

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF ANOKA****TENTH JUDICIAL DISTRICT**

ALEX and LYNDA PEPIN,

Plaintiffs,

v.

CITY OF BLAINE, MINNESOTA;
 TIM SANDERS, in his official capacity as
 Mayor of the City of Blaine and a voting
 member of the Blaine City Council;
 CHRIS FORD, in his official capacity as Blaine
 City Councilmember; TOM NEWLAND, in his
 official capacity as Blaine City Councilmember;
 JESS ROBERTSON, in her official capacity as
 Blaine City Councilmember; LESLIE
 LARSON, in her official capacity as Blaine City
 Councilmember; TERRA FLEMING, in her
 official capacity as Blaine City Councilmember;
 CHRIS MASSOGLIA, in his official capacity
 as Blaine City Councilmember,

Defendants.

Type of Case: Other Civil
 [Constitutional Claims]
 [Declaratory Judgment]

Case No. _____

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**INTRODUCTION**

Accessory dwelling units are legal in Blaine. Knowing this, Alex and Lynda Pepin decided they wanted to build one. Their permit application was fully compliant with the city's codes and met every applicable parameter. Even Blaine Mayor Tim Sanders admitted as much. And yet the permit was denied. Why? Because Blaine's City Council decided that it was uncomfortable not with *what* or *where* the Pepins might build, but rather, with *who* might live in it. That determination was inappropriate under the terms of Blaine's zoning code and unconstitutional under the U.S. and Minnesota Constitutions. This lawsuit seeks to vindicate

Alex and Lynda’s right to use their property in normal, harmless ways without being subject to abusive and arbitrary zoning decisions.

PARTIES

1. Plaintiffs Alex and Lynda Pepin (“Plaintiffs” or “Alex and Lynda”) own the residential real property located at 1684 132nd Avenue NE in Blaine, Minnesota, which is the property on which they sought a conditional use permit (“CUP”) for the construction of an accessory dwelling unit (“ADU”).

2. Defendant, City of Blaine (“Blaine” or “City Council”), is a Minnesota municipal corporation under the laws of the State of Minnesota. At all times relevant, Blaine’s ordinances permitted the construction of ADUs on single-family lots.

3. Tim Sanders is the mayor of Blaine and a voting member of the Blaine City Council. He is sued in his official capacity.

4. Chris Ford is a Blaine City Councilmember, representing Ward 1. He is sued in his official capacity.

5. Tom Newland is a Blaine City Councilmember, representing Ward 1. He is sued in his official capacity.

6. Jess Robertson is a Blaine City Councilmember, representing Ward 2. She is sued in her official capacity.

7. Leslie Larson is a Blaine City Councilmember, representing Ward 2. She is sued in her official capacity.

8. Terra Fleming is a Blaine City Councilmember, representing Ward 3. She is sued in her official capacity.

9. Chris Massoglia is a Blaine City Councilmember, representing Ward 3. He is sued in his official capacity.

JURISDICTION AND VENUE

10. This Court has jurisdiction over Plaintiffs' claims for declaratory relief under the Minnesota Uniform Declaratory Judgments Act. *See* Minn Stat. §§ 555.01, 555.05, and in light of the Civil Rights Act of 1871, 42 U.S.C. § 1983. In addition, this Court has jurisdiction over these matters in light of the judicial review provision of the Minnesota Municipal Planning Act and the Blaine Code of Ordinances. Minn. Stat. §§ 462.361 *et seq.*; Blaine, Minn. Code § 27.10. This Court also has jurisdiction for all claims brought for violations of the Minnesota Constitution, for equitable and declaratory relief as well as for nominal damages, under the Remedies Clause of the Minnesota Constitution, Article I, § 8.

11. This Court has personal jurisdiction over Blaine because it is registered to do business in Minnesota, conducts business in Minnesota, and is a Minnesota municipal corporation.

12. Venue is proper in this judicial district because this action concerns real property located in Anoka County, the acts giving rise to this action occurred in Anoka County, and because Defendant is a municipal corporation whose political boundaries lie within Anoka County. *See* Minn. Stat. §§ 542.02, 542.09, 586.12.

13. The Pepins have exhausted their administrative remedies and, even if they had not, for the reasons explained herein, any additional remedies “would serve no useful purpose under the circumstances of the case.” *See* Minn. Stat. § 462.361.

FACTUAL BACKGROUND

Alex and Lynda's Goals

14. Plaintiffs Alex and Lynda Pepin are a married couple who reside in Blaine, Minnesota with their three children—aged 6, 10, and 13. Lynda is a full-time homemaker and homeschool instructor to the kids. And Alex, an environmental engineer by training, operates his own firm, Ten Thirty Environmental Solutions. The company specializes in septic system management and operation and general wastewater solutions.

15. Alex and Lynda are practicing Christians. Consistent with those beliefs, they are actively involved with a number of nonprofit organizations, particularly those that provide assistance to those struggling with housing insecurity.

16. For those who struggle with housing insecurity, there is a huge gap in services for those who have shelter but not quite a permanent home. To address that gap, Alex and Lynda founded Ten Thirty House, a non-profit corporation whose mission is to provide support and assistance to families emerging from homelessness.

17. Alex and Lynda view this mission as part of a broader religious calling. The “Ten Thirty” name is inspired by the New Testament Parable of the Good Samaritan, which is recounted at Chapter 10, Verse 30 of the Gospel of Luke. The parable recounts a discussion between Jesus and a lawyer, in which Jesus tells the story of a man who was robbed, beaten, and left for dead. *Luke* 10:30. A Priest and a Levite both ignored the man, but a compassionate Samaritan traveler saved him—bandaging his wounds and providing him shelter. Jesus explains to the lawyer that the Samaritan was the man’s true neighbor and teaches the lawyer to “[g]o and do likewise,” as the Samaritan. *Id.* at 10:37.

18. In that context, the initial mission of Ten Thirty House was to provide a traditional rental property in Minneapolis for families in need of a temporary, safe rental. Alex and Lynda worked out a deal with a landlord, whereby Ten Thirty House would pay market rent to the landlord and, in turn, would accept nominal payment from a family that Ten Thirty House would arrange to be housed there. The payment from the family to Ten Thirty House was based on income, with a family paying no more than 30% of their earnings to Ten Thirty House, which would use the funds to provide additional services.

19. In this way, Ten Thirty House could address a major concern for those getting back on their feet—finding an affordable place to live. The United States is in the midst of a multi-million-unit housing shortage, which has pushed prices upward nationwide. Blaine is not untouched by this trend, with the average two-bedroom apartment in Blaine costing roughly \$1,700 a month. This is a prohibitively costly figure for virtually anyone transitioning from temporary shelter to permanent housing, as most landlords require two or three month's rent up-front to enter into a lease.

20. Providing a place for a housing-insecure family to reside, at below-market rent, has multiple benefits beyond the obvious. It allows a family time to save up enough money to enter into a traditional lease. And it can free up resources for those who want to work toward a certification or degree that, once in-hand, will lead to higher earnings.

21. In addition to providing direct financial assistance for things like rent, Ten Thirty House also helps families access needed services—both public and private—for extra support. That extra support is critical. In Alex and Lynda's experience, housing-insecure families frequently remain perilously on the brink of homelessness because they lack sufficient family or community support. Without that network, there is often no source for intervention when a job is

lost or an unexpected financial event arises. In other words, for society's most vulnerable, there often is no failsafe barrier between being housed and unhoused.

22. Operating Ten Thirty House in this way proved challenging. Many financially distressed families need more frequent and personal assistance—to do simple things like enroll in school, apply for aid programs, or search for employment. To be sure, Alex and Lynda never had any health or safety issues at the property in Minneapolis. But they nonetheless concluded that to help the housing-insecure in the best way that they could—that is, by providing the direct, family-like support that struggling families need—they would have to be *personally and physically* present for those they sought to assist.

23. This realization meant a shift in focus for both Alex and Lynda and for Ten Thirty House. Whereas Ten Thirty House had primarily focused on providing a physical place to stay, Alex and Lynda wanted to provide both affordable housing *and* direct, personal support for the people who needed it most.

24. For Alex and Lynda, there was only one clear (and financially feasible) option—using their own property to help meet the housing needs of a family emerging from homelessness. And as fate would have it, Blaine had recently passed an ordinance that, on its plain terms, authorized a way for them to do just that.

Blaine Legalizes ADUs

25. In 2021, acknowledging the skyrocketing cost of housing, Blaine adopted an ADU ordinance that permits the construction of ADUs in single-family residential zones. *See* Blaine, Minn. Code §§ 29.033(g), 29.034(h).

26. ADUs help meet a niche need in Blaine and are consistent with the R-1 designation in Alex and Lynda’s neighborhood—which contains duplexes and other “non-traditional” dwellings, like foster homes.

27. ADUs are subject to a host of regulations under Blaine’s Code. *See* Baine, Minn. Code § 33.25.

28. Among the various requirements, the ADU code also expressly contemplates its use as a property that may be rented out or used to house non-family members. *Id.* § 33.25(a)(9) (requiring a rental license “when either the home or accessory dwelling unit is occupied by someone other than the owner of the property or a member of the owner’s family”); *id.* § 33.25(a)(5) (limiting occupancy to “up to two adult individuals, whether related or unrelated, and the parents and children of each”).

29. That an ADU can be used as a rental, per the terms of the ordinance, was intentional. In fact, whether to allow ADU rental was expressly discussed when the ADU ordinance was adopted. As City Planner Sheila Sellman observed upon second reading of the ordinance, “ADUs are frequently referred to as mother-in-law units, but are not necessarily occupied by a relative. ADUs are commonly constructed to retrofit an existing home to accommodate multigenerational living or *to create a rental unit for additional income.*” Meeting Minutes of the Blaine City Council, Dec. 20, 2021 at 9–10 (emphasis added).

30. ADUs are consistent with Blaine’s single-family character. The size and occupancy of an ADU, under Blaine’s codes, are inherently self-limiting and consistent with single-family structures. Total permissible square footage is based on a formula rooted in a property’s overall size—the smaller the home or lot, the smaller the ADU can be. Blaine, Minn. Code § 33.25(c)(3). Likewise, an ADU may house no more than two adults and their children,

may contain no more than two bedrooms, and may not house more than one person per 150 square feet. *Id.* at §§ 33.25(a)(4), (5). And as the city council acknowledged when passing the ADU ordinance, the cost of constructing an ADU is substantial enough to act as a significant barrier in and of itself. Meeting of the Blaine Planning Comm’n, Nov. 9, 2021 at 20:10.

31. There are additional regulatory burdens that discourage renting an ADU to a person or family that the property owner does not know well or trust. For example, to have an ADU, either the ADU or the main dwelling must be owner-occupied. Blaine, Minn. Code § 33.25(a)(1). Additionally, the ADU must remain on the same parcel, *id.* § 33.25(a)(10), and must share utilities, water, and sewer lines and meters, *id.* § 33.25(a)(2).

32. Unlike attached ADUs, which are treated as permissible “accessory uses,” a detached ADU is treated as a “conditional use” and subject to a different permitting process. Blaine, Minn. Code §§ 29.034(h), 33.25(c)(1).

Alex and Lynda’s Charitable Goals

33. Alex and Lynda realized that the city’s ADU ordinance provided them with the perfect opportunity to meld their charitable aims. They could help provide necessary housing without having to do it from afar. Instead, they could provide a supportive, family-like environment right in their own back yard.

34. Ten Thirty House would not play a financial role in this endeavor. Instead, Alex and Lynda would personally finance the ADU’s construction—approximately \$130,000 to \$140,000, a sum they could come up with by liquidating a brokerage account they had been gifted years ago.

35. Alex and Lynda intend to use the ADU as a rental apartment, as contemplated by Blaine’s ordinances, not as a homeless shelter. For example, unlike a shelter, Alex and Lynda

intended to charge rent—again, approximately 30% of the tenants’ income. The purpose of charging some type of rent is twofold—it reinforces, for the tenants, the significance of having a financial stake in one’s living arrangement and, for Alex and Lynda, it helps to nominally defray the costs of offering the ADU.

36. The ADU is not intended to be—and will not operate like—a homeless shelter or halfway house. Unlike those places, which are temporary and which traditionally segregate by sex, Alex and Lynda’s ADU is meant to be a place where a family can live, together, for as long as needed (but likely around a year) to find something more long-term.

37. Nor will Alex and Lynda be offering the ADU to strangers or folks coming in off the street. Instead, using the model they applied at Ten Thirty House, they intend to fully vet any potential tenants. First, they will identify potential residents through their charitable and spiritual networks. Then, those families will be interviewed. The interview will take into consideration the tenants’ legal and professional history, their domestic and financial situation, their temperament, and their overall understanding of Alex and Lynda’s expectations. Such a thorough process is mutually beneficial. Alex and Lynda can ensure that they are providing the ADU to a family that is willing to abide by the terms of the rental agreement and who would be an appropriate recipient of the unique support and guidance that Alex and Lynda can provide.

38. Ultimately, Alex and Lynda have no desire to offer their ADU to disruptive or unstable people. And they have a major incentive not to do so—the main residence, in which they reside with their three young children and where Lynda spends the bulk of her days homeschooling the kids, is roughly 17 feet away.

39. In any event, Alex and Lynda intend to expressly address concerns about misbehavior in their lease agreements. There will be no tolerance of violence, domestic problems, drug use, or disruptive behavior.

40. The use as an ADU to provide affordable housing is not meant to last forever. Alex and Lynda's parents are both aging; the couple would like to eventually use the ADU as a place for their parents and, eventually, their children. This is the best way, in their view, to keep their family together while also making sure that the needs of their parents are reliably met.

Alex and Lynda's ADU Application

41. Alex and Lynda desired a detached ADU, which meant they needed a conditional use permit ("CUP").

42. Alex and Lynda hired an architect, Croix Design & Drafting, to construct the plans for the ADU, paying roughly \$1,800.

43. On or about March 11, 2025, Alex and Lynda submitted their application for a CUP to construct the ADU. It was the first application for an ADU since Blaine amended its code in 2021 to allow for their construction.

44. The CUP application included an explanation of the project, in which Alex and Lynda explained that "[t]he ADU is proposed to add affordable housing to the local market as well as offer possible solutions for aging parents and children in the next 10-20 years. It is expected that for the next 5-10 years the ADU will be used for affordable housing[.] [B]oth Alex and Lynda serve on the board of Ten Thirty House, a local nonprofit helping families experiencing homelessness, and they have a desire to help families in need of housing as well as offering social support if desired by being in close proximity. In the mid term 10-20 years aging

parents and children would be able to live there, again offering affordable housing and support for them both in a time of transition in their lives.”

45. Along with this statement, Alex and Lynda’s application included photos of the back yard, a site survey depicting the dimensions of the project—including necessary improvements and modifications, like the widening of their driveway—and a complete architectural rendering.

46. All of the proposed modifications and structural dimensions were compliant with the “Standards for all Accessory Dwelling Units” and the “Standards for Detached ADUs” as identified in Sections 33.25 (a) and (c) of Blaine’s ordinances.

47. Specifically, the CUP application complied with each of Blaine’s limitations on height, number of bedrooms, total square footage, setbacks, roof pitch, architectural style, paint color, off-street parking spaces, and more.

48. Per Blaine’s ordinances, the CUP needed to first be heard by the city’s Planning Commission. Blaine, Minn. Code § 27.04(e)(5). As the city acknowledged, when reviewing a CUP, “the city’s role is limited to applying the standards in the ordinance to the facts presented by the application.” Staff Report of the Blaine Planning Commission, April 8, 2025, Case File No. 25-0008 at 3.

49. The Planning Commission’s staff report recommended that the Planning Commission recommend the CUP for approval by the City Council.

50. The staff report, which weighed the articulated factors for granting a CUP, concluded, among other things, that “[t]he proposed ADU will not have an adverse effect on adjacent properties,” and that “[t]he proposed ADU meets all of these standards [for ADUs in the

R-1 zoning district], and is therefore consistent with the purposes of the zoning code and the R-1 zoning district.” *Id.* at 4.

51. The staff report also recommended the imposition of a handful of additional requirements—like adding a sidewalk, obtaining a rental license if someone “other than the homeowner or a member of the homeowner’s family occupies the ADU,” adding another off-street parking space, and erecting a privacy fence around the rear yard. Those requirements were not objectionable to Alex and Lynda.

52. On April 8, 2025, the Planning Commission concluded, in light of both testimony and the staff report, that the CUP application was consistent with Blaine’s ordinances. Accordingly, while there was some opposition, the Planning Commission voted 4-2 to recommend that the City Council grant Alex and Lynda the CUP.

53. On May 5, 2025, the Blaine City Council considered Alex and Lynda’s CUP application.

54. Like the Planning Commission before it, the City Council staff report recommended that the City Council “[b]y motion, adopt the resolution.” Staff Report of the Blaine City Council, May 5, 2025, Case File No. 25-0008 at 5. In support, again like the Planning Commission, the City Council staff report concluded that “[t]he proposed ADU will not have an adverse effect on adjacent properties,” and that “[t]he proposed ADU meets all of these standards [for ADUs in the R-1 zoning district], and is therefore consistent with the purposes of the zoning code and the R-1 zoning district.” *Id.* at 4.

55. The City Council began the meeting with a fifteen-minute “public forum,” which was largely monopolized by opponents of the CUP. Because the discussion was capped at fifteen minutes, Alex—along with several others who supported the CUP—was unable to speak.

56. The opponents of the CUP expressed concerns reflecting an inaccurate understanding of what Alex and Lynda wanted to do. Between public comments in the hearing and written testimony, opponents expressed concerns that Alex and Lynda would be housing “homeless and potentially recovering drug addicts,” who would be “in the park” “where children are constantly running around.” Public Comments submitted to the Blaine City Council, May 5, 2025, Case File No. 25-0008 at 1; that they would be housing “random/unknown people,” *id.* at 2; and that the ADU would be a “horrible eye-sore,” *id.* at 6. And still others expressed, essentially, objections to the 2021 ordinance itself and its purported undermining of Blaine’s single-family character. *See* Meeting of the Blaine City Council, May 5, 2025 at 18:28-19:47.

57. The opponents’ concerns—especially those about drug addicts living in the park—were utterly unfounded. Alex and Lynda intend to thoroughly vet any renters, and they will not rent to those with drug or domestic problems. In any case, Alex and Lynda agreed to build a privacy fence around the yard to act as a barrier between their property and the neighboring park—where Blaine rules prohibit sleeping or camping without a special permit anyway.

58. During the meeting, Alex wanted to address various factual misstatements made by several members of the City Council. At one point he raised his hand to speak, but was not permitted to.

59. The mayor and councilmembers acknowledged that the ADU was compliant with city codes.

60. And compliance with city codes is all that matters. In fact, it was understood at the time of the ADU ordinance’s passage that “[t]he City Council is not able to deny a CUP application [for an ADU] on the basis of neighborhood opposition alone, and largely can only

use the CUP process to apply conditions.” Slides from Blaine City Council Workshop, dated August 2, 2021. Thus, as Mayor Sanders correctly explained: “Is this applicant allowed to put an ADU in their back yard right now? Yes they are. Yes they are. They are allowed to do that under the ordinance.” Meeting of the Blaine City Council, May 5, 2025 at 1:06:30.

61. Indeed, in the course of the hearing on Alex and Lynda’s CUP application, neither the mayor, city staff, nor any councilmembers identified any ordinance(s) with which the CUP did not comply.

62. Two councilmembers supported approval of the CUP. The first, Terra Fleming, expressed that the community’s opposition was driven by misinformation about who would reside in the ADU and what Alex and Lynda’s goals were. The ADU was not, she correctly explained, intended to operate like an encampment or a homeless shelter, where people could come in off the street.

63. Another councilmember, Chris Ford, expressed an unwillingness to be driven by “intent” or “emotion.” Meeting of the Blaine City Council, May 5, 2025 at 52:32. Rather, he said, “I have to look at what the law says,” and because Alex and Lynda’s application satisfied all relevant criteria, they should receive their CUP. *Id.* at 52:36.

64. But the City Council voted 4-2 to deny the CUP. In rejecting the application, the councilmembers focused the bulk of their discussion on abstract concepts like the “intent” of the ordinance—and whether it would have contemplated uses like below-market-rate housing, housing for non-family members, or even use as a rental at all. *Id.* at 41:23-48, 48:04-55 51:12-20, 1:01:35-1:02:29.

65. Each of these concerns had been addressed when the City Council adopted the ADU ordinance in 2021, though there was no reference to that discussion in the May 5 meeting.

66. The city attorney cautioned, moreover, that the council’s role was to weigh the application in light of the terms of the ordinance, and that consideration of things like “intent,” placed the council on a “slippery slope.” *Id.* at 59:09-22.

67. Several councilmembers, seemingly acknowledging that the CUP application satisfied the dozens of requirements for ADUs under the Blaine codes, turned to the criteria governing CUPs. *See* Blaine, Minn. Code § 27.04(a). The CUP criteria are vague, but instruct that the City Council “shall consider” the advice and recommendations of the Planning Commission on various factors. *Id.* Those include the proposed use’s “compatib[ility] with adjoining properties,” *id.* § 27.04(a)(2), the “overall needs of the City,” *id.* § 27.04(a)(4), and consistency with the “purposes of the zoning code and purposes of the zoning district in which the applicant intends to locate the proposed use,” *id.* § 27.04(a)(5).

68. Despite the City Council’s obligation that it “shall consider” the Planning Commission’s conclusions, and despite the fact that those conclusions all cut in favor of granting Alex and Lynda’s application, the City Council denied the CUP.

69. The definitive reasoning for the City Council’s denial, ultimately, is unclear. Though the council’s discussion seemed to focus on the “intent” of the ADU ordinance, it did not, as was required by law, issue findings of fact or conclusions of law. Instead, the council simply stamped the words “Resolution Failed” across the top of the document that would have *granted* the CUP.

70. The City Council denied Alex and Lynda’s CUP without hearing testimony from Alex that would have refuted the misinformation provided during the public forum and would have corrected several of the factual misconceptions of several councilmembers. Indeed, Alex’s only opportunity to address the City Council came toward the end of their discussion on the

CUP, when the council decided to offer some additional, impromptu conditions for approval. Alex was summoned to the podium, agreed to the conditions, but was unable to say anything more.

71. The City Council's denial of Alex and Lynda's CUP application reflects a policy and custom of the City of Blaine to deny ADU permits despite the applicants' complete compliance with city ordinances.

72. The City Council indicated that it would consider a moratorium on ADUs in light of the controversy surrounding Alex and Lynda's application. Two weeks after denying Alex and Lynda's CUP application, on May 19, 2025, the City Council adopted an ordinance establishing a one-year moratorium on any application for the construction of any attached or detached ADUs in Blaine. In that ordinance, the town notes that "[o]ne conditional permit application has been made for a detached accessory dwelling unit and was denied," and in that meeting in which the permit was denied, "the Council discussed the intent of the accessory dwelling unit ordinance and determined the current regulations do not align with the original intent." Blaine, Minn. Ordinance 25-2577 (June 2, 2025).

73. During the one-year moratorium, during which "the City will be conducting a study on amendments to official controls related to attached and detached accessory dwellings," no ADU applications would be entertained, except any applications that were previously submitted prior to May 19, 2025.

74. Prior to May 19, 2025, Alex and Lynda submitted a renewed application for a CUP to construct their ADU.

75. Alex and Lynda’s renewed CUP application was identical in all material respects to the first application, with the only variations to the proposed structure reflecting the handful of changes requested by the Planning Commission.

76. However, in the renewed application, Alex and Lynda expressly addressed the City Council’s preoccupation with the “intent” of the ADU ordinance. To address that concern, Alex and Lynda stated that “[t]he ADU is proposed to be used only for our family . . . and will not be rented out to people outside our family.” At the very least, Alex and Lynda hoped, they could have their ADU to accommodate their aging parents and to “serve as a means to keep our family together and care for each other as we progress through life stages that require additional support.” But restricting their ADU to only blood relatives, while excluding those who could use their assistance, is not really what Alex and Lynda want to do.

INJURIES

77. As a result of the City Council’s denial of Alex and Lynda’s CUP application, which the City Council summarily rejected without any findings of fact or conclusions of law, Alex and Lynda have suffered an arbitrary, irrational and capricious action on the part of the Blaine City Council—an act which had the effect of barring Alex and Lynda from using their private property in a manner that is peaceful, harmonious, and compliant with state and local law.

78. Alex and Lynda’s CUP application satisfied all requirements for CUP approval set forth in Blaine’s ordinances, and therefore Alex and Lynda were entitled to the issuance of a CUP authorizing the construction of their ADU. As a result of the City Council’s denial of Alex and Lynda’s CUP application despite their entitlement to it, Alex and Lynda have suffered an arbitrary, irrational, and capricious action on the part of the Blaine City Council—an act which

had the effect of barring Alex and Lynda from using their private property in a manner that is peaceful, harmonious, and compliant with state and local law.

79. As a result of the City Council's denial of Alex and Lynda's CUP application and subsequent moratorium, Alex and Lynda have been arbitrarily and irrationally barred from using their private property in a manner that is peaceful, harmonious, and compliant with state and local law.

80. As a result of the City Council's defiance of its own ordinances in rejecting Alex and Lynda's CUP application in light of the identity of their anticipated tenants, and as a result of the City Council's subsequent moratorium motivated by the same, Alex and Lynda were deprived of their ability to construct an ADU on the basis of who might live in it and therefore have been arbitrarily and irrationally barred from using their private property in a manner that is peaceful, harmonious, and compliant with state and local law.

81. As a result of the City Council's defiance of its own ordinances in rejecting Alex and Lynda's CUP application in light of the identity of their anticipated tenants, and as a result of the City Council's subsequent moratorium motivated by the same, Alex and Lynda have suffered an arbitrary and irrational distinction—an act which had the effect of barring them from using their private property in a manner that is peaceful, harmonious, and compliant with state and local law.

82. As a result of the City Council's defiance of its own ordinances in rejecting Alex and Lynda's CUP application in light of the identity of their anticipated tenants, and as a result of the City Council's subsequent moratorium motivated by the same, Alex and Lynda have been arbitrarily and irrationally barred from using their private property in a manner that is peaceful

and harmonious and reflects their desire to invite guests, include other families and individuals, and otherwise freely associate with whom they desire on their own property.

83. As a result of the City Council's defiance of its own ordinances in rejecting Alex and Lynda's CUP application in light of the identity of their anticipated tenants, and as a result of the City Council's subsequent moratorium motivated by the same, Alex and Lynda have been barred from using their private property in a manner that is peaceful and harmonious and reflects their desire to establish a home on their own property.

84. As a result of the City Council's defiance of its own ordinances in rejecting Alex and Lynda's CUP application in light of the identity of their anticipated tenants, and as a result of the City Council's subsequent moratorium motivated by the same, Alex and Lynda have been barred from using their private property in a manner that is peaceful and harmonious and reflects their view of what constitutes a family or a familial living arrangement.

85. But for the City Council's denial of Alex and Lynda's CUP application, Alex and Lynda would immediately commence planning and construction of their ADU—including but not limited to clearing trees, hiring contractors, and interviewing future tenants.

COUNT I – DECLARATORY RELIEF

86. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

87. Local governments are obligated to explain their findings on the record and issue written decisions reflecting those findings. Accordingly, Alex and Lynda are entitled to a judgment declaring that Blaine's denial of their CUP application, absent findings of fact, conclusions of law, or any explanatory language whatsoever, was arbitrary, capricious, or irrational.

88. Local governments are obligated to issue permits where all of the criteria for securing a permit are satisfied. Accordingly, Alex and Lynda are entitled to a judgment declaring that Blaine's denial of their CUP application, despite their satisfaction of all relevant criteria governing ADUs and CUPs, was arbitrary, capricious, or irrational under the Minnesota Planning Act and, consequently, that their application for a CUP must be approved as a matter of law.

COUNT II – EQUAL PROTECTION UNDER THE MINNESOTA CONSTITUTION

89. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

90. Article I, Section 2 of the Minnesota Constitution guarantees the right to equal protection of the law.

91. The City Council's denial of Alex and Lynda's CUP application denies Alex and Lynda equal protection of the law because the denial was not rationally, reasonably, or otherwise appropriately directed at any legitimate government purpose. The government does not have a legitimate interest in prohibiting property owners from offering housing that it deems insufficiently expensive; nor does the government have a legitimate interest in prohibiting property owners from offering housing on the grounds that it might attract renters from the "wrong" socioeconomic class.

92. The City Council's denial of Alex and Lynda's CUP application denies Alex and Lynda equal protection of the law because it was based upon an irrational distinction between who may build ADUs and who may not—those who would rent at below-market rates to low-income residents and those who would rent at market rates or to family.

93. The City Council's denial of Alex and Lynda's CUP application denies Alex and Lynda equal protection of the law because it adopts a distinction that was motivated, partially or

entirely, by an illegitimate government interest—animus toward a politically unpopular group—and is therefore arbitrary, capricious, irrational or per se invalid.

94. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because it adopts a distinction that was motivated, partially or entirely, by an illegitimate government interest—raising or maintaining a high cost for housing—and is therefore arbitrary, capricious, irrational or per se invalid.

COUNT III – FREEDOM OF ASSOCIATION UNDER THE MINNESOTA CONSTITUTION

95. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

96. The Minnesota Constitution acknowledges the concept of unenumerated rights. *See* Minn. Const. art. 1, § 16 (“[T]he enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people.”). Among those unenumerated rights is the right to freely associate.

97. The City Council’s denial of Alex and Lynda’s CUP application violates Alex and Lynda’s right to free association because the City Council’s desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda’s ability to engage in conduct that is deeply rooted in the nation’s history and tradition—namely, the right to invite others onto your private property, including to provide them with shelter, and to associate or cohabitate with whom you desire.

COUNT IV – FREEDOM TO ESTABLISH A HOME UNDER THE MINNESOTA CONSTITUTION

98. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

99. The Minnesota Constitution acknowledges the concept of unenumerated rights. *See* Minn. Const. art. 1, § 16 (“[T]he enumeration of rights in this constitution shall not deny or

impair others retained by and inherent in the people.”). Among those unenumerated rights is the right or freedom to establish a home.

100. The City Council’s denial of Alex and Lynda’s CUP application violates Alex and Lynda’s right to establish a home because the City Council’s desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda’s ability to engage in conduct that is deeply rooted in the nation’s history and tradition—namely, the right to establish and make a home in the manner in which you desire.

101. The City Council’s denial of Alex and Lynda’s CUP application violates Alex and Lynda’s right to establish a home because the City Council’s desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda’s ability to engage in conduct that is deeply rooted in the nation’s history and tradition—namely, to identify whom you count as “family” notwithstanding any government-created conception or understanding of the term.

COUNT V – EQUAL PROTECTION UNDER THE U.S. CONSTITUTION

102. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

103. The Fourteenth Amendment to the U.S. Constitution provides, in relevant part, that “[n]o state shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1.

104. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because the denial was not rationally, reasonably, or otherwise appropriately directed at any legitimate government purpose. The government does not have a legitimate interest in prohibiting property owners from offering housing that it deems insufficiently expensive; nor does the government have a legitimate interest in prohibiting

property owners from offering housing on the grounds that it might attract renters from the “wrong” socioeconomic class.

105. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because it was based upon an irrational distinction between who may build ADUs and who may not—those who would rent at below-market rates to low-income residents and those who would rent at market rates or to family.

106. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because it adopts a distinction that was motivated, partially or entirely, by an illegitimate government interest—animus toward a politically unpopular group—and is therefore arbitrary, capricious, irrational or per se invalid.

107. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because it adopts a distinction that was motivated, partially or entirely, by an illegitimate government interest—raising or maintaining a high cost for housing—and is therefore arbitrary, capricious, irrational or per se invalid.

**COUNT VI – FREEDOM OF ASSOCIATION UNDER THE FIRST AMENDMENT OF
THE U.S. CONSTITUTION**

108. Plaintiffs adopt by reference paragraphs 1–85 as if fully incorporated herein.

109. The First Amendment to the U.S. Constitution provides, in relevant part, that “Congress shall make no law . . . abridging . . . the right of the people to peaceably assemble.” U.S. Const. amend. 1, a protection that includes the concept of freedom of association.

110. The City Council’s denial of Alex and Lynda’s CUP application violates Alex and Lynda’s right to free association because the City Council’s desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda’s ability to engage in conduct that is deeply rooted in the nation’s history and tradition—namely the right to

invite others onto your private property, including to provide them with shelter, and to associate or cohabitate with whom you desire.

PRAYER FOR RELIEF

THEREFORE, Plaintiffs respectfully request the following relief:

A. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application was arbitrary and capricious because it contained no findings of fact or conclusions of law and ignored Plaintiffs' demonstrated compliance with all relevant criteria;

B. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application violated their right to equal protection under the Minnesota Constitution;

C. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application violated their right to freely associate under the Minnesota Constitution;

D. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application violated their right to establish a home under the Minnesota Constitution;

E. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application violated their right to equal protection under the U.S. Constitution;

F. A declaratory judgment that the City Council's denial of Alex and Lynda's CUP application violated their right to freely associate under the U.S. Constitution;

G. An order compelling the City Council's issuance of Alex and Lynda's desired CUP in light of the terms of a decision from this Court in Plaintiffs' favor, or in the alternative, an order compelling the City Council to reconsider the CUP application and issue a written decision supported by expressly articulated findings of fact and conclusions of law;

H. An award of attorneys' fees, costs, and expenses in this action;

I. One dollar (\$1) in nominal damages for violations of the United States Constitution and the Minnesota Constitution; and

J. All further legal and equitable relief as the Court may deem just and proper.

DATED: July 7, 2025

Respectfully submitted,

/s/ Anthony B. Sanders

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*Motions to appear *pro hac vice* forthcoming.

VERIFICATION

STATE OF MINNESOTA)
)
COUNTY OF ANOKA)

Alex Pepin, first being duly sworn on oath deposes and states that he is the owner of the property herein identified and a Plaintiff in the above-styled matter and he has read the foregoing Verified Complaint, and the averments and allegations contained therein are true and correct to the best of his knowledge, save and except those which are made on information and belief, and for those he verily believes them to be true. Further, the statements verifying the allegations contained in this Verified Complaint can be found in the affidavit of Alex Pepin and the exhibits appended thereto.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

By: Alex Pepin
Alex Pepin