



1152 15th St. NW, Suite 450
Washington, DC 20005
202-207-3355

American Jobs Plan: Land Use and Development Team Tailored Analysis

Executive Summary: On March 31, the Biden administration released the American Jobs Plan, President Biden’s major infrastructure proposal. The American Jobs Plan is expansive and proposes major funding to issues closely related to the work of the Land Use and Development team to address national insufficiencies in affordable housing and infrastructure.

Within the American Jobs Plan, there are four proposals that are most pertinent to land use and development:

1. \$213 billion to build, preserve, and retrofit homes and commercial buildings through tax credits, formula funding, grants, and project-based rental assistance. Of this \$213 billion, \$40 billion is allocated to improve public housing infrastructure and \$20 billion to the bipartisan Neighborhood Homes Investment Act (NHIA) to build and rehabilitate 500,000 homes over the next five years.
2. Working to eliminate exclusionary land-use patterns through a new grant program that would award flexible and “attractive” funding to jurisdictions that take steps to produce affordable housing.
3. The remediation and redevelopment of vital Brownfields and Superfund sites through a \$5 billion investment to create new hubs of economic growth and job creation.
4. \$20 billion to strengthen our nation’s infrastructure through a new program that will, “...reconnect neighborhoods cut off by historic investments and ensure new projects increase opportunity, advance racial equity and environmental justice, and promote affordable access”.

The Land Use and Development Team, in response, requests that the Biden Administration in the next iteration of the American Jobs Plan:

1. **Making State authorities accountable for the implementation of lasting zoning and land-use changes:** Congress should require states to leverage infrastructure funding to ensure that housing for a diversity of incomes is enabled within walking or biking distance of transit stations, including busses, BRT, and rail.
2. **Renewal of The Federal Brownfield Tax Deduction:** Congress should renew the Federal Brownfield Tax Deduction. Before it expired in 2011, the Federal Brownfield Tax Deduction allowed a party who voluntarily investigated and remediated contaminated property to deduct its cleanup costs in the year incurred on their federal income tax return.
3. **Commitment to an equitable distribution of grant project funding, the passing of the REHAB Act, and simultaneous investments in vital public infrastructure:** Congress should pass the REHAB Act (H.R. 1483), which can help provide the financing to local builders that is critical to closing the gap so they can help revitalize downtowns,



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upgrade deteriorating public infrastructure, and expand access to attainable housing.

4. **Improvement of the Opportunity Zones Tax Incentive:** We urge future Opportunity Zones action by Congress, the US Treasury, and the IRS to require tracking and reporting outcomes for Opportunity Fund investments and to provide regulations that encourage pairing investments with other community development tax credits and programs.

While the American Jobs Plan is ambitious, it lacks specificity regarding its programming and eligible activities for tax credits and grants. Without the correct oversight, suitable measures of success, or comprehensive planning, we may only see marginal improvements or surface-level initiatives that could serve to further harm vulnerable communities in the long term.

A tailored, land use summary of the American Jobs Plan is below:

Billions to build, preserve, and retrofit homes and commercial buildings

The Biden Administration's proposal to supply \$213 billion to create more affordable housing through the rehabilitation of existing buildings is almost identical to what is proposed through the REHAB Act, a transformative bill championed by the LOCUS coalition. The proposal plans to distribute the funding through tax credits, formula funding, grants, and project-based rental assistance. The \$213 billion is expected to pair with other investments to eliminate state and local exclusionary zoning laws that contribute to the cost of construction and serve as a barrier to affordable housing access.

The American Jobs Plan states that President Biden will call on Congress to:

- Build and rehabilitate more than 500,000 homes for low-and middle-income homebuyers through the bipartisan Neighborhood Homes Investment Act (NHIA). This is expected to provide \$20 billion worth of NHIA tax credits over the next five years.
- Eliminate exclusionary land-use practices such as minimum lot sizes, mandatory parking requirements, and prohibitive policies related to multi-family housing. This action will be supported through the proposed flexible-funding grant program.
- Invest \$40 billion into improving public housing infrastructure to address critical concerns such as energy efficiency measures and the mitigation of imminent hazards to residents.

Most public housing in this country is in devastating condition, yet a significant percentage of our lowest-income households live in them. It is essential that these properties be made more energy-efficient and hazards mitigated, as the bill provides for. However, the vast majority of these buildings are more than 60 years old and beyond their useful life. They are often located in places that have decaying public infrastructure, poor public transit service, and little or no essential services or amenities. These proposed improvements must be undertaken in a broader context of transforming these communities, and their surroundings, into places that are safe, liveable, and healthy where people have access to jobs, necessary services, and healthy options for food and recreation.



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While housing costs are a major consideration in a household's economic viability, access to jobs, transportation options, good and affordable education, and other necessities and amenities like medical and social services, groceries, and public open space will also determine their health and welfare. Proximity to all of these should be a consideration when deciding which homes to rehabilitate and where new housing for low- and moderate-income families will be built.

As this nation recovers from the impact of the pandemic, investments in sustainable affordable housing in walkable communities are even more pressing and the Biden Administration is wise for making it a priority in the American Jobs Plan. It is pertinent that aggressive goals, such as building and rehabilitating 500,000 homes, are supported with an adequate framework by which to achieve them. In its final form, the American Jobs Plan must showcase how the NHIA will be managed and how municipalities will be assessed in their efforts to eliminate exclusionary zoning.

Eliminating exclusionary zoning is a starting point, but Congress should go further to assure that, whenever federal dollars are used to support zoning reform, the resulting land-use regulations include proactive provisions to diversify housing types, provide transportation options, and improve the quality and quantity of public open space and pedestrian-oriented development. The proposed flexible grant program should recognize that, often, the localities most in need of zoning reform--disinvested neighborhoods, small towns, and rural communities, auto-centric moderate-income suburban communities--are the least able to prepare applications and compete successfully for grants. For this reason, the grant program should include a set aside for these kinds of communities, as well as funding for technical assistance to apply for and administer these grants.

Working to eliminate exclusionary land-use patterns

The American Jobs Plan boldly states that its intention is to eliminate exclusionary zoning and harmful land-use policies, citing our nation's decades-long pattern of "...exclusionary zoning laws--like minimum lot sizes, mandatory parking requirements and prohibitions on multifamily housing-- [which] have inflated housing and construction costs and locked families out of areas with more opportunities." In response to this inequity, the Biden Administration will call upon Congress to enact a new grant program that would award flexible and "attractive" funding to jurisdictions that take steps to produce affordable housing.

In theory, the grant program *could* provide an incentive to enable cities to become more equitable, but without specifics as to what activities are eligible for funding through this grant program, there's not much to really congratulate the Biden Administration for here. Our hope is that the grant program supplies funding to build more TOD, multifamily affordable housing, and to rewrite zoning ordinances.

Vital remediation of Brownfields and Superfund sites



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Since SGA is a leader of the National Brownfields Coalition, the Biden Administration's proposal for Superfund and Brownfields sites in distressed and disadvantaged communities is an impressive prospect. Seeing the opportunity and untapped potential of Brownfields and Superfund sites, the American Jobs Plan sets aside \$5 billion to transform these sites into new hubs of economic growth and job creation, while simultaneously investing in workforce development.

While ambitious, this plan does fail to offer explicit explanations for what these "hubs" could look like. It would be wise for the Biden Administration to further illustrate what the full redevelopment vision is for rural communities as simply investing in the Brownfields and Superfund sites is not enough.

However, the proposal *does* go far enough to express intent to compound on the redevelopment by providing an unspecified cap increase on the Economic Development Agency's Public Works program, as well as main street revitalization efforts through HUD and USDA. Again, this would have been an excellent opportunity to present specifics about exact funding and proposed allocation for any of these activities.

Strengthening our nation's infrastructure

Transportation infrastructure is deeply interwoven into land use and development. The Biden Administration's distinct commitment to investing in the U.S.'s declining transit infrastructure is worth some optimism. The President's plan includes \$20 billion for a new program that will, "...reconnect neighborhoods cut off by historic investments and ensure new projects increase opportunity, advance racial equity and environmental justice, and promote affordable access".

It is unclear what "historic investments" mean in this context. Perhaps it relates to highways or other major infrastructure. In any case, this is an interesting proposal, specifically the intent to reconnect neighborhoods, but similar to other grant proposals and ideas in the President's plan, it lacks the necessary substance to fully understand the potential of the programming. Ideally, the process of reconnecting communities and promoting affordable access [to opportunity] will take on a place-based approach and ensure that there is adequate community engagement to maintain affordability for existing residents.

What would we like to see in the final iteration of the American Jobs Plan

The next iteration of the American Jobs Plan must present more detail on what is truly being offered. Many of the grant programs, activities, and proposals listed show an understanding of broad concepts, such as zoning, affordable housing, and revitalization; however, without the identification of minute details that drive existing inequities, it is possible that many of these proposed activities could exacerbate inequality nationally. Without the correct oversight, suitable measures of success, or comprehensive planning, we may only see marginal improvements or surface-level initiatives that could serve to further harm vulnerable communities in the long term.

Through the American Jobs Plan, we propose:



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State authorities should be held accountable for the implementation of lasting zoning and land-use changes

- Call upon states to use their zoning enabling power to require localities to proactively address long-standing exclusionary zoning provisions, make certain exclusionary covenant provisions illegal, and require housing diversity plans for how localities will accommodate both existing and future residents, regardless of income.
- Require states to leverage infrastructure funding to ensure that housing for a diversity of incomes is enabled within walking or biking distance of transit stations, including busses, BRT, and rail.

The Federal Brownfield Tax Deduction should be renewed

- Congress should renew the Federal Brownfield Tax Deduction. Before it expired in 2011, the Federal Brownfield Tax Deduction allowed a party who voluntarily investigated and remediated contaminated property to deduct its cleanup costs in the year incurred on their federal income tax return. The deduction was a powerful incentive for private investment in the economic revitalization of brownfields, and once reinstated, the deduction will bring revitalization to disinvested and disadvantaged communities.

Congress must commit to an equitable distribution of grant project funding, the passing of the REHAB Act, and simultaneous investments in vital public infrastructure

- Congress should pass the REHAB Act (H.R. 1483), which can help provide the financing to local builders that is critical to closing the gap so they can help revitalize downtowns, upgrade deteriorating public infrastructure, and expand access to attainable housing. The REHAB Act offers a baseline credit of 15-percent for non-historic buildings aged 50 or more years that are located within a ½ mile of existing or planned public transportation facilities. There is an additional 10-percent bonus for investments made in public infrastructure and attainable housing.
- The development and implementation of regulations for proposed grant funding that ensure an equitable distribution of investment in a wide variety of contexts spanning from large cities to rural communities.
- Supporting “reconnected” communities by ensuring new development occurs without displacement by providing technical assistance, federal grants, and other capacity-building resources to recently “reconnected” communities or communities experiencing new infrastructure investment.

The Opportunity Zones Tax Incentive should be improved and strengthened

- The Land Use and Development team urge the Biden Administration to address the shortcomings of the Opportunity Zones tax incentive that resulted from its sudden inclusion in the Tax Cuts and Jobs Act of 2017.
- With the addition of thoughtful mechanisms for expanding the scope, accountability, and transparency of the incentive, the Administration will inspire market confidence in America’s communities and add back an invaluable tool to its economic and community development toolbox for building them back better. We urge future Opportunity Zones action by Congress, the US Treasury, and the IRS to require tracking and reporting



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outcomes for Opportunity Fund investments and to provide regulations that encourage pairing investments with other community development tax credits and programs.