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ENIX

2024

**Land Use and Zoning  
Modernization**

# Panelists

## **CHERYL COHEN**

Executive Director | Montana Board of Housing

## **SARAH SHAMBROOK**

Government Relations Manager, Team Lead | Dominion

## **AMY RAINONE**

Director, Government Relations and Policy | Rhode Island Housing

## **Discussion Leader**

## **JAMES LEHNHOFF**

Assistant Commissioner, Multifamily | Minnesota Housing

# NIMBY



# BANANA



Build  
Absolutely  
Nothing  
Anywhere  
Near  
Anything

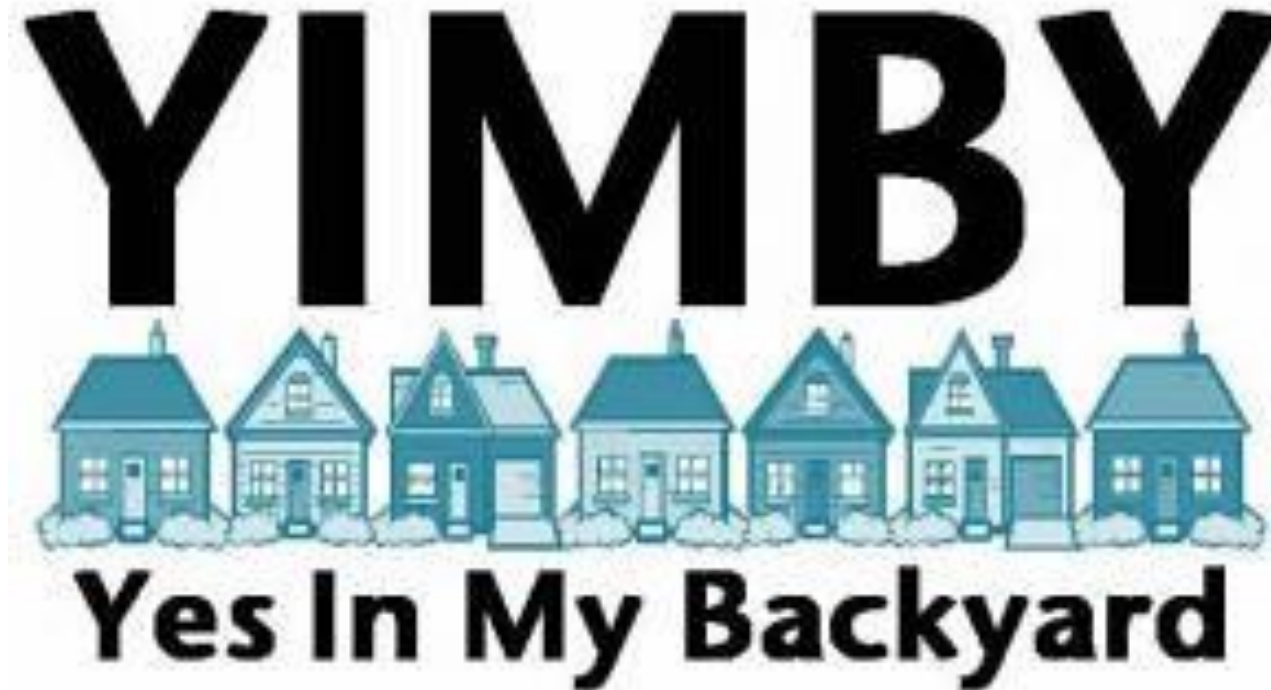
# CAVEmen



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Citizens  
Against  
Virtually  
Everything

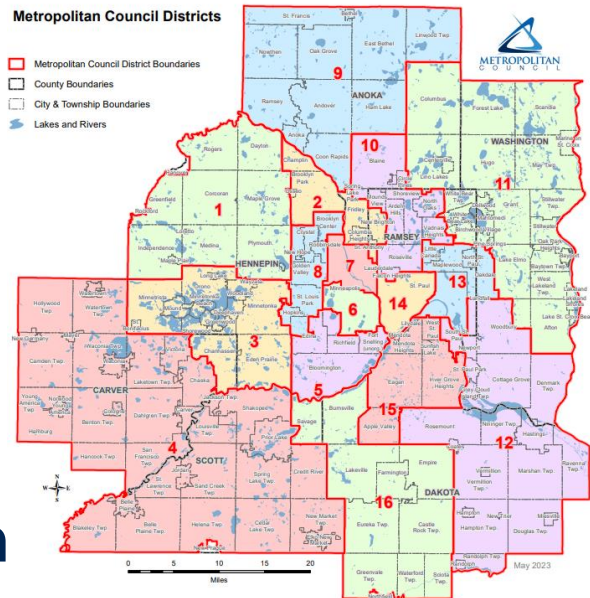
# Times are changing.....?!?!?



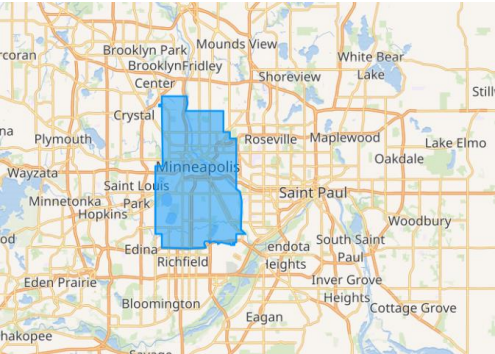
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# Comprehensive Planning in the Twin Cities

- Metropolitan Council – Regional planning agency for seven county region
  - Prepares regional plan
  - Identifies regional housing need
  
- Local Planning
  - Comprehensive Plan required by statute
  - Housing Element: existing need, projected need and implementation plan
  - Must guide sufficient land use to meet housing needs



# Minneapolis 2040 Plan

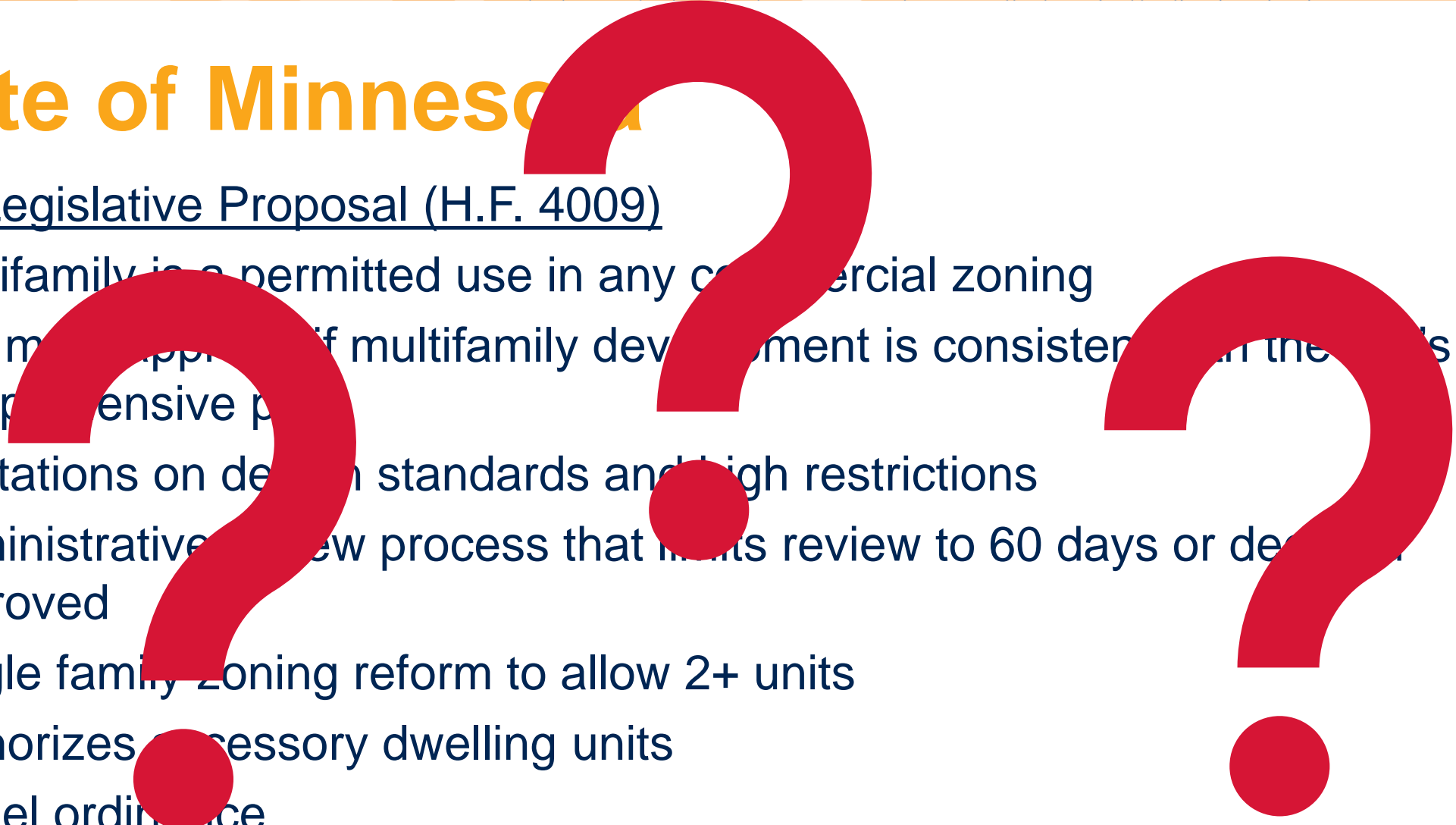


- Prior to Minneapolis 2040 Plan, 84% of the city zoned for single family housing
- Minneapolis 2040 Plan includes such provision as:
  - Allowing the highest density development in neighborhoods in and near downtown
  - Allowing up to 3 units of housing in neighborhoods farthest from downtown
  - Allowing multifamily along transit corridors and major roadways
  - Allowing, in neighborhoods where a mix of housing types already existed, new development in that existing range
- Implementation had been in limbo until this summer

# State of Minnesota

## 2024 Legislative Proposal (H.F. 4009)

- Multifamily is a permitted use in any commercial zoning
- City may apply if multifamily development is consistent with the city's comprehensive plan
- Limitations on density standards and height restrictions
- Administrative review process that limits review to 60 days or less if approved
- Single family zoning reform to allow 2+ units
- Authorizes accessory dwelling units
- Model ordinance



# “Montana Miracle”

Senate Bill 382 “Montana Land Use and Planning Act” or “LUPA”

- 52-page bill creates new framework for cities with populations over 5,000 located in counties with populations over 70,000, including Belgrade, Billings, Bozeman, Columbia Falls, Great Falls, Helena, Kalispell, Laurel, Missoula, and Whitefish
- All other cities and counties remain under existing law unless city or county “opts in” (Lewistown opted in)
- LUPA communities have 3 years to complete “Land Use Plan” and “Future Land Use Map” analyzing current conditions and 20-year projects for: Housing, Local Services & Facilities, Economic Development, Natural Resources, Environment, Hazards, and Land Use

# “Montana Miracle”

- Senate Bill 232 requires cities with populations over 5,000 to allow duplex housing on lots zoned for single-family residences
- Senate Bill 245 requires cities designed as urban areas by U.S. Census and with populations over 5,000 to allow multiple-unit dwellings and mixed-use developments in commercial zones
- Senate Bill 528 requires cities to adopt zoning to allow a minimum of one accessory dwelling unit by right on a lot or parcel with a single-family dwelling
  - ADU is self-contained and may be attached, detached, or internal
  - Must be smaller than the single-family dwelling
  - Municipality may not require additional parking or fees-in-lieu, design requirements to match the single-family dwelling, owner occupancy, or any relationship between occupants of single-family dwelling and ADU

# MAID, LLC v. State

- All four bills were subject to a suit filed against the State by Montanans Against Irresponsible Densification, LLC on December 15, 2023
- On December 29, the district court issued a preliminary injunction enjoining implementation of SB 323 (duplexes) and SB 528 (ADUs)
- From district court decision:
  - “If the preliminary injunction is issued, little harm is done to the State. With the “top-down” imposition of these measures, Montana’s citizens, and particularly the members of the Plaintiff, stand to suffer. They dread waking up in the morning, with no notice, and a new, more dense, building is being erected in their family neighborhood. As noted above, this injury would be irreparable. The balance of equities tips in favor of issuing a preliminary injunction.”

# MAID, LLC v. State

- On September 3, 2024, the Montana Supreme Court overturned the district court's temporary suspension of SB 323 and SB 528
- These laws can now take effect as MAID, LLC v. State challenge is litigated
- Justice Beth Baker wrote MAID “offered only generalized fears and supposition about the potential effects” of the two bills
- Montana Legislature and Shelter Whitefish filed briefs in support of the State, noting the “extensive deliberative process” under Governor Gianforte’s housing task force, and the bill’s intent of advancing “the public welfare by addressing the housing crisis”

# State Housing Policy Workshop

- Hosted by Lincoln Institute of Land Policy, September 19-20, 2024
- California, Colorado, Florida, Massachusetts, Maine, Montana, Oregon, Utah, and Washington
- State Housing Policy Workshop topics included:
  - Strategies for effective design and implementation
  - Building local capacity to comply
  - Reporting requirements and data collection
  - Legal challenges and enforcement (hint: role of Attorney General)
  - Tenant protections, renter subsidies, and inclusionary zoning
  - Building code, financing, and infrastructure
  - Evaluation and research

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# Reinvisioning Zoning & Land Use in RI

## Speaker Joe Shekarchi's Housing Agenda

- Over 3 years, 40 bills introduced, 37 became law
- Ranged from streamlining and standardizing land use and permitting process to improving data and reporting on key land
- Housing Affordability Commission
  - 19 member commission focused on improving the state's Low and Moderate Income Housing Act and addressing housing affordability.
- Land Use Commission
  - 18 member commission focused on reviewing and make recommendations on land use, development activity and housing

# Adaptive Reuse

## H6090A/ S1035A

- Requires that conversion of any commercial building into residential units or mixed-use developments shall be a permitted use by right.
- At least 50% of the existing gross floor area must be proposed for redevelopment as residential units.
- Exempt from off-street parking requirements of over one space per dwelling unit.
- At least 15 dwelling units per acre allowed for projects that are limited to the building's footprint, include at least 20% affordable housing, and have access to public utilities, or approved alternative water service/wastewater systems.
- For all other adaptive reuse projects, the residential density permitted shall be the maximum allowed that otherwise meets all standards of minimum housing.

# Accessory Dwelling Units

H7062A/ S2998A

- Allows one ADU per lot by right under the following circumstances:
  - On any owner-occupied property as a reasonable accommodation for family members with disabilities; or
  - On a lot with a total area of at least 20,000 sf for which the primary use is residential; or
  - Where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and doesn't expand the footprint of the structure.
- Sets a floor on the maximum unit size municipalities can require
- Limits the ability of municipalities to impose additional restrictions
- Permitting of by-right ADUs shall be through the administrative permitting process

# Municipal Technical Assistance Program (MTAP)

- \$4M program to help municipalities remove barriers to housing production
- Eligible Activities:
  - Housing needs analysis
  - Updating land use and permitting requirements
  - Infrastructure capacity assessments
  - Public engagement/education to address NIMBY concerns
- Template documents to help municipalities implement land use law changes
- <https://www.rihousing.com/mtap/>

# Proactive Housing Developer

- \$1.4M in ARPA funding for “Proactive Housing Development” through a RIHousing subsidiary organization
- Created as a committee of an existing RIHousing subsidiary organization
- Will focus on working with municipalities and developers to:
  - Identify opportunities for residential development/redevelopment
  - Support the development of site plans
  - Assist in the facilitation of zoning/planning/permitting process
  - Build developer capacity
  - Support efforts to secure funding

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# Arizona Population vs. Density

## Largest U.S. Cities by Population

2024 Metro Area Rankings

Rank	City Name	Population
1	New York City	19,034,000
2	Los Angeles	12,598,000
3	Chicago	8,984,000
4	Houston	6,802,000
5	Dallas-Fort Worth	6,655,000
6	Miami	6,317,000
7	Atlanta	6,193,000
8	Philadelphia	5,821,000
9	Washington DC	5,545,000
10	Phoenix	4,777,000

Rank	Population Density	Area / Population
1.	2,251.1/sq mi	<a href="#">Los Angeles-Long Beach-Santa Ana, CA</a> / 12,828,837
2.	2,156.5/sq mi	<a href="#">New York-Northern New Jersey-Long Island, NY-NJ-PA</a> / 19,865,045
3.	1,614.4/sq mi	<a href="#">Trenton-Ewing, NJ</a> / 369,526
4.	1,303.6/sq mi	<a href="#">San Francisco-Oakland-Fremont, CA</a> / 4,466,251
5.	1,235.2/sq mi	<a href="#">Philadelphia-Camden-Wilmington, PA-NJ-DE-MD</a> / 6,015,336
6.	1,116.3/sq mi	<a href="#">Bridgeport-Stamford-Norwalk, CT</a> / 934,215
7.	1,030.7/sq mi	<a href="#">Boston-Cambridge-Quincy, MA-NH</a> / 4,650,876
8.	1,013.5/sq mi	<a href="#">Detroit-Warren-Livonia, MI</a> / 4,292,647
9.	1,001.3/sq mi	<a href="#">New Haven-Milford, CT</a> / 863,148
10.	993.5/sq mi	<a href="#">Chicago-Naperville-Joliet, IL-IN-WI</a> / 9,516,448
11.	972.3/sq mi	<a href="#">Washington-Arlington-Alexandria, DC-VA-MD-WV</a> / 5,863,608
12.	941.0/sq mi	<a href="#">Miami-Fort Lauderdale-Pompano Beach, FL</a> / 5,775,204
<hr style="border-top: 1px dashed #000;"/>		
100.	303.8/sq mi	<a href="#">San Antonio-New Braunfels, TX</a> / 2,239,222
101.	303.1/sq mi	<a href="#">Huntsville, AL</a> / 430,396
102.	300.9/sq mi	<a href="#">Port St. Lucie, FL</a> / 433,646
103.	300.3/sq mi	<a href="#">Nashville-Davidson-Murfreesboro-Franklin, TN</a> / 1,730,515
104.	299.6/sq mi	<a href="#">Spokane, WA</a> / 533,456
105.	298.7/sq mi	<a href="#">Louisville/Jefferson County, KY-IN</a> / 1,253,305
106.	297.1/sq mi	<a href="#">Phoenix-Mesa-Glendale, AZ</a> / 4,337,542
107.	296.6/sq mi	<a href="#">Muncie, IN</a> / 117,441
108.	291.1/sq mi	<a href="#">Oshkosh-Neenah, WI</a> / 168,413

Source: Census Data

# Phoenix Metro SF Development Bias

Size	MUNICIPALITY	SF % OF ZONED LAND	MF % OF ZONED LAND	% BUILT OUT
1	Phoenix	30.1%	3.08%	78%
2	Mesa	41.08%	4.39%	89%
3	Chandler	50.69%	4.87%	96%
4	Gilbert	56.32%	2%	94%
5	Glendale	37.75%	3%	91%
6	Scottsdale	32.95%	4.43%	87%
7	Peoria	15.7%	0.74%	67%
8	Tempe	35.75%	10.32%	97%
9	Surprise	12.58%	0.15%	34%
10	Goodyear	7.36%	0.2%	60%

Source: Maricopa Association of Governments (MAG)

NCSHA Annual Conference & Showplace

# Goodyear Case Study – avoiding NIMBYism

## 1 HOA

Dominium will pay financially to Xeriscape the parkway

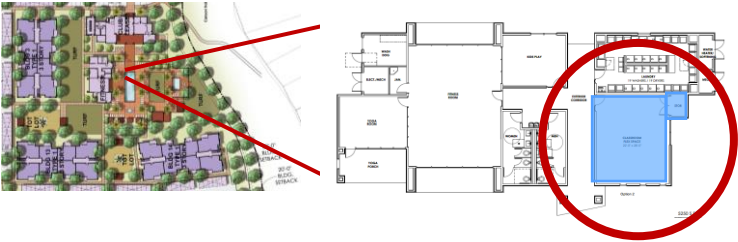


Our buildings are designed to complement the existing color palette for the Canyon Trails HOA



## 2 Schools

Added a 657 sq. ft. flex space available for community activities: after-school programming, etc.



**Opportunity's Front Door** Scholarship Program:

Available to all future residents through the Dominion Gives Foundation. \$5000 scholarship for higher ed. or trade school, per semester. \$4.3M awarded to date.

## 3 Public Art

Commissioning public art to be created by high school students for college credit.



**Gallery 37**  
**Program Partnership**