - 10-24
 - 25-49
 - 50-99
 - 100 or more
- Q2 What was the average number of units in the most common-sized single-family detached development approved in your jurisdiction in 2006?
- 0-4
 - 5-19
 - 20-49
 - 50-99
 - 100 or more
- Q3 What is the average lot size of the most common-sized single-family detached development approved in your jurisdiction in 2006?
- Under 5,000 square feet
 - 5,000 to 10,000 square feet
 - More than 10,000 square feet to one-half acre
 - More than one-half acre to one acre
 - More than one acre to two acres
 - More than two acres
- Q4 How many townhouse residential developments (single-family attached units in developments of 5 or more units) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-49
 - 50 or more
- Q5 How many multifamily residential developments (rental or condominium units in developments of 5 or more units) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-49
 - 50 or more
- Q6 Please list the number of housing units granted building permits in your jurisdiction during 2006 in each category (*specify by category and answer all that are applicable*):
- Single-family detached _____
 - Townhouses, or other single-family attached _____
 - Multifamily rental units _____
 - Multifamily ownership units (condominiums) _____
 - Mobile or manufactured housing units _____
 - Affordable or workforce housing units _____

Next, we would like to ask you about the permit process in your jurisdiction.

- Q7 Who is authorized to grant preliminary plat approval of the most common single-family detached development application?
- No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed citizen board (planning board or commission)
 - Elected legislative body
- Q8 Apart from the body that grants preliminary plat approval of the single-family detached development application, how many other boards and/or regulatory bodies immediate to the local jurisdiction must grant permission or preliminary approval before the most common residential development is approved in your jurisdiction? (If the local council must affirm the planning board's decision, this counts as one. If it must also be approved by a local water management district, this counts as two.)
- None
 - One
 - Two or three
 - Four or five
 - More than five
- Q9 What share of all single-family detached development applications opt for *flexible standards* for lot dimensions and size (cluster developments, conservation subdivisions, planned residential developments, etc.)?
- None
 - Some, but less than 25%
 - More than 25% to 50%
 - More than 50% to 75%
 - Over 75%
- Q10 What is the average time to secure preliminary plat approval for the most common single-family detached development application, starting from the time the application is deemed complete?
- Less than two months
 - Two to six months
 - More than six months to one year
 - More than one year
 - The times vary so much that it is impossible to say
- Q11 Please compare current preliminary plat approval times with average times experienced several (2–4) years ago for single-family detached development:
- It now takes about as much time as before (*You may skip to the next question*)
 - It now takes less time than it did then (*You may skip to the next question*)
 - It now takes more time to receive preliminary plat approval for the most common development
 - Why has the approval time increased? (*Check all applicable answers*)
 - An increase in the number/stringency of enforced local regulations
 - Projects are more complex
 - Less staff now available to process paperwork
 - More layers of government involved in the process
 - Public opposition more vocal/persistent
 - More development applications
 - Other (*Specify*) _____

- Q12 Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite or resolve conflicts about residential development approval?
- No
 - Yes
 - If yes, how long does this pre-application or other conference last?
 - One meeting
 - Several meetings
 - The number of meetings varies so much it is impossible to say
 - If yes, how long does this service affect application approval?
 - It speeds it up
 - It slows it down
- Q13 For new townhouse or multifamily developments on land needing *no rezoning, zoning amendment, bulk variance, or conditional/special-use permit*, do applicants need to receive *any* appointed-body approvals before obtaining a land-disturbance/building permit?
- Yes, as of right, townhouse or multifamily developments must observe site plan/subdivision approval requirements
 - No
 - If no, why not?
 - As of right, townhouse or multifamily developments go directly to construction permits
 - Townhouse or multifamily developments are not allowed in this jurisdiction
- Q14 Again, for new townhouse or multifamily developments on land needing *no rezoning, zoning amendment, bulk variance, or conditional/special-use permit*, must applicants obtain elected-body approval before receiving a land-disturbance/building permit?
- Never
 - Sometimes
 - Always
- Q15 Finally, for new townhouse or multifamily developments on land needing *no rezoning, zoning amendment, bulk variance, or conditional/special-use permit*, what is the average time to secure preliminary plat approval for the most common-sized development, starting from the time the application is deemed complete?
- Townhouse or multifamily developments are not allowed in this jurisdiction
 - Less than three months
 - Three to six months
 - Over six months to one year
 - One year to two years
 - Over two years

This section focuses on zoning in your jurisdiction.

- Q16 Does your jurisdiction have its own zoning or other similar provisions for the regulation of land (via ordinance, bylaw, resolution, or otherwise)?
- No
 - Yes
- Q17 Is your jurisdiction a city, town, borough, township, etc., wherein your own zoning provisions apply to new development?
- No (*You may skip to the next question*)
 - Yes
 - If so, is there any portion of your jurisdiction governed by county zoning?
 - None at all
 - A very small portion (less than 10% of its land area)
 - More than 10%, but less than 50% of its land area
 - Half of its land area or more

Q18 Is your jurisdiction a county with zoning regulations that apply to development in unincorporated areas of the county?

- No (*You may skip to the next question*)
- Yes
 - If so, over the past decade, what share of the county's unincorporated area has become incorporated and subsequently adopted its own zoning ordinance?
 - None of it
 - Some, but less than 10% of it
 - More than 10% of it but less than 20%
 - More than 20% of it but less than 50%
 - 50% or more
 - If so, what proportion of the county's current land area is governed by the county government's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area

Q19 If your jurisdiction has zoning, what is the maximum residential density allowed by the highest-density category in your zoning ordinance?

- The jurisdiction has no zoning
- Less than one unit per acre
- One to two units per acre
- Three to four units per acre
- Five to seven units per acre
- Eight to 15 units per acre
- 16 to 30 units per acre
- Over 30 units per acre

Q19a Draw your answers on the following from your knowledge of jurisdictions nearby. (*Counties compare other counties; municipalities compare other municipalities*)

- How many jurisdictions border yours? _____
- How many adjacent jurisdictions have lower-density requirements than yours regarding *single-family* development? _____
- How many have about the same density requirements as yours regarding *single-family* development? _____
- How many have higher-density requirements than yours regarding *single-family* development? _____

Q19b What percentage of your residential acreage falls within the highest residential density zoning category?

- More than 75%
- 50–75%
- 25–49%
- 10–24%
- 5–9%
- 2–4%
- 1% or less

Q20 If your jurisdiction has zoning or a plan, do its provisions contain any zones in which there is minimum required residential density?

- No (*You may skip to the next question*)
- Yes
 - If yes, what is the minimum density?

- Zero to two units per acre
- Three to four units per acre
- Five to nine units per acre
- 10–19 units per acre
- 20–30 units per acre
- More than 30 units per acre
 - If yes, is this minimum density designed to encourage the construction of multifamily housing?
 - No
 - Yes
 - If yes, is the minimum density designed to encourage transit-oriented development (TOD)?
 - No
 - Yes

Q21 Can mobile or manufactured homes be sited in your jurisdiction?

- No (*You may skip to the next question*)
- Yes
 - Are they allowed in places other than existing lease-lot subdivisions (mobile home parks)?
 - No
 - Yes
 - Can existing lease-lot subdivisions (mobile home parks) expand?
 - No
 - Yes
 - Must development meet minimum-size or width (unit or foundation) requests?
 - No
 - Yes
 - Must development meet specific provisions such as pitched roofs, attached garages, etc.?
 - No
 - Yes

Q22 Does your jurisdiction impose height limitations on residential development?

- No
- Yes, with a maximum height that is (*Mark as appropriate—a maximum of one “x” per column*):

	<i>Single-family Detached</i>	<i>Townhouse</i>	<i>Duplex, Triplex, Quadruplex</i>	<i>Multifamily Condominium or Rental Development</i>
<input type="checkbox"/> Up to 35 feet	_____	_____	_____	_____
<input type="checkbox"/> 36–50 feet	_____	_____	_____	_____
<input type="checkbox"/> Over 50 feet	_____	_____	_____	_____

Q22a Does your jurisdiction impose parking requirements on residential development?

- No
- Yes, with the following requirements:

	<i>Single-family Detached</i>	<i>Townhouse</i>	<i>Duplex, Triplex, Quadruplex</i>	<i>Multifamily Condominium or Rental Development</i>
Car garage spaces per unit				
0	_____	_____	_____	_____
1	_____	_____	_____	_____
2	_____	_____	_____	_____
Off-street spaces per unit (not including garages)				
0	_____	_____	_____	_____
1	_____	_____	_____	_____
2	_____	_____	_____	_____

- Q22b Does your jurisdiction impose a minimum square footage for any type of residential development?
- No
 - Yes (*Specify type of development*)

-
- If yes, the minimum size is:
 - 0–800 square feet
 - 801–1,000 square feet
 - 1,001–1,800 square feet
 - 1,801–2,500 square feet
 - More than 2,500 square feet

Now we would like to ask about regulations designed to manage the rate and location of residential growth.

- Q23 Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing, whether imposed by your own jurisdiction or by some other jurisdiction?

- No
- Yes, and it is subject to:
 - A numeric limit (cap) on the number of residential units that may take place in a year
 - A cap on lots developed in a year
 - A cap on the number of zoning hearings
 - A timed ordinance that may relate to development of certain portions of the community first

- Q24 Must residential developers in your jurisdiction contribute funds (service availability charges, etc.), land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a condition to development? Please enter amounts in all applicable categories. (*Please do not include requirements for affordable housing*)

- No, contributions are not required (*You may skip to the next question*)
- Yes, contributions of the following types are required or conditioned:

DEVELOPMENT IMPACT FEES [SYSTEM CHARGES]

- Required by the jurisdiction or related jurisdiction (school district)

___ Yes ___ No

- Typical total fees per single-family detached unit: \$ _____
- Typical total fees per townhouse multifamily unit: \$ _____

DEDICATIONS OF LAND FOR PARKS, SCHOOLS, STREETS, ETC., TO THIS OR ANOTHER JURISDICTION

- Total land dedication per 100 residential units: ___ acres
- Fees accepted in lieu of land dedication:
 - \$___ / single-family detached unit
 - \$___ / townhouse multifamily unit

PROJECT-SPECIFIC NEGOTIATED CONTRIBUTIONS (TRAFFIC LIGHT, DECELERATION/ACCELERATION LANES, ETC.), TO THIS OR ANY JURISDICTION:

- Typical contribution per single-family detached unit: \$ ___
- Typical contribution per townhouse multifamily unit: \$ ___

- Q25 Does your jurisdiction have infrastructure-related level-of-service standards that, if not met, would preclude development (e.g., adequate public facilities ordinances, etc.)?

- No (*You may skip to the next question*)

- Yes
 - Policy imposed by: State ____ Region ____ County ____
 - Policy imposed by your jurisdiction
 - If yes, mark all that apply:
 - A sewer moratorium
 - An adequate public facilities ordinance
 - Community benefit agreement
 - Service availability charge (SAC)
 - Water availability charge (WAC)

Q26 Is your jurisdiction subject to a policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- No (*You may skip to the next question*)
- Yes
 - Policy imposed by: State ____ Region ____ County ____
 - Policy imposed by your jurisdiction
 - If Yes, what year was the boundary originally adopted? ____
 - How many times since inception has the boundary been adjusted?
 - Never
 - Once
 - Two to five times
 - More than five times
 - How big is the area covered by the boundary now compared to when it was first adopted?
 - Much smaller (80% or less of first adopted boundary)
 - Somewhat smaller
 - About the same size
 - Somewhat larger
 - Much larger (more than 150% of first adopted boundary)
 - How easily is the boundary expanded to accommodate new development?
 - Relatively easy
 - Relatively difficult
 - Almost impossible
 - How soon do you estimate remaining vacant land within the boundary to be developed?
 - There is no vacant land within the boundary
 - Less than five years
 - Five to 10 years
 - More than 10-25 years
 - More than 25 years or never
 - Has the boundary caused density inside it to increase?
 - Yes
 - No
 - Don't know
 - Has the type of boundary caused more orderly development?
 - Yes
 - No
 - Don't know
 - Has the boundary limited growth?
 - Yes
 - No
 - Don't know

Next, we would like to ask you about affordable housing mandates and incentives in your jurisdiction.

Q27 Does your jurisdiction require residential developers to provide affordable/workforce housing as a condition to project approval?

- No, jurisdiction does not require, or state or other law prohibits (*You may skip to the next question*)
- Yes, without qualifications
- Yes, only if a public subsidy is involved
 - ♦ Percentage of units that must be affordable in a typical project: ____%
 - ♦ May a builder pay fees in lieu of providing units?
 - Yes, \$ ____/unit
 - No
 - ♦ Does the affordable/workforce housing provision apply:
 - Throughout the jurisdiction
 - Only in certain areas
 - ♦ Is the affordable/workforce housing provision subject to a threshold (e.g., a provision applies only to developments of 10 units or more)?
 - Yes
 - No
 - ♦ Does the affordable/workforce housing provision require rental units?
 - Yes
 - No
 - ♦ Does the affordable/workforce housing provision have a cap on the percentage that can be allocated as units for the elderly?
 - Yes
 - No
 - ♦ Does the affordable/workforce housing provision have a minimum period during which the units must remain affordable?
 - Yes, 10 years
 - Yes, 20 years
 - Yes, 30 years
 - Yes, 99 years
 - Yes, in perpetuity
 - No

Q28 Does your jurisdiction award density bonuses to residential developers who provide affordable/workforce housing?

- No (*You may skip to the next question*)
- Yes
 - ♦ Percentage of units that must be affordable/workforce to qualify: ____%
 - ♦ Density bonus provided: ____% above the maximum allowed
 - ♦ The bonus provision is available:
 - Throughout the jurisdiction
 - Only in certain areas
 - ♦ The bonus provision produces a smaller number, an equal number, or a larger number of additional market rate to affordable/workforce units:
 - Smaller
 - Equal
 - Larger

Q29 Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable/workforce housing projects? (*Please check all that apply*)

- Expedited or concurrent permit review
- Lower permit fees
- Easing height requirements
- Lowering parking requirements

- Reducing transportation mitigation requirements
- Reducing impact fees or infrastructure financing requirements
- Other mechanisms to reduce regulatory impacts
 - ◆ Specify _____

Q29a How frequently are the above items used or applied?

- Less than 10% of the time
- 10%–30%
- More than 30% but less than 50%
- More than 50%

Q29b Are they used or applied by ordinance or are they negotiated?

- Ordinance
- Negotiated

This section deals with your recent rezoning experience.

Q30 How often does your jurisdiction receive applications for rezoning, zoning amendment, or conditional/special-use permit to convert land from nonresidential to residential use?

- Ten times or more per month
- More than twice but less than 10 times per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year
- Never

Q31 On average, how often are such conversion applications granted?

- Never
- Less than half the time
- More than half the time, but not nearly all the time
- Almost all of the time

Q32 How often does your jurisdiction receive applications for rezoning, zoning amendment, or conditional/special-use permit to allow for the construction of more housing units than the underlying zoning would permit?

- More than twice per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year

Q33 On average, during the course of a year, how often are such construction applications granted?

- Never
- Less than half the time
- More than half the time
- Almost all of the time

Q33a What is the main factor affecting the number of conversion or construction applications granted?

- The board likes to stick to its zoning
- Proposals ask for densities that could never be granted
- The board reacts to citizens who would oppose such a change
- Other
 - ◆ Specify _____

Next, we would like to ask you about the controversy over residential development in your jurisdiction.

- Q34 How many land-use decisions in your jurisdiction have been subject to appeal or lawsuit?
- None
 - At least one
 - What was the dominant reason or grounds for the appeal or lawsuit?
 - Denial of a residential project
 - Delay of a residential project
 - Imposition of excessive conditions for approval
 - Community opposition
 - Other (*Specify*): _____
- Q35 Have property owners in your jurisdiction mounted an appeal against a land-use decision that would have encouraged more housing in the past five years?
- No
 - Yes
- Q36 How many times a month (including special meetings) does your planning board meet to consider development applications?
- Less than once a month
 - Once
 - Twice
 - Three
 - Four
 - More than four times a month
- Q36a How controversial are meetings where new townhouse or multifamily residential development projects are introduced close to where people live?
- Not controversial at all
 - Moderately controversial
 - Very controversial

Now, please tell us about other constraints on development in your jurisdiction.

- Q37 Which of the following conditions imposes a constraint on residential development in your jurisdiction? (*Please check all that apply*)
- The jurisdiction has little or no undeveloped land
 - The jurisdiction has land available that can come only from the assemblage of small lots
 - Most or all undeveloped land in the jurisdiction is subject to physical site constraints such as steep slope, exposure to natural hazards, brownfields, wetlands, and protected habitat
 - Most or all undeveloped land in the jurisdiction is in the lower required density zones
 - Most or all undeveloped land in the jurisdiction is owned by public entities or nonprofit conservation organizations and is not available for development
 - Most or all undeveloped land in the jurisdiction is owned by private corporate entities (timber companies, electric utilities, etc.) and is not available for development
 - The jurisdiction has either no capacity or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools
 - The jurisdiction is subject to a binding citizen initiative or referendum that severely limits residential development approvals (building permit cap)
 - The cost of land makes development prohibitive
 - The cost of developing the necessary infrastructure makes development prohibitive

PART TWO**Survey Questions on Hypothetical Prototypes**

Instructions: Part Two presents two sets of hypothetical prototypes, one for single-family developments—Set A, and one for multifamily developments—Set B. From Set A and Set B, please pick the highest-density project that would be allowed somewhere in your jurisdiction and answer the questions that follow. Even if no set in either prototype applies, you must answer the questions, beginning with Q2 in both Set A and Set B.

Set A: Single-family (Please check which applies)

Assume there is a vacant five-acre parcel in your jurisdiction that could accommodate the following developments:

- A developer wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units. (*Net residential density: 4 units per acre*)
- A developer wants to subdivide the same five-acre parcel into 50 lots. (*Net residential density: 10 units per acre*)
- Neither of the above would be approved. (**Skip to Q2**)

Q1 A. Under what conditions would the project receive preliminary plat approval?

- Permitted as of right subject to subdivision or site plan review
- Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision

B. Could such a project ever receive preliminary plat approval at the staff or administrative level?

- Yes
- No

If No:

- An appointed body (planning commission, planning board, etc.) may grant preliminary plat approval for this kind of development under at least some circumstances
- An elected body (city council, town board) must grant preliminary plat approval for all such developments
- A combination of appointed and elected bodies must approve this level of development
- Such developments must be given preliminary plat approval in a town meeting or by citizen initiative

C. If a complete application was submitted to build this project, and the site was already zoned to accommodate it, how long on average would it take the developer to receive preliminary plat approval?

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

(Please skip to Q3)

Q2 A. Might either of the projects then be allowed on a larger site?

- No
- Yes

If yes to the above, how large would the site need to be in acres?

- For the 20-lot subdivision project, _____ acres
- For the 50-lot subdivision project, _____ acres

B. Would either type of development receive preliminary plat approval if some share of the units was reserved for affordable/workforce housing?

No

Yes

If yes to the above, which project would be approved?

20-lot subdivision project

50-lot subdivision project

C. If the applicant applied for a single-family rezoning, zoning amendment, or zoning variance so that such a project could be built in the jurisdiction, how long do you estimate it would take to receive preliminary approval?

Less than six months

Six months to one year

Over one year, but it would eventually be allowed

Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction

Q3 How much undeveloped land is currently in the single-family detached zoning category that could accommodate this type of hypothetical development?

None or practically none

Just enough to accommodate this five-acre single-family development

Enough to accommodate multiple five-acre single-family developments

Enough to accommodate more than 10 five-acre single-family developments

Q4 Assume the project would be sited on a parcel where zoning is the only constraint. How long would it take for your jurisdiction to grant preliminary plat approval if a rezoning/zoning amendment/conditional special-use request were filed (not including any other level of review)?

Within three months

Between three and six months

Six months to a year

Over one year but less than two years

Over two years, but eventually possible

Approval unlikely

Q5 Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.

It would be uncontroversial

It would be controversial only in a few locations

It would be controversial in many locations

It would be controversial wherever proposed

Instructions: Pick the highest-density project from Set B that would be allowed somewhere in your jurisdiction and answer the following questions.

Set B: Multifamily (Please check which applies)

- A developer wants to build 40 market-rate apartments in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it. (*Net residential density: 8 units per acre*)
- Assume same development as above on two acres. (*Net residential density: 20 units per acre*)
- Assume same development as above on one acre. (*Net residential density: 40 units per acre*)
- None of the above would be approved. (**Skip to Q2**)

Q1 A. Under what conditions would the project receive preliminary plat approval?

- Permitted as of right subject to subdivision or site plan review
- Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision

B. Could such a project ever receive preliminary plat approval at the staff or administrative level?

- Yes
- No

If No:

- An appointed body (planning commission, planning board, etc.) may grant preliminary plat approval for this kind of development under at least some circumstances
- An elected body (city council, town board) must grant preliminary plat approval for all such developments
- Such developments must be given preliminary plat approval in a town meeting or by citizen initiative

C. If a complete application was submitted to build this project, and the site was already zoned to accommodate it, how long on average would it take the developer to receive preliminary plat approval?

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

(Please skip to Q3)

Q2 A. Might any of the projects then be allowed on a larger site?

- No
- Yes, multifamily

If yes to the above, how large would the site need to be in acres?

- For the multifamily 8-unit project, _____ acres
- For the multifamily 20-unit project, _____ acres
- For the multifamily 40-unit project, _____ acres

B. Would any of the above developments be permitted under the prevailing zoning if some share of the units were reserved for affordable/workforce housing?

- No
- Yes

If yes to the above, how large would the site need to be in acres?

- Multifamily 8-unit project
- Multifamily 20-unit project
- Multifamily 40-unit project

C. If the applicant applied for a multifamily rezoning, zoning amendment, or conditional/special-use permit so that the project could be built in the jurisdiction, how long do you think it would take to receive preliminary plat approval?

- Less than six months
- Six months to one year
- Over one year, but it would eventually be allowed
- Such a rezoning, amendment, or zoning variance would not be allowed in this jurisdiction

- Q3 How much undeveloped land is currently in the multifamily zoning category that could accommodate this type of hypothetical development?
- None or practically none
 - Just enough to accommodate the five-acre multifamily development
 - Enough to accommodate multiple five-acre multifamily developments
 - Enough to accommodate more than 10 five-acre multifamily developments
- Q4 Assume the project would be sited on a parcel where zoning is the only constraint. How long would it take for your jurisdiction to grant preliminary plat approval if a rezoning/zoning amendment conditional/special-use request were filed (not including any other level of review)?
- Within three months
 - Between three and six months
 - Six months to a year
 - Over one year but less than two years
 - Over two years, but eventually possible
 - Approval unlikely
- Q5 Please select the statement that most closely reflects your sense of how much citizen opposition this kind of development would generate in your jurisdiction.
- It would be uncontroversial
 - It would be controversial only in a few locations
 - It would be controversial in many locations
 - It would be controversial wherever proposed

APPENDIX J
—
FINAL DRAFT SURVEY INSTRUMENT

**HUD National Survey of
Land-Use Regulations**

Background

The U.S. Department of Housing and Urban Development (HUD) is engaged in an effort to develop a national database on state and local land-use regulatory practices. As part of this effort, HUD has prepared a data collection instrument to be used in collecting information about state and local land-use regulations affecting residential development.

Purpose of the Survey

HUD will use responses from the survey to develop a comprehensive database that can be used by researchers and practitioners seeking to document and compare types of development regulations in locations throughout the United States. This will be a regular survey of land-use regulations participated in by all municipalities and counties in the United States.

Instructions for Respondents

Your jurisdiction has been selected to participate in this HUD survey of local land-use regulations. Part One of the survey consists of 37 questions dealing with land-use regulations in your jurisdiction. Part Two asks you to consider single-family (Set A) and multifamily (Set B) development hypotheticals that might be proposed for your community and to answer two questions based on these hypotheticals. In each case, you must answer two questions even if none of the choices under Set A or Set B applies in your jurisdiction. Please download the survey from the HUD Web site and fill it out. If you and others know your jurisdiction well, this survey will take approximately 75 minutes. Return it by uploading it to the same Web site. This will automatically document the participation of your jurisdiction.

PART A

Contextual Information

These data will be assembled for each community by HUD to establish a contextual setting for the information you provide.

- D-1 Total population in households—2000 # _____
- D-2 Total housing units—2000 # _____
- D-3 Total occupied units—2000 # _____
- D-4 Single-family detached units—2000 # _____
- D-5 Median housing value—2000 \$ _____
- Change, 1990–2000* \$ _____
- D-6 Median gross rent—2000 \$ _____
- Change, 1990–2000* \$ _____
- D-7 Housing-unit change—1990–2000 # _____
- D-8 Single-family detached units—Change, 1990–2000 % _____
- D-9 Single-family attached units—Change, 1990–2000 % _____
- D-10 Multifamily (5 + units)—Change, 1990–2000 % _____
- D-11 Median income—2000 \$ _____
- D-12 Percentage below poverty level—2000 % _____
- D-13 Households spending >35% of their income
on housing—2000 % _____
- D-14 Median number of rooms—2000 # _____
- D-15 Owner-occupied units—2000 # _____
- D-16 Housing units built 1939 or earlier # _____

PART ONE**Database Survey Questions**

First, we would like to ask you some questions about your community's recent development activity.

- Q1 How many single-family detached developments of 5 or more units were approved (permitted) by your jurisdiction in 2006?
- 0-9
 - 10-24
 - 25-49
 - 50-99
 - 100 or more
- Q2 What was the average number of units in the most common-sized single-family detached development approved in your jurisdiction in 2006?
- 0-19
 - 20-49
 - 50-99
 - 100-249
 - 250-499
 - 500-999
 - 1,000 or more
- Q3 What is the average lot size of the most common-sized single-family detached development approved in your jurisdiction in 2006?
- Under 5,000 square feet
 - 5,000 to 10,000 square feet
 - More than 10,000 square feet to one-half acre
 - More than one-half acre to one acre
 - More than one acre to two acres
 - More than two acres to five acres
 - More than five acres
- Q4 How many townhouse residential developments (single-family attached units in developments of 5 or more units) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-49
 - 50 or more
- Q5 How many multifamily residential developments (rental or condominium units in developments of 5 or more units) were approved in your jurisdiction in 2006?
- Fewer than 10
 - 10-24
 - 25-49
 - 50 or more
- Q6 Please list the number of housing units granted building permits in your jurisdiction during 2006 in each category (*Specify by category and answer all that are applicable*):
- Single-family detached _____
 - Townhouses, or other single-family attached _____
 - Multifamily rental units _____
 - Multifamily ownership units (condominiums) _____
 - Mobile or manufactured housing units _____
 - Percentage of the above that were affordable or workforce units _____

Next, we would like to ask you about the permit process in your jurisdiction.

- Q7 Who is authorized to grant preliminary plat/plan approval (at time of vested rights) of the most common single-family detached development application?
- No local approvals are required for subdivisions in this jurisdiction
 - Staff
 - Appointed or elected citizen board (planning board or commission)
 - Elected legislative body
- Q8 Apart from the body that grants preliminary plat/plan approval of the single-family detached development application, how many other boards and/or regulatory bodies immediate to the local jurisdiction must grant permission or preliminary approval before the most common residential development is approved in your jurisdiction? (If the local council must affirm the planning board's decision, this counts as one. If it must also be approved by a local water management district, this counts as two.)
- None
 - One
 - Two or three
 - Four or five
 - More than five
- Q9 What share of all single-family detached development applications opt for *flexible standards* for lot dimensions and size (cluster developments, conservation subdivisions, planned residential developments, etc.)?
- None
 - Some, but less than 25%
 - More than 25% to 50%
 - More than 50% to 75%
 - Over 75%
- Q10 What is the average time to secure preliminary plat/plan approval for the most common single-family detached development application, starting from the time the application is deemed complete?
- Less than two months
 - Two to six months
 - More than six months to one year
 - More than one year
 - The times vary so much that it is impossible to say
- Q11 Please compare current preliminary plat/plan approval times with average times experienced several (2–4) years ago for single-family detached development:
- It now takes about as much time as before (*You may skip to the next question*)
 - It now takes less time than it did then (*You may skip to the next question*)
 - It now takes more time to receive preliminary plat approval for the most common development
 - Why has the approval time increased? (*Check all applicable answers*)
 - An increase in the number/stringency of enforced local regulations
 - Projects are more complex and may involve rezoning
 - Projects are being developed on marginal lands with more environmental issues and site constraints
 - Less staff now available to process paperwork
 - More layers of government involved in the process
 - Public opposition more vocal/persistent
 - More development applications
 - Other (*Specify*) _____

- Q12 Does your jurisdiction offer pre-application conferences, sketch/concept reviews, or similar measures designed to expedite or resolve conflicts about residential development approval?
- No
 - Yes
 - If yes, how long does this pre-application or other conference last?
 - One meeting
 - Several meetings
 - The number of meetings varies so much it is impossible to say
- Q13 For new townhouse or multifamily developments on land needing *no rezoning, zoning amendment, bulk variance, or conditional/special-use permit* (developments can be built as of right), do applicants need to receive *any* appointed-body approvals before obtaining a land-disturbance/building permit?
- Yes, as of right, townhouse or multifamily developments must observe site plan/subdivision approval requirements
 - No
 - If no, why not?
 - As of right, townhouse or multifamily developments go directly to construction permits
 - Townhouse or multifamily developments are not allowed in this jurisdiction
- Q14 Again, for new townhouse or multifamily developments on land needing no rezoning, zoning amendment, bulk variance, or conditional/special-use permit (developments can be built as of right), must applicants obtain elected-body approval before receiving a land-disturbance/building permit?
- Never
 - Sometimes
 - Always
- Q15 Finally, for new townhouse or multifamily developments on land needing no rezoning, zoning amendment, bulk variance, or conditional/special-use permit (they can be built as of right), what is the average time to secure preliminary plat approval for the most common-sized development, starting from the time the application is deemed complete?
- Townhouse or multifamily developments are not allowed in this jurisdiction
 - Less than three months
 - Three to six months
 - Over six months to one year
 - One year to two years
 - Over two years

This section focuses on zoning in your jurisdiction.

- Q16 Does your jurisdiction have its own zoning or other similar provisions for the regulation of land (via ordinance, bylaw, resolution, or otherwise)?
- No
 - Yes
- Q18 Is your jurisdiction a county with zoning regulations that apply to development in unincorporated areas of the county?
- No (*You may skip to the next question*)
 - Yes
 - If so, what proportion of the county's current land area is governed by the county government's zoning?
 - 100% of its land area
 - Most of its land area
 - Less than half of its land area
 - None of its land area

- If so, over the past decade, what share of the county's unincorporated areas has become incorporated and subsequently adopted its own zoning ordinances?
 - None of it
 - Some, but less than 10%
 - More than 10% but less than 20%
 - More than 20% but less than 50%
 - 50% or more of it

Q19 If your jurisdiction has zoning, what is the maximum residential density allowed by the highest-density category on developable land in your zoning ordinance?

- The jurisdiction has no zoning
- Less than one unit per acre
- One to two units per acre
- Three to four units per acre
- Five to seven units per acre
- Eight to 15 units per acre
- 16 to 30 units per acre
- Over 30 units per acre

Q19b What percentage of your developable residential acreage falls within the highest residential density zoning category?

- More than 75%
- 50–75%
- 25–49%
- 10–24%
- 5–9%
- 2–4%
- 1% or less

Q20 If your jurisdiction has zoning or a plan, do its provisions contain any zones in which there is minimum required residential density?

- No (*You may skip to the next question*)
- Yes
 - If yes, what is the minimum density?
 - Zero to two units per acre
 - Three to four units per acre
 - Five to nine units per acre
 - 10–19 units per acre
 - 20–30 units per acre
 - More than 30 units per acre
 - If yes, is this minimum density designed to encourage the construction of multifamily housing?
 - No
 - Yes
 - If yes, is the minimum density designed to encourage transit-oriented development (TOD)?
 - No
 - Yes

Q21 Can mobile or manufactured homes be sited in your jurisdiction?

- No (*You may skip to the next question*)
- Yes
 - Are mobile or manufactured homes allowed in places other than existing lease-lot subdivisions (mobile home parks)?
 - No
 - Yes
 - Can existing lease-lot subdivisions (mobile home parks) expand?
 - No
 - Yes

- Must mobile or manufactured homes meet minimum-size or width (unit or foundation) requests?
 - No
 - Yes
- Must mobile or manufactured homes meet specific provisions such as pitched roofs, attached garages, etc.?
 - No
 - Yes
- Are mobile homes or manufactured homes taxed as personal property?
 - No
 - Yes

Q22 Does your jurisdiction require height limitations on single-family detached development?

- No
- Yes, with a maximum height that is: _____ feet (*Fill in number*)

Q22a Does your jurisdiction require garages for single-family detached development?

- No
- Yes, _____ garages (*Fill in number: 1-car, 2-car, 3-car, etc.*)

Q22b Does your jurisdiction require a minimum square footage for single-family detached development?

- No
- Yes, _____ ft.² (*Fill in number: 1-car, 2-car, 3-car, etc.*)

Now we would like to ask about regulations designed to manage the rate and location of residential growth.

Q23 Is development in your jurisdiction subject to a measure that explicitly limits the annual construction of housing (building permits/lot-development cap, etc.)?

- No
- Yes, _____ (*List type of measure*)

Q24 Is it common practice for residential developers in your jurisdiction to contribute funds (service availability charges, etc.), land, or in-kind fees for the construction of utilities, community facilities, and/or infrastructure as a condition to development? (*Please do not include requirements for affordable housing*)

- No, contributions are not required (*You may skip to the next question*)
- Yes, contributions are required (*List type*): _____
- Yes, contributions are conditioned (*List type*): _____

Q25 Does your jurisdiction have infrastructure-related level-of-service standards that, if not met, would preclude development (e.g., adequate public facilities ordinances, etc.)?

- No (*You may skip to the next question*)
- Yes, _____ (*Specify type*)
 - Policy required by: State ____ Region ____ County ____
 - Policy required by own jurisdiction

Q26 Is your jurisdiction subject to a policy to limit development beyond a boundary within your jurisdiction (such as an urban limit line, urban growth boundary, greenbelt, or urban service area)?

- No (*You may skip to the next question*)
- Yes
 - Policy required or incentivized by: State ____ Region ____ County ____
 - Policy required or incentivized by your jurisdiction
 - If Yes, what type? _____ (*List type*)
 - If Yes, what year was the measure originally adopted? _____

Next, we would like to ask you about affordable housing mandates and incentives in your jurisdiction.

Q27 Does your jurisdiction require or incentivize residential developers to provide affordable/workforce housing as a condition to project approval?

- No, jurisdiction does not require, or state or other law prohibits (*You may skip to the next question*)
- Yes, require
- Yes, incentivize
 - ♦ If Yes to either, percentage of units that must be affordable in a typical project: _____%
 - ♦ If Yes to either, may a builder pay fees in lieu of providing units?
 - Yes
 - No

Q28 Does your jurisdiction specifically award a density bonus to residential developers who provide affordable/workforce housing?

- No (*You may skip to the next question*)
- Yes, _____ ratio of % density bonus to % affordable housing requirement (*Fill in*)

Q29 Does your jurisdiction have any of the following measures to ease regulatory impacts on applicants proposing affordable/workforce housing projects? (*Please check all that apply.*)

- Expedited or concurrent permit review
- Lower permit fees
- Easing height requirements
- Lowering parking requirements
- Reducing transportation mitigation requirements
- Reducing impact fees or infrastructure financing requirements
- Other mechanisms to reduce regulatory impacts
 - ♦ Specify _____

Q29a How much during the past year has the most frequently employed of the above items been used?

- Less than 10% of the time
- 10%–30%
- More than 30% but less than 50%
- More than 50%

Q29aa Which one was it? _____ (*Fill in*)

Q29b Is it prescribed by ordinance or is it negotiated?

- Ordinance
- Negotiated

This section deals with your recent rezoning experience.

Q30 How often does your jurisdiction receive applications for rezoning or zoning amendment to convert land from nonresidential to residential use?

- Ten times or more per month
- More than twice but less than 10 times per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year
- Never

On average, how often are such rezoning or zoning amendments granted?

- Never
- Less than half the time
- More than half the time, but not nearly all the time
- Almost all of the time

Q32 How often does your jurisdiction receive applications for rezoning or zoning amendment to allow for the building of more housing units than the underlying zoning would permit?

- 10 times or more per month
- More than twice but less than 10 times per month
- Once or twice per month
- Once or twice every six months
- Once a year
- Less than once a year

On average, during the course of a year, how often are such building permits granted?

- Never
- Less than half the time
- More than half the time
- Almost all of the time

Next, we would like to ask you about residential development decisions in your jurisdiction.

Q34 What percentage of land-use decisions in your jurisdiction in the last year have been subject to appeal or lawsuit?

- None
- At least one

• Reason (*Fill in*): _____

Q35 Have property owners in your jurisdiction appealed regulatory actions that would have encouraged more housing in the past five years?

- No
- Yes

Q36 How many times a month (including special meetings) does your permit-granting entity meet to consider development applications?

- Less than once a month
- Once
- Twice
- Three
- Four
- More than four times a month

Q36b Within how many days do you consider the most common-sized single-family development applications?

- 0–14
- 15–29
- 30–44
- 45–59
- 60 or more

Now, please tell us about other constraints on development in your jurisdiction.

Q37 Which of the following conditions imposes a constraint on residential development in your jurisdiction? *(Please check all that apply)*

- The jurisdiction has little or no undeveloped land
- The jurisdiction has land available that can come only from the assemblage of small lots
- Most or all undeveloped or potentially redevelopable land in the jurisdiction is subject to physical site constraints such as steep slope, exposure to natural hazards, brownfields, wetlands, and protected habitat
- Most or all undeveloped or potentially redevelopable land in the jurisdiction is owned by public entities or nonprofit conservation organizations and is not available for development
- Most or all undeveloped or potentially redevelopable land in the jurisdiction is owned by private corporate entities (timber companies, electric utilities, etc.) and is not available for development
- The jurisdiction has either no capacity or no excess capacity in its infrastructure, such as transportation, sewer, water, or schools
- The cost of land makes development prohibitive
- The cost of developing the necessary infrastructure makes development prohibitive

PART TWO**Survey Questions on Hypothetical Prototypes**

Instructions: Part Two presents two sets of hypothetical prototypes, one for single-family developments—Set A, and one for multifamily developments—Set B. For both Set A and Set B, please pick the highest-density project that would be allowed somewhere in your jurisdiction and answer Q1 and Q3. Even if no set in either prototype applies, please answer Q2 and Q3 in both Set A and Set B.

Set A: Single-family (Please check which applies)

Assume there is a vacant five-acre parcel in your jurisdiction that could accommodate the following developments:

- A developer wants to subdivide a five-acre parcel into 20 lots for the construction of 20 market-rate, single-family detached dwelling units. (*Net residential density: 4 units per acre*)
- A developer wants to subdivide the same five-acre parcel into 50 lots. (*Net residential density: 10 units per acre*)
- Neither of the above would be approved. (**Skip to Q2**)

Q1 A. Under what conditions would the project receive preliminary plat/plan approval?

- Permitted as of right subject to subdivision or site plan review
- Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision

B. Could such a project ever receive preliminary plat/plan approval at the staff or administrative level?

- Yes
- No

C. After the application was complete, and the site was already zoned to accommodate it, how long on average would it take the developer to receive preliminary plat/plan approval?

- Less than two months
- Two to six months
- Seven months to one year
- More than one year
- Impossible to predict

(Please skip to Q3)

Q2 A. Might either of the projects then be allowed on a larger site?

- No
- Yes

B. Would either type of development receive preliminary plat/plan approval if some share of the units was reserved for affordable/workforce housing?

- No
- Yes

C. If the applicant applied for a single-family rezoning or zoning amendment, so that such a project could be built in the jurisdiction, how long after the application was deemed complete do you estimate it would take to receive preliminary plat/plan approval?

- Less than six months
- Six months to one year
- Over one year, but it would eventually be allowed
- Such a rezoning or zoning amendment would not be allowed in this jurisdiction

- Q3 How much undeveloped land is currently in the single-family detached zoning category that could accommodate this type of hypothetical development?
- None or practically none
 - Just enough to accommodate this five-acre single-family development
 - Enough to accommodate multiple five-acre single-family developments
 - Enough to accommodate more than 10 five-acre single-family developments

Instructions: Again, pick the highest-density multifamily project from Set B that would be allowed somewhere in your jurisdiction and answer Q1 and Q3. If no set applies, please answer Q2 and Q3.

Set B: Multifamily (Please check which applies)

- A developer wants to build 40 market-rate apartments in two- to three-story apartment buildings and has a vacant parcel of five acres on which to build it. (*Net residential density: 8 units per acre*)
 - Assume same development as above on two acres. (*Net residential density: 20 units per acre*)
 - Assume same development as above on one acre. (*Net residential density: 40 units per acre*)
 - None of the above would be approved. (**Skip to Q2**)
- Q1 A. Under what conditions would the project receive preliminary plat/plan approval?
- Permitted as of right subject to subdivision or site plan review
 - Permitted only by discretionary permit, conditional-use permit, PUD, or cluster provision
- B. Could such a project ever receive preliminary plat/plan approval at the staff or administrative level?
- Yes
 - No
- C. If after the application was complete, and assuming the site was already zoned to accommodate it, how long on average would it take the developer to receive preliminary site plan approval?
- Less than two months
 - Two to six months
 - Seven months to one year
 - More than one year
 - Impossible to predict
- (Please skip to Q3)**
- Q2 A. Might any of the projects then be allowed on a larger site?
- No
 - Yes
- B. Would any of the above developments be permitted under the prevailing zoning if some share of the units were reserved for affordable/workforce housing?
- No
 - Yes
- C. If the applicant applied for a multifamily rezoning or zoning amendment so that such a project could be built in the jurisdiction, how long after the application was deemed complete do you think it would take to receive preliminary site plan approval?
- Less than six months
 - Six months to one year
 - Over one year, but it would eventually be allowed
 - Such a rezoning or zoning amendment would not be allowed in this jurisdiction
- Q3 How much undeveloped land is currently in the multifamily zoning category that could accommodate this type of hypothetical development?
- None or practically none
 - Just enough to accommodate the five-acre multifamily development
 - Enough to accommodate multiple five-acre multifamily developments
 - Enough to accommodate more than 10 five-acre multifamily developments



Aerial view of detached housing.

Courtesy BigStockPhoto.com. © Ian Bracegirdle.

Glossary

Adequate Public Facilities Ordinance (APFO) (Q25)

An ordinance adopted by the local government that allows it to defer the approval of developments based upon a finding by the governing body that public facilities would not be adequate to support the proposed development at buildout.

Affordable/Workforce Housing (Q26)

Housing developed through some combination of zoning incentives, cost-effective construction techniques, and governmental subsidies that can be rented or purchased by households who cannot afford market-rate housing in the community. Affordable housing is often defined as housing provided to those households at or below 80% of areawide median income (AMI). Workforce housing is often defined as housing provided between 80% and 120-150% of AMI.

As of Right (Q13)

Development types, densities, etc. permitted by an applicable ordinance.

Cluster Developments (Q9)

Buildings concentrated together in specific areas to minimize infrastructure and development costs while achieving the allowable density. These developments allow the preservation of natural open space for recreation, common open space, and to save environmentally sensitive lands.

Community Benefit Agreement (CBA) (Q25)

A legally binding contract negotiated between a developer and a coalition representing a broad spectrum of community members impacted by the development. In exchange for community members' support for the project, the developer agrees to provide certain benefits. A CBA may include provisions such as funds for affordable housing and open space.

Conservation Subdivision (Q9)

Subdivisions characterized by common open space and clustered compact lots. The purpose of a conservation subdivision is to protect farmland and/or natural resources while allowing for the maximum number of residences under current community zoning and subdivision regulations.

Density Bonus (Q28)

The granting of additional floor area or dwelling units, beyond the zoned maximum, in exchange for providing or preserving an amenity (including affordable housing) at the same or at a separate site.

Development

A construction project involving substantial property improvement and a change to the intensity of use of a site.

Housing Unit

A structure that is an elementary constituent of a whole; one part of single-family attached or multifamily housing. A housing unit is a single dwelling of a particular type in which people live.

Land Disturbance Permit (Q13, Q14)

A grant or authority to alter and prepare land for development issued by a local government for a fee.

Lease Lot Subdivision (Q21)

A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses.

Manufactured Homes (Q21)

A factory-built, single-family structure that meets the Federal Manufactured Home Construction and Safety

Standards Act commonly known as the HUD Code. It is built off-site and designed to be a permanent residence. In this instance, the term “manufactured housing” does not include modular housing but includes mobile homes.

Minimum Density

A threshold of density below which one cannot develop (i.e. a threshold of 20 units per acre bans development that would locate less than that number on the land in question). Minimum densities are infrequently used but serve to place a reasonable number of units on a land parcel to encourage economic development, transit use, and so on.

Minimum Square Footage

A threshold of housing size below which one cannot build (e.g., a minimum of 1,800 square feet prevents all smaller structures from being constructed on the land in question). It is put in place to assure a dwelling unit of a certain size or value.

Mobile Home (Q21)

A residential dwelling that is fabricated in an off-site manufacturing facility, designed to be a permanent residence, and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards Act. The term “mobile home” was originally used to describe trailers that were designed to be able to be moved from place to place. “Mobile home” is not a term applied to modular housing.

Multifamily Housing (Q5)

A building containing five or more dwelling units, including rental apartments, condominiums, or cooperative units. The minimum number of units may vary according to state laws and definitional sources.

Net Residential Density (Hypotheticals)

The number of dwelling units relative to the land area used specifically for residential purposes.

Planned Residential Developments (Q9)

An area to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters, which may include appropriate commercial, public, or quasi-public spaces primarily for the benefit of the residential development. The development plan may not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage and required open space, to the regulations established in any one district created under the provisions of a municipal zoning ordinance.

Pre-Application Sketch/Concept Review

An initial meeting with an approving authority to go over general plans for a development site. The meeting is usually not attended by the specific public affected by the development because there is no requirement for public notice.

Preliminary Plat/Plan Approval (Q9)

The conferral of certain rights after specific elements of a development plan have been approved by the approving authority and agreed to by the applicant. Preliminary plat/plan approval precedes final plat/plan approval and generally freezes the terms and conditions required of an applicant for a specified period of time, often three to five years. A plat/plan refers to drawings and plans for the development of a site.

Residential

Referring to housing or the place in which a person or persons live.

Service Availability Charge (SAC) (Q25)

Fee imposed by a regulating body, for example fees charged for new connections or increased volume discharged to a wastewater system. The SAC is similar to fees used by many utilities and municipalities and is colloquially known as an “impact fee” or, as in the example above, a “connection” fee.

Sewer Moratorium (Q25)

An authorized restriction on new residential sewer connections for a period of time.

Single-family Housing

A housing unit intended for occupancy by one family. Typically, a single-family residence has individual heating and hot-water facilities; exclusive access to water intake and discharge; and singular access to sewage discharge. "Single-family detached" is all of the above on one lot or parcel; "single-family attached" is multiple single-family units joined on the same lot or parcel, e.g., modern town houses.

Site

A place where a structure or group of structures was, is, or is to be, located.

Transit Oriented Development (TOD) (p.7)

A mixed-use community within walking distance of a transit stop that mixes residential, retail, office, open space, and public uses in a way that makes it convenient to travel on foot or by public transportation instead of by car.

Transportation Mitigation

A requirement to respond with money or improvements to the road and other transit impacts of a particular proposed development.

Unincorporated Area

A land area that is not part of a corporate entity, such as a village, township, town, city, or borough. It usually does not have its own land-use regulations and often follows county land-use regulations.

Unit

See Housing Unit.

Water Availability Charge (WAC) (Q25)

Fees charged to provide funds for the municipality's wells, water treatment, water storage and water distribution systems.

